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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 asked me to prepare a letter to Ms. Freeman for your signature. I have attached the letter to this email. I have concluded that Ms Jane would not win in bringing a defamatory action for the first three statements nor the fifth statement made by Ms. Hogan. However Ms. Freeman has a good chance of winning against both parties in regard to the fourth and sixth statements made by Ms. Hogan. Please find my letter to Ms Freeman below.

Jane Freeman

875 Hollywood St.

Mayfair Columbia

I. Introduction

Dear Ms. Freeman,

I hope this letter finds you well. You have retained our office to evaluate the likelihood of success of an action for defamation claim you are contemplating bringing in Columbia State Court against the Columbia Museum of Modern Art and Christine Hogan. We have concluded that you do have two viable defamation claims, discussed below.

II. Statement of Facts Alleged in Your Arbitration Claim

Ms. Freeman was employed by the Museum at its Film and Television Archive (Archive), she was the head of Commercial Services for the Archive. Ms. Freeman's Direct supervisor was Ms. Hogan. The museum hired Ms. Freeman in 2006 and later laid her off in 2024. She was involved in a project of Columbia Times Newsreel Collection and worked with International Digital Corporation to create a direct catalog and search engine for the newsreel collection. The project remained unfinished when she was laid off. Ms. Hogan blamed Ms. Freeman for the unfinished status of the project. As a result of these statements Ms. Freeman was laid off. The

museum and Ms. Hogan reached an agreement with Ms. Freeman to confirm to arbitration as long as the award was binding on the museum and Ms. Hogan but not on Ms. Freeman. Ms. Freeman alleged that Ms. Hogan made all the statements analyzed below and that each of them were defamatory, false and injured her in her occupation.

III. Case Law in Regards to Defamation

There are two cases that are applicable to bring your claims for defamation. *Slaughter v. Dental Administrations* Columbia Court of Appeals(2012) (hereafter, "Slaughter") and *Jensen v. OmniWare Co.* Columbias Court of appeal (2013) (hereafter, "Jensen"). I have written brief summaries of each case for you below. It is my hope you can understand the judicial background of each case. I will further analyze both cases in respect to what statements I believe we can win for defamation applying it to your case and which statements we will likely not win.

In *Slaughter,* Mr. Slaughter brought a defamation action against the Dental Administrators Inc., Mr. Slaughter was an oral surgeon, who submitted claims to the Dental Administrators for certain services he performed to his patients. The Dental Administrators sent at letter to his patient that they denied his claim claiming that Dr. Slaughter's Dental work was "unnecessary" and that he was "overcharging." Then Mr. Slaughter brought this defamation suit and the Dental Administrators moved to dismiss for failure to state a claim upon which relief could be granted, specifically, that they were defamatory. The trial court granted it and dismissed. However the court of appeals reversed finding that the statements were indeed defamatory because they were statements of fact, and a reasonable fact finder would find these statements to be facts and defamatory in nature.

In *Jensen, Jensen* asked for the reversal of a trial court action dismissing his action for defamation against his employer Omniware Co. The court entered the judgement after Jensen had failed to state a claim upon where relief could be granted because he had failed to allege that the statements that he based the action on were defamatory. Phelps who was Jensen's supervisor informed Jensen that he needed to improve his on the job performance in relatively minor aspects. Jensen took offense and claimed these statements were false and accused Phelps of trying to hide his own incompetence and demanded that the statements be removed from his file. Ultimately the court affirmed the trial courts decision and found that in, "Unless a statement evaluating an employees 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." (Jensen)

IV. Analysis of Each Defamatory Statement Alleged

Statement 1. (Email from January 15 2024 from Ms. Hogan to Ms. Freeman)

Ms. Hogan stated: "I can't say you are incompetent. But I can say you have not been performing well on the Newsreel Collection and do not seem up to the job."

Columbia Civil Code § 44 states that "Libel is a false... publication by writing which exposes any person to hatred, contempt, ridicule or obolquy or which... has a tendency to injure them in their occupation. (Colum. Civ. Code § 45).

Here, we cannot bring a claim for defamation because there is no defamatory statement of fact. In *Slaughter* the court found that to have a defamatory a statement it must contain a provable falsehood. To contain a provable falsehood the statement must relate to a fact. (*Slaughter*) Statements of Fact generally says something about the world surrounding the speaker. (*Slaughter*) Ms. Hogan is not stating you are incompetent and she is just saying you are not performing well and do not seem up to a job which falls more into an opinion. In *Slaughter* the court found that a Statement of opinion generally says something about the speaker themself such as their belief feeling, conjecture, speculation. For example, "I think", "I believe" "I guess" or "I have a hunch"(*Slaughter*). Since she says " I can say you have not been performing well and do not seem up to the job the fact finder would likely find this to be more of an opinion.

Also we would likely not win because the statement is in regards to the evaluation of your performance of the job. In *Jensen* the court stated that, "we express our strong judicial disfavor for defamation actions based on statements evaluating an employees performance." (*Jensen*) The court in Jensen also found that to bring a defamation claim, in regards to an employees performance the court can only look at the claim if "a statement evaluating an employees 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." (*Jensen)*

Thus, this statement would not be considered defamatory and we would likely not be able to prove the statement is false since it relates to an opinion of Ms. Hogan in regards to your quality of work or work performance for better words. We would likely not win against either Ms. Hogan or the Museum.

Statement 2. (Email from April 5, 2024 from Ms. Hogan to Mr. Quist)

"Ms. Freeman has from the start independently guided the Newsreel Collection Project with spotty oversight by previous management. She never completed the documents formulating goals and delieverables over the life of the project and always refused my requests for the same. "

In this case, we run into the same issue that the court would likely look at this statement as an evaluation of how you are doing your job. Remember that, In *Jensen* the court found that a statement evaluating an employees 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." (*Jensen)* However there is a possible argument that Ms. Hogan's statements were defamatory because you were not independently guided working on this project since you worked hand in hand with the International Digital Corporation to create the digital catalog and search engine for Newsreel Collection and if you have proof you were responsive to her and completed those documents we might be able to persuade the court. If you do not have evidence to contradict her statements we might be out of luck.

Thus, this statement might be able to be viewed as defamatory if you are able to provide evidence that contradicts the allegations of not completing the documents goals, and responding to Ms. Hogans requests. If we are unable to show evidence that contradicts this we would likely not win against either Ms. Hogan or the Museum.

Statement 3. (Email from April 6, 2024 Ms. Hogan to Mr. Quist)

"In my frustration with Ms. Freeman's lack of communication about the Newsreel Collection I asked her in early February to start copying me on highly technical emails with IDC. She agreed and has since been copying me on highly technical emails concerning IT minutiae (which frankly I don't understand.) Yesterday I found out that she had taken a high level meeting with Steve Canepa of IDC three weeks ago to discuss the Newsreel Collection project. I was not copied on any of the emails that must have been written to set up and discuss the meeting. I feel that Ms. Freeman may be actively undermining our efforts to communicate with IDC, because she believes she should be the only contact with them. Obviously I can't prove any of this but her apparent attempt to keep IDC for herself has lead me to this suspicion. "

This statement would be considered more of an opinion by Ms. Hogan because she is expressly expressing how she feels in regard to your lack of communication, and she begins her statements with adding that she "feels" you are undermining the museums efforts, but she is not alleging any fact. In *Slaughter* the court found that "A statement that simply comments adversely on a persons attitude, efforts or results is one of opinion." In *Slaughter* however, court was not convinced and stated that although a reasonable fact finder could understand these statements as opinion, they would only do so if it was made by some layperson not by an established dental insurance plan administrator. Here Ms. Hogan's commentary is more of an opinion since although she is your boss, she was not speaking on behalf of the museum, she was speaking more as a layperson in her individual capacity. Had Ms. Hogan been speaking on behalf of the museum the court would likely find that this statement was more of a fact not an opinion. The information was also dispated to her boss, and not to others.

Thus, this statement would be considered more an opinion of Ms. Hogman and would likely not win as the trier of fact would find it to be an opinion and it is once again in relation to your work, which means the comment has to be a statement evaluating an employees performance that 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. Thus, we would lose and we would likely not win against either Ms. Hogan or the Museum.

Statement 4 (Email from April 11, 2024 Ms. Hogan to Mr. Quist)

"It is now my opinion that 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 with IDC. I would therefore like to let her go and I think we can restructure her department to eliminate the position, Proving malfeasance is difficult, despite much written evidence, so I think a separation through restructuring is the way to go. Your views?

Here, we run into a similar issue on the statement being a statement of opinion. However we have a better argument because this statement is falsely accusing you of criminal conduct, aka working against the interest of the Museum. Ms. Hogan also states she is looking of a way of letting you go without proving malfeasance. This statement falsely accuses you of criminal conduct, and dishonesty, incompetence it should be considered defamatory. (Jensen)

Thus, this statement would be defamatory and would likely win in a defamatory action if we can prove that you were not working against the museums interest and that you were working honestly.

Statement 5 (Email from April 13 2024 Ms.Hogan to Ms. Freeman)

"I asked you to make every effort to come to my office at 1:00PM. You failed to show up until 1:15PM. "

Here this statement is in regards to you not showing up on time, since it is merely in regards to the time and not showing up. It is unlikely the court would view it as defamatory or that a trier of fact would find that this comment was false and therefore defamatory. Recall that the key to 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 and whether such a fact finder could so conclude must be determined in totality of the circumstances, including the words as a whole and the context in which the statement was made." (*Slaughter*)

Thus, this statement would not be defamatory and we would likely lose in bringing a defamation action.

Statement 6 (Email from April 17 2024 Ms. Hogan to Managers at Archive)

"Today I laid off Ms. Freeman for reasons including various established financial improprieties."

Here, this statement is defamatory in nature. It accuses you of committing financial impropieties which is not the case at all. Ms. Hogan was merely trying to figure out a way to get rid of you by accusing you of acting out of character. By doing so, her accusations caused you to lose your job due to their defamatory nature. The trier of fact would find this was a statement of fact, and not of opinion and as such, it was defamatory. The *Jensen* court ruling would help our case proving that this statement should be considered defamatory.

Thus, this statement is considered defamatory and we would likely win in bringing this defamation action in regard to this statement.

V. Conclusion

Ms. Freeman I believe we have a strong case and can bring two successful actions for defamation against the museum and Ms. Hogan. Although the first three statements would likely not win, I believe we can win statements 4 and 6 made by Ms. Hogan. I hope you are able to hire our office.

END OF EXAM