



KELLEY A. SWEENEY
CUYAHOGA COUNTY CLERK OF COURTS
1200 Ontario Street
Cleveland, Ohio 44113

Court of Common Pleas

New Case Electronically Filed:
February 26, 2015 12:24

By: ANDREW A. KABAT 0063720

Confirmation Nbr. 370629

LAURA HAUSER

vrs.

TECHNICAL CONSUMER PRODUCTS, INC., ET AL

CV 15 841097

Judge:

JANET R. BURNSIDE

Pages Filed: 19



COMMON PLEAS COURT
CUYAHOGA COUNTY, OHIO

DESIGNATION FORM TO BE USED TO INDICATE THE CLASSIFICATION OF THE CAUSE

Laura Hauser Case No. _____
Plaintiff vs. Judge: _____
Technical Consumer Products, Inc., et al.
Defendant

Has this case been previously filed & dismissed? Yes No
Case #: _____ Judge: _____
Is this case related to any cases now pending or previously filed Yes No
Case #: _____ Judge: _____

CIVIL CLASSIFICATIONS: Place an (X) in ONE Classification Only.

Professional Torts:

- 1311 Medical Malpractice
- 1315 Dental Malpractice
- 1316 Optometric Malpractice
- 1317 Chiropractic Malpractice
- 1312 Legal Malpractice
- 1313 Other Malpractice

Product Liability:

- 1330 Product Liability

Other Torts:

- 1310 Motor Vehicle Accident
- 1314 Consumer Action
- 1350 Misc Tort

Workers Compensation:

- 1550 Workers Compensation
- 1531 Workers Comp. Asbestos

Foreclosures:

Utilize Separate Foreclosure
Designation Form

Commercial Docket

- 1386 (Temp. Sup. R. 1.03)
- 1390 Cognovit

Administrative Appeals:

- 1540 Employment Services
- 1551 Other

Other Civil:

- 1500 Replevin/Attachment
- 1382 Business Contract
- 1384 Real Estate Contract
- 1388 Consumer Debt
- 1391 Other Contract
- 1490 Foreign Judgment
- 1491 Stalking Civil Protection Order
- 1501 Misc Other
- 1502 Petition to contest Adam Walsh Act
- 1503 Certificate of Qualification for Employment

Amount of Controversy:
 None Stated
 Less than \$25,000
 Prayer Amount _____

Parties have previously attempted one of the following prior to filing:
 Arbitration
 Early Neutral Evaluation
 Mediation
 None

I certify that to the best of my knowledge the within case is not related to any now pending or previously filed, except as noted above.

Haber Polk Kabat Andrew A. Kabat
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Print

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

LAURA HAUSER)
3713 Longwood Court)
Cleveland Heights, Ohio 44118) CASE NO.:
)
Plaintiff,) JUDGE:
vs.)
)
TECHNICAL CONSUMER PRODUCTS,)
INC.)
c/o CT Corporation System) **COMPLAINT**
1300 East Ninth Street) (*Jury Demand Endorsed Hereon*)
Cleveland, Ohio 44114)
)
AND)
)
TCP INTERNATIONAL HOLDINGS,)
LTD.)
325 Campus Drive)
Aurora, Ohio 44202)
)
)
AND)
)
ELLIS YAN)
10330 Bartholomew Road)
Chagrin Falls, Ohio 44023)
)
P.O. Box 23669)
Chagrin Falls, Ohio 44023)
)
)
)
Defendants.)

Now comes Plaintiff, by and through counsel, and for her Complaint against the
Defendants, states as follows:

PARTIES

1. Plaintiff Laura Hauser is a resident of Cuyahoga County and the State of Ohio. Plaintiff is employed as the General Counsel, Secretary and Chief Compliance Officer for Technical Consumer Products, Inc. and its parent company, TCP International Holdings Ltd. (collectively "Defendants").

2. Defendant TCP International Holdings Ltd ("TCPI") is a foreign corporation, organized under the laws of Switzerland and regularly doing business in the State of Ohio from Technical Consumer Products, Inc.'s facility in Aurora, Ohio.

3. Defendant Technical Consumer Products, Inc. ("TCP") is a foreign corporation, organized under the laws of Delaware with a principal place of business located in Aurora, Ohio. Technical Consumer Products, Inc. is a wholly owned subsidiary of TCP International Holdings Ltd. and the financial information/results of Technical Consumer Products, Inc. are included in the consolidated financial statements of TCP International Holdings, Ltd.

4. Ellis Yan ("Yan") is the Chairman of the Board and Chief Executive Officer of TCP International Holdings, Ltd. Yan is the Chief Executive Officer and President of Technical Consumer Products, Inc.

5. Yan, along with his brother and a trust established for the benefit of his daughter, owns or controls approximately 70% of the outstanding shares of TCP International Holdings, Ltd. and therefore he controls its affiliate, Technical Consumer Products, Inc.

JURISDICTION AND VENUE

6. This Court has jurisdiction over Plaintiff's claims in so far as they arise under state law.

7. This Court has jurisdiction over Defendants since Defendants voluntarily avail themselves of the laws of, and further regularly and continuously conduct business in, the State of Ohio.

8. Venue is proper in the Cuyahoga County Court of Common Pleas as a substantial part of the conduct giving rise to this claim occurred in Cuyahoga County, Ohio.

STATEMENT OF RELEVANT FACTS

9. Defendants purport to be a leading, global manufacturer and/or distributors of energy efficient lighting technologies. Defendants contend that they are committed to promoting the values of excellence, honesty, integrity and fairness in the conduct of its business and sustaining a work environment that fosters mutual respect, openness and individual integrity. In fact, all those who work for, or are otherwise connected with, Defendants are expected to deal honestly and appropriately with each other and with stakeholders, including customers, suppliers and the communities where Defendants operate. Unfortunately, Defendants' principal officer and owner, Yan, has engaged in a pattern and practice of consistently violating the very principles, ethics and values upon which Defendants are supposed to operate.

10. Plaintiff began her employment relationship with TCP on or about May 1, 2013. At all times relevant, Plaintiff has been a member of the executive management team for both TCP and TCPI. Plaintiff reports directly to Yan.

11. As General Counsel and Chief Compliance Officer, Plaintiff has a wide array of duties and responsibilities, including, but not limited to, leading corporate strategic and legal initiatives, providing legal counsel to senior management and the Board, managing legal affairs, assuring legal compliance with state, federal and international regulations, statutes and common law and enforcing the business conduct policies set forth by TCP and TCPI.

12. At the time Plaintiff accepted employment with TCP, TCPI was a privately-owned company. Plaintiff soon realized that Yan exerted unfettered control over the business, and further exhibited behavior that was inconsistent with the entities' stated ethics/standards. Yan was uninhibited and undeterred in expressing his beliefs, opinions and directives, regardless of tone, presentation, language, and content.

13. In or about October 2013, Plaintiff questioned Yan as to certain business practices and recommended changes. In response, Yan became irate, yelling obscenities and threatening, bullying and demeaning Plaintiff. Not only did Yan use abusive language, but he physically assaulted Plaintiff. Despite concern for her safety, Plaintiff continued to perform her job with the necessary and requisite skill, attention and expertise. As time went on, Yan continued to utilize abusive language and demeaning conduct in his interaction with many employees, including Plaintiff. Yan made it no secret that he was the one in charge of, and ultimately responsible for, making all decisions regarding the private entity that he started; in other words, Yan made it clear that he was the "boss."

14. Yan and the other TCPI shareholders decided to participate in an initial public offering ("IPO") in order to raise capital. Plaintiff assisted in the IPO process; yet, throughout the process, Plaintiff continued to have concerns about the irrational conduct of Yan. Yan continued to be verbally abusive and demeaning to Plaintiff and other senior management. Yan's temper was explosive.

15. On or about June 26, 2014, TCP International Holdings, Inc., raised \$73,000,000.00 by and through an initial public offering of common shares of stock listed on the New York Stock Exchange.

16. Unfortunately, after the IPO, Yan's conduct continued to spiral out of control and escalated in a series of events that constitute violations of state and federal law, raised questions about compliance with Defendants' corporate ethics policy and created significant risk to shareholder value. Plaintiff has repeatedly objected to Yan's conduct and engaged in substantial efforts to gain compliance with the applicable law, ethics and business practices that govern Defendants.

17. In September 2014, Plaintiff attended a meeting with the lighting division buyer from The Home Depot, Jeff Epstein, wherein he demanded \$4,000,000 from TCP in the form of cash and credits, claiming that TCP failed to properly remit funds from utility rebate programs. TCP personnel maintained the position that TCP had properly executed the rebate program, and that the \$4,000,000 discrepancy arose from The Home Depot's internal accounting procedures and/or mistakes. Eventually, Mr. Epstein of The Home Depot acknowledged the discrepancies, but continued to exert pressure on TCP to remit credits having a total benefit amount of \$4,000,000, apparently to avoid disclosure of an internal problem at The Home Depot.

18. As TCP personnel and managers attempted to address the matter consistent with its internal compliance policies and business ethics, Yan inserted himself into the discussions and committed to Mr. Epstein that TCP would, in fact, remit credits totaling \$4,000,000 to The Home Depot. In doing so, Yan ignored Defendants' established policies and procedures and further engaged in conduct/communication that was rude, aggressive and bullying, ultimately telling Plaintiff and others to "shut up" and to in essence "stay out of it" because he was the boss.

19. Another example of Yan's inappropriate and unprofessional behavior relates to the Underwriters Laboratory ("UL") and EnergyStar approvals and certifications that are required for various lighting products produced by TCP and sold in the United States.

20. UL is a voluntary agency that establishes consumer product safety standards, testing and analytics for the lighting marketplace, including for those lighting products imported, sold and distributed in the United States. UL listing and certification is a crucial part of TCP's products as the vast majority of customers require UL certification for any product that is purchased and ultimately placed into the United States consumer products market. Pursuant to UL's standard service agreements and other contractual provisions, the UL symbol cannot be affixed to any product prior to obtaining UL listing approval for the particular product having the specific construction definition that is submitted to UL. Likewise, pursuant to TCP policy, no manufacturing of product is to begin without UL listing approval/certification. It is deceptive, false, fraudulent and in violation of the law, to affix a UL symbol to any product without first securing UL listing approval/certification. It is further in violation of federal law to import or distribute any product into commerce in the United States with the UL mark that does not have UL listing approval.

21. Similarly, the EnergyStar designation is a significant feature for many of the TCP products as those products with the EnergyStar designation qualify those products for rebates provided by utility companies throughout the United States. The EnergyStar designation cannot be placed upon any product without prior approval from EnergyStar. It is deceptive, false, fraudulent and in violation of the law to affix an EnergyStar designation to any product without first securing EnergyStar approval.

22. After the IPO, Yan began to pressure TCPI's Chinese manufacturing facility to increase production, lower costs and improve margins. Unfortunately, in doing so, Yan violated the law, engaged in unethical business practices and violated TCPI's business conduct policies.

23. In August 2014, 40,000 LED lamps designated specifically for the Cinemark movie theaters were manufactured with the UL mark, pursuant to Yan's direct order, before they received UL listing approval/certification.

24. Plaintiff and TCP's Chief Financial Officer, Brian Catlett, expressed objections which are not restated herein for purposes of preserving any claim of privilege. After learning of the objections, Yan stated: "Who do you think you are; I am running the company, who the fuck do you think you are, this is my fucking company."

25. During the UL testing process, it was determined that the original lens cover on the lamps for Cinemark did not meet flame retardation standards and were not flame resistant as required. Ultimately, the product did not pass UL testing standards.

26. Undeterred by Yan's bullying, demeaning, and threatening conduct, Plaintiff discharged her responsibilities as General Counsel and Chief Compliance Officer and properly addressed the 40,000 LED lamps.

27. Thereafter, on or about September 15, 2014, Plaintiff issued an email to various members of the TCPI executive management team, including Yan, and others in the production/compliance department regarding TCP and TCPI compliance policies.

28. After receiving this email, Yan repeatedly instructed various employees to specifically exclude Plaintiff from key business matters and decisions.

29. In January 2015, it was discovered that Defendants' Chinese-affiliate and manufacturing facility had produced in excess of 900,000 units of just one type of LED product that had the UL symbol affixed thereto that were not in compliance with UL requirements. Upon further investigation, it was determined that the LED lamp produced did not match the design for the product as submitted to UL, or else the products were mislabeled as another product and,

therefore, were not in compliance with the TCP UL file for that particular product and design construction. For other models of that same product, there were component changes implemented during manufacturing that were inconsistent with the product/model UL file design construction.

30. An investigation revealed a major failure within the company as no one in compliance, engineering or quality assurance was made aware of the design construction changes for the product in issue. The motivating factor behind the changes was cost savings and an increase in production numbers.

31. Moreover, the product that was produced was not consistent with what UL ultimately authorized. Likewise, there was a concern regarding the same issues with respect to the placement of the EnergyStar designation on the product. Some of the product was designated for sale through the retail outlet, WalMart.

32. There was a concern about placing the product in the marketplace. One member of TCP's Quality Assurance staff indicated that it would be irresponsible to do so because Defendants do not track date codes by purchase order and therefore the product in the market would be untraceable. In order to execute a voluntary recall, all product would have to be returned to TCP – a prospect that has the potential of shutting down the entire company.

33. In late January 2015, Plaintiff issued an email to the executive management team, production and compliance officers and Yan. The details of the email are being withheld to protect any argument that the communications therein are protected by privilege.

34. When Yan returned to Aurora, Ohio following a one-week business trip to China, Japan and Taiwan, he summoned the compliance manager and LED product manager into his conference room. Yan stated the following:

- He knows that the compliance team has been talking with others about the UL certification and legal issues and that it has to stop.
- He has to focus on the numbers; compliance and engineering should follow whatever he does no matter what.
- The product should be released into the market because he is concerned about the numbers; they should all stop getting in the way of the numbers.
- If the compliance team in the United States fails to do what he tells them to do, he will fire them all; and

Yan punctuated the conversation by yelling, “You fucking do what I say or else”.

35. Consistent with the requirements of the Sarbanes-Oxley Act of 2002, and the requirements for listing on the New York Stock Exchange, TCPI has established a separate Audit Committee of the Board of Directors. The Audit Committee was established for the purpose of assisting the Board of Directors in fulfilling its legal and fiduciary obligations with respect to matters involving the accounting, auditing, financial reporting, internal controls and legal compliance function of the Company and its subsidiaries including but not limited to assisting the Board in providing oversight over the integrity of the Company’s financial statements and the Company’s compliance with legal and regulatory requirements.

36. Plaintiff, consistent with her duties as General Counsel and Chief Compliance Officer, involved the Audit Committee in her concerns about product safety, violations of federal law including the Consumer Product Safety Act and Sarbanes-Oxley, Yan’s conduct and her objections. Eventually, the Audit Committee retained independent counsel, the law firm of Jones Day, to assist them in an investigation into the matters and Yan’s conduct.

37. On January 5, 2015, Plaintiff, with the input and supplementation by the CFO, authored a detailed Memorandum to counsel from Jones Day and copied all members of the Audit Committee. The subject of this fifteen (15) page memorandum and the supporting documentation provided with that memorandum was a “summary of issues” relating to Yan’s Management and Performance. The details of the memorandum have been withheld for purposes of preserving any argument that the communications are protected by privilege.

38. Yan’s conduct continued unabated.

39. Yan demonstrated a clear irrational desire to sell LED lighting products to The Home Depot. Contrary to company policy, Yan intentionally, and without any rational justification, agreed to a buyback and markdown of certain product sold to The Home Depot, the total cost of which was approximately \$1,800,000.

40. Yan consistently screamed at, belittled and showed a general lack of disrespect for employees. Many employees labeled Yan to be a “bully”. In fact, Yan’s behavior has been the principal reason for many TCP midlevel employees leaving the company. Plaintiff personally interrupted Yan while he was screaming at employees, trying to minimize the volume, only to be yelled at and have the door slammed in her face. With no consequences, Yan is seemingly convinced that yelling and insulting employees is an effective motivational tool and had embarked upon a strategy to hire only “assholes” because, in his words, “they are the only ones who will get anything done.”

41. In the midst of the Audit Committee’s investigation, it issued a memorandum to Yan with its findings and a specific action plan Yan was required to acknowledge/follow.

42. The Audit Committee found that Yan had engaged in the following misconduct:

- Taking unilateral action and disregarding the need for fact-based decision-making, which requires leveraging the financial organization to analyze major business decisions before they are made.
- Limiting visibility of financial information and accountability to the global CFO, which is necessary to ensure independence and integrity of the data.
- Not following proper processes for commercial price changes and obsolescence exposure, or documenting them.
- Failure and refusal to consult with executive managers on matters within their scope of responsibility before taking direct personal action or issuing orders for others to act, including unilateral requests to directors for program approval. regular disregard by you of reporting relationships, via reaching around executive managers, bypassing established processes and putting employees in "no win" situations.
- Bypassing regulatory (UL, CE, EnergyStar etc.) and supplier certification processes.
- Overriding and/or disregarding Company policies on matters such as capital expenditure, customer credit and operating expenditure approvals; new product development process; product design and safety certification; business conduct manual; and code of ethics for principal executive and senior financial officers.
- Repeated instances of personally antagonistic and disrespectful interaction with employees at multiple levels within the Company, with accompanying serious morale and employee retention difficulties.
- Imposition of such extreme and unrealistic performance demands and pressures on employees as to potentially promote inappropriate employee conduct damaging to the Company.

43. The Audit Committee also expressed concern that Yan had made product delivery commitments with major customers that were not feasible; had opened a new company in Taiwan without Board approval; had commenced construction on a new facility in China without Board approval; and, had potentially engaged in inappropriate transactions involving Company stock.

44. The Audit Committee determined that each of the matters addressed in its memorandum reflects Yan's unwise, inappropriate and/or unlawful decision-making. The Audit

Committee advised Yan of the need for a proper “tone at the top” of the organization; developing and relying upon sound, supportable financial plans and planning functions; requiring internal controls that are effective and not disregarded or overridden; ensuring proper focus by the Company on compliance with legal and regulatory requirements; maintaining the integrity of the Company’s financial reporting; and in general making sure there is a collaborative effort among each and every member of the executive management team to manage the Company’s overall risk from multiple sources.

45. The Audit Committee concluded that the manner in which Yan had been operating the company must change “promptly and substantially.” The Audit Committee set forth very specific directives in the memorandum, including, but not limited to, the following:

- No product destined for sale in the United States is to be manufactured or assembled by the Company or marked with the UL logo unless and until it has been tested and received UL listing certification, all in the normal course of business. ... The same directives apply to the EnergyStar program as well. ... You have no authority to give, and are forbidden from giving, either directly or indirectly, any contrary instructions explicitly or implicitly
- You are directed to act with the integrity and respect towards employees that is required by the Business Conduct Manual that you signed; this includes, among other things, not threatening, bullying, belittling or demeaning employees or using abusive language in communicating with them.
- Finally, and very importantly, there are to be no adverse changes in employment status – including, but not limited to, position, authority, responsibilities or compensation - - of any members of the executive management team, without the express approval of, and formal action by, the Board of Directors.

46. The memorandum was presented to Yan during a meeting held between Yan and the Audit Committee (and its counsel) on February 3, 2015, and it was reported that during that meeting Yan signed the signature line designated for him in the memorandum, indicating that he acknowledged the memorandum.

47. Thereafter, on February 3, 2015, at approximately 8:35pm, Yan called Plaintiff while Plaintiff was at her home in Cleveland Heights. Undeterred by the fact that it was late and Plaintiff was at home, Yan proceeded to ask her if she knew about his meeting with the Audit Committee.

48. Yan asked if she knew they had given him a letter and made him sign it.

49. Yan asked Plaintiff if she knew who he was; that he is the CEO of the Company and he and his brother “own 70% of the Company.”

50. Yan told Plaintiff that he thought there was an “agenda” and told her that she “should not have done what [she] did” referring to the communications with the Audit Committee.

51. Yan ended the conversation with a very clear threat: “You will be sorry.” Yan then hung up the phone.

52. Plaintiff was terrified. Not only has Yan engaged in violent, inappropriate conduct at work, but he also made his love of firearms and his firearm collection known to several people in the Company. Plaintiff immediately communicated the conversation to the counsel for the Audit Committee and the Audit Committee members.

53. Thereafter, Plaintiff took action in an attempt to protect herself at home from Yan, having a reasonable apprehension for her physical safety.

54. Plaintiff reported the incident to the local police department. Since that time, Plaintiff has worked off-site, only entering the office when Yan is reported to be traveling out of the country.

55. Yan has continued his offensive against Plaintiff. He has labeled Plaintiff a “trouble maker” and has advised others within the company that Plaintiff is personally attacking

him. Yan has also made it very difficult for Plaintiff to conduct her daily business activities/responsibilities. Plaintiff has effectively been stripped of the majority of her job duties/responsibilities and excluded from important meetings and communication including those related to compliance and investigation of UL/EnergyStar certification issue.

56. Plaintiff, to this date, is extremely concerned for her safety given Yan's threat and his unpredictable, violent conduct. Plaintiff has likewise suffered emotional distress, and depression, which has forced her to seek medical care and treatment.

COUNT ONE

57. Plaintiff restates and realleges each of the previous paragraphs as if fully rewritten herein.

58. Yan intended to cause Plaintiff emotional distress, or at least knew or should have known that his actions would result in serious emotional distress to Plaintiff.

59. Yan's conduct was so extreme and outrageous as to go beyond all possible bounds of decency and was such that it can be considered as utterly intolerable in a civilized society.

60. Yan's conduct caused Plaintiff severe emotional distress and psychic injuries.

61. The emotional distress and mental anguish suffered by Plaintiff is serious and of a nature that no reasonable person could be expected to endure.

62. As a direct and proximate result of Yan's illegal conduct, Plaintiff has suffered, and will continue to suffer, damages which will be proven at trial.

63. Yan's conduct was intentional, willful, malicious and in reckless disregard for Plaintiff's legal rights. Thus, Plaintiff is also entitled to punitive damages.

COUNT TWO

64. Plaintiff restates and realleges each of the previous paragraphs as if fully rewritten herein.

65. Yan knowingly caused Plaintiff to believe that he would cause serious physical harm to her in violation of R.C. §2903.21.

66. Plaintiff reasonably believed that Yan would cause serious physical harm to her. Plaintiff's reasonable belief is based upon Yan's words and conduct that were directed at her in connection with her employment with TCP.

67. As a direct and proximate result of Yan's illegal conduct, Plaintiff has suffered, and will continue to suffer, damages that will be proven at trial. Pursuant to R.C. §2307.60, Plaintiff is entitled to pursue civil recovery for damages as a result of Yan's conduct.

68. Yan's conduct was intentional, willful, malicious, and in reckless disregard for Plaintiff's legal rights. Thus, Plaintiff is also entitled to punitive damages.

COUNT THREE

69. Plaintiff restates and realleges each of the previous paragraphs as if fully rewritten herein.

70. Yan knowingly and by force, unlawfully threatened to harm Plaintiff.

71. Yan did so in an effort to intimidate Plaintiff as a witness to his illegal and unethical business practices in violation of R.C. §2921.03.

72. As a direct and proximate result of Yan's unlawful threat and conduct, Plaintiff has suffered, and will continue to suffer, damages which will be proven at trial.

73. Plaintiff is entitled to pursue recovery for damages as a result of Yan's conduct pursuant to R.C. §2307.60.

74. Yan's conduct was intentional, willful, malicious and in reckless disregard for Plaintiff's legal rights. Thus, Plaintiff is also entitled to punitive damages.

COUNT FOUR

75. Plaintiff restates and realleges each of the previous paragraphs as if fully rewritten herein.

76. At all times relevant, Yan was acting in the course and scope of his employment by, and/or control of, TCP. Yan perceived that his conduct would further the business interests of TCP.

77. Pursuant to the doctrine of *Respondeat Superior*, TCP is responsible for the conduct of Yan, and the damages suffered by Plaintiff.

WHEREFORE, Plaintiff requests all remedies and relief available under Ohio law, including, but not limited to, compensatory damages in an amount in excess of \$25,000.00, punitive damages in an amount in excess of \$25,000.00, interest, attorney fees, costs and any

other relief that this Court may deem appropriate.

Respectfully Submitted,

/s/ Andrew A. Kabat
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JURY DEMAND

A trial by jury is hereby demanded.

/s/ Andrew A. Kabat
Andrew A. Kabat (0063720)