

IN THE CIRCUIT COURT OF THE NINTH
JUDICIAL CIRCUIT IN AND FOR
ORANGE COUNTY, FLORIDA

CASE NO. 2010 CA 764 (35)

VANESSA LOPEZ, an individual,

Plaintiff,

v.

SHAQUILLE O'NEAL , an individual,

Defendant.

AMENDED COMPLAINT

Plaintiff, VANESSA LOPEZ ("LOPEZ"), an individual, by and through her undersigned counsel, hereby sues Defendant SHAQUILLE O'NEAL ("O'NEAL"), an individual, and alleges as follows:

PARTIES, JURISDICTION & VENUE

1. This is an action for assault, intentional infliction of emotional distress, invasion of privacy, conversion, and Florida civil R.I.C.O.
2. This Court has jurisdiction over this matter as an action for damages in excess of \$15,000.00, exclusive of attorneys' fees, costs and interest.
3. Plaintiff, VANESSA LOPEZ, is *sui juris* and at all times material, a resident of Seminole County, Florida.
4. Defendant, SHAQUILLE O'NEAL, is *sui juris* and at all times material, a resident of Orange County, Florida.

5. Whether a Florida resident or not, pursuant to §48.193(1), Fla. Stat., O'NEAL submitted himself to the jurisdiction of the courts of this state since this cause of action arose from operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state; and/or committing a tortious act or acts within this state. Additionally or alternatively, pursuant to § 48.193(2), Fla. Stat., O'NEAL engaged in substantial and not isolated activity within this state, whether such activity is wholly interstate, intrastate, or otherwise, subjecting the Defendant to the jurisdiction of the courts of this state, whether or not the claim arises from that activity.

6. Pursuant to §47.011, Fla. Stat., venue is proper in Orange County, Florida, as Defendant resides in Orange County, Florida, and/or the cause of action accrued in Orange County, Florida.

PRELIMINARY ALLEGATIONS

7. Any and all conditions precedent to filing this action have been met or waived.

GENERAL ALLEGATIONS

8. During the past five years, LOPEZ and O'NEAL had an intimate relationship.

9. O'NEAL knew LOPEZ since she was fourteen before becoming intimately involved with her as they and O'NEAL's family members attended the same middle school, high school and community college.

10. In June 2004, LOPEZ, accompanied by a girlfriend, was at the Roxy nightclub in Orlando and became reacquainted with O'NEAL.

11. While LOPEZ was concerned that O'NEAL was married, O'NEAL pursued a relationship with LOPEZ and was persistent.

12. Finally, LOPEZ and O'NEAL had lunch at which time O'NEAL told LOPEZ that he had an open marriage with his wife Shaunie and that his marriage was to preserve his image for his children.

13. Thereafter, their relationship became physically intimate.

14. In addition to the physical aspect of the relationship, O'NEAL and LOPEZ developed an extremely close friendship. O'NEAL shared very personal matters with LOPEZ, matters that he told her he never shared with anyone else. LOPEZ felt that she could count on O'NEAL day and night. He appeared to show sincere concern for her and for her ailing mother.

15. Although O'NEAL's sisters, brother and cousin knew of the relationship, their relationship was not widely known or publicized. LOPEZ wanted their relationship to remain private.

16. O'NEAL would arrange for LOPEZ to meet him in Miami at the Loews Hotel, at the Ritz Carlton, at the Marriott in Lake Mary, Florida amongst other locations to facilitate their trysts. When LOPEZ arrived, the hotel staff knew who she was and who she was there to see without her even saying her name. Everything had been set up by O'NEAL in order for him to have these clandestine meetings with LOPEZ.

17. In the summer of 2009, O'NEAL became fearful of taking LOPEZ to hotels as he felt he was seeing LOPEZ too often and they would be noticed.

18. Thus, O'NEAL brought LOPEZ to his home numerous times while his Wife was away and O'NEAL went to LOPEZ's home numerous times. The two were intimate at these locations. In fact, LOPEZ AND O'NEAL were intimate in O'NEAL's bedroom when his Wife was not home. All in all, LOPEZ and O'NEAL were intimate at least fifty times.

19. When LOPEZ balked at going to O'NEAL's home for intimate encounters, O'NEAL reminded LOPEZ that he and his Wife had an open marriage and that it didn't matter.

20. While LOPEZ's mother has been sick with a degenerating terminal illness for the last five years, in the summer of 2009, LOPEZ's mother began hospice care. LOPEZ began tending to her mother on a daily basis in order to assist in her mother's care.

21. LOPEZ and O'NEAL had been seeing each other on a regular basis during the summer of 2009. O'NEAL repeatedly told LOPEZ that he wanted to have a baby with her during the course of their relationship.

22. Thereafter, on approximately September 29, 2009, LOPEZ advised O'NEAL that her period was eight days late and that she feared a pregnancy, although she further stated that she believed that the delay in her cycle was more likely the result of anxiety and stress as a result of her mother's grave medical condition.

23. O'NEAL reacted negatively by telling LOPEZ that she better tell the baby's father as to her possible pregnancy. When LOPEZ tried calling O'NEAL, he refused to speak to her.

24. O'NEAL ultimately contacted LOPEZ and apologized for accusing her of being unfaithful to him.

25. LOPEZ told O'NEAL to "leave her alone" as she was devastated by O'NEAL's reaction as O'NEAL knew that during the summer of 2009, other than caring for her terminally ill

mother and seeing O'NEAL, LOPEZ was not having an intimate relationship with anyone else other than O'NEAL.

26. Through incessant text and phone calls, O'NEAL communicated with LOPEZ that he would never leave her alone because they loved each other.

27. After receiving numerous calls from O'NEAL, LOPEZ told O'NEAL that "if you don't leave me alone I am going to tell Shaunie about us."

28. Within minutes, LOPEZ received a call from Ayesha Harrison, O'NEAL's 6'6" sister. Harrison called LOPEZ leaving verbal and physical threats on LOPEZ's voice mail which threats included involving O'NEAL's other sister Latifah, 6'8", who lives down the block from LOPEZ. LOPEZ became very fearful of her own safety.

29. Additionally, O'NEAL continued to flood LOPEZ with phone calls and text messages at all times of the day and night throughout the months of October and November of 2009 despite LOPEZ's repeated requests for O'NEAL to stop contacting her.

30. At the end of September 2009, an unknown male caller told LOPEZ "to watch her back." In the twelve years prior that the Plaintiff had the telephone number, she had never received threatening, alarming or unusual phone calls.

31. As a result of O'NEAL's harassing behavior, LOPEZ hired counsel to send a cease and desist letter to O'NEAL.

32. Quite the contrary, O'NEAL then proceeded to hack into LOPEZ's text messages and voice mails without LOPEZ's knowledge or consent using some extremely sophisticated software. O'NEAL not only knew the contents of private communications to and from LOPEZ, but also used spy technology to delete incriminating voice mails and text messages from LOPEZ's cell phone.

33. Afraid that he could not control or trust LOPEZ, O'NEAL text messaged an associate, Justin Zormelo, and told Mr. Zormelo "dis is da numba shut dat bitch up!" providing Justin with LOPEZ's cellular phone number.

34. Mr. Zormelo responded by texting to O'NEAL, "consider it done famo."

35. At this point, Shawn Darling, who works for Defendant O'NEAL as an information technology (I.T.) specialist, contacted Plaintiff LOPEZ, telling her what Defendant O'NEAL had done.

36. Mr. Darling explained to LOPEZ that he was employed by O'NEAL for several years and O'NEAL was particularly interested in/and gained a level of sophistication in:

- (a) the ability to invade or "hack" into text messages of third parties;
- (b) the ability to invade or "hack" into recorded voice mails of third parties;
- (c) the ability to monitor and record cellular phone calls of third parties;
- (d) the ability to alter or assign a fake "sender" number on incoming phone calls to third parties through what is commonly referred to in the spy or interception of wireless communication technology as "spoofing"; and
- (e) cutting and pasting images to unrelated texts or e-mails to appear genuine.

37. Mr. Darling further explained to LOPEZ that one of Mr. Darling's duties in O'NEAL's employ was to instruct O'NEAL to intercept, hack and spoof third party communications and further, that Mr. Darling confirmed to LOPEZ that O'NEAL was doing so to LOPEZ.

38. Mr. Zormelo flew to Orlando, arriving on October 1, 2009.

39. After being warned by Mr. Darling on October 1, 2009, Plaintiff LOPEZ received a text message at 11:44 a.m., "Landed-this is Justin."

40. Then at 11:55 a.m., LOPEZ received calls on her cell phone from the Orlando airport. In a frighteningly disconcerting twist, the display on LOPEZ's cell phone made it seem that the call was, in fact, coming from the cell phone that she held in her hands. O'NEAL and those he directed in stalking her made use of "spoof" technology to achieve this effect so that LOPEZ's own cell phone number came up as the caller.

41. The caller, who identified himself as Justin, sounded menacing and sinister.

42. LOPEZ was scared and told Justin that she thought he had the wrong number.

43. Justin responded "don't you know Shaquille? He said I am supposed to contact you."

44. LOPEZ then hung up and called the police the same day and filed a police report.

45. LOPEZ also alerted personnel at the hospice facility where her mother was being cared for that she was fearful of someone stalking her.

46. On October 3, 2009, the Plaintiff was followed as she left her neighborhood and traveled to a gas station at some distance from her home. The dark SUV followed the Plaintiff into the gas station. A black male rolled down the window half way and just sat there looking at her. He did not use any of the services of the gas station, and he followed the Plaintiff when she left.

47. LOPEZ began checking the security of her home at all hours of the day and night. In early October 2009, she observed a dark SUV parked outside her home between 2:00 a.m and 5:00 am. The windows were blacked out so that the person or persons inside could not be seen.

48. From October 2009 through December 2009, LOPEZ received an excessive amount of unfamiliar calls to her cell and hang up calls on her cell phone. The calls and hang ups were from O'NEAL himself as well as from others that he directed.

49. From October 2009 through December 2009, O'NEAL repeatedly called LOPEZ breathing heavily into the phone at all times during the day and night.

50. In November, 2009, a Miami divorce attorney called LOPEZ and advised her that he represented O'NEAL and had instructed O'NEAL never to call her again. The attorney assured LOPEZ that she would not be further threatened or harassed by O'NEAL. This was not to be the case.

51. O'NEAL and others at his direction continued to harass LOPEZ. Excessive calls and text messages came in throughout the night as during the past months. There was no let up.

52. O'NEAL ignored the cease and desist request and continued incessantly contacting LOPEZ as before.

53. As a result of O'NEAL's refusal to acknowledge his harassing conduct, Mr. Darling sought to expose O'NEAL's misconduct by publishing private e-mails and text messages between the parties by providing them to the media and/or web sites - and even demonstrated to LOPEZ how O'NEAL successfully hacked into her text messages and voice mail.

54. O'NEAL is a large, powerful, wealthy man and a professional athlete.

55. O'NEAL has connections inside law enforcement having served as an auxiliary police officer with various police departments.

56. In fact, through these affiliations O'NEAL lawfully possesses police shields and maintains the right to carry firearms, which he in fact does from time to time.

57. LOPEZ is a professional model with a small build, weighing less than 100 pounds, and lacking the physical power, wealth and connections of O'NEAL.

58. O'NEAL engaged in a course of conduct directed at LOPEZ that has caused substantial emotional distress to her and served no legitimate purpose: O'NEAL harassed LOPEZ as that term is defined in §784.048(1)(a), Fla. Stat.

59. O'NEAL engaged in a pattern of conduct composed of a series of acts over a period of time, October 2009 through December 2009, evidencing a continuity of purpose: O'NEAL engaged in a course of conduct as that term is defined in §784.048(1)(b), Fla. Stat.

60. O'NEAL made a credible threat against the life of or to cause bodily injury to LOPEZ, as that term is defined in §784.048(1)(c), Fla. Stat., in that he threatened LOPEZ with the intent to cause her to reasonably fear for her safety.

61. O'NEAL cyberstalked LOPEZ, as that term is defined in §784.048(1)(c), Fla. Stat.. O'NEAL engaged in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at LOPEZ, causing substantial emotional distress to her and serving no legitimate purpose.

62. O'NEAL engaged in violence against LOPEZ, as violence is defined in §784.046(1)(a), Fla. Stat., in that he assaulted her and stalked her.

63. O'NEAL engaged in repeat violence against LOPEZ, as violence is defined in §784.046(1)(b), Fla. .as that term is defined in §784.046(1)(d), Fla. Stat., in that he and LOPEZ have had a continuing and significant relationship of a romantic or intimate nature. A dating relationship existed within the past 6 months. The nature of the relationship was characterized by the expectation of affection or sexual involvement between the parties. LOPEZ and O'NEAL have been involved over time and on a continuous basis during the course of the relationship.

64. For at least the last five years, the Defendant has used his size, his power, his wealth, his connections with family, friends, and employees to control his affairs with women.

65. In large part, unlike here, the Defendant has used the reward system with these women to control them, whether its paying for their apartments and cars or giving lavish gifts.

66. However, in several instances, including the case before this Court, when the women wanted out before it suited him, using the same size, power, wealth, and connections with family, friends, and employees with which he rewards, the Defendant has resorted to punishment and threats of punishment and physical harm and threats to the women's livelihood in order to control them.

67. LOPEZ is in apprehension and fear of her safety, and her fear and apprehension are well-founded that either the Defendant or a third person will inflict contact harmful to the Plaintiff.

COUNT I: ASSAULT

68. LOPEZ reincorporates the allegations contained in paragraphs 2-67 above as though fully set forth herein.

69. This is a cause of action for assault.

70. O'NEAL intentionally, unlawfully offered corporal injury to LOPEZ by force, or force unlawfully directed toward LOPEZ, under such circumstances as to create fear of imminent peril, coupled with O'NEAL'S apparent present ability to effectuate the injury.

71. O'NEAL acted with actual malice and/or wanton state of mind and/or deliberation and/or utter disregard of law on his part, violating LOPEZ's legal rights.

72. O'NEAL acted without legal justification.

73. As a result of O'NEAL's conduct, directly and indirectly, LOPEZ suffered bodily injury, physical suffering, physical inconvenience and discomfort, loss of time, and expenses

incurred due to the assault. LOPEZ also experienced mental suffering.

WHEREFORE Plaintiff LOPEZ demands judgment for damages against Defendant O'NEAL and such other relief this Court deems just and proper.

COUNT II: INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS

74. LOPEZ reincorporates the allegations contained in paragraphs 2-67 above as though fully set forth herein.

75. This is a cause of action for intentional infliction of emotional distress.

76. O'NEAL's conduct was intentional or reckless, *i.e.*, he intended his behavior because he knew or should have known that emotional distress would likely result from his conduct or the conduct of his agents.

77. O'NEAL's conduct was outrageous; his conduct was beyond all bounds of decency, atrocious and utterly intolerable in a civilized community.

78. O'NEAL's conduct caused emotional distress in LOPEZ.

79. The emotional distress of LOPEZ was severe.

WHEREFORE Plaintiff LOPEZ demands judgment for damages against Defendant O'NEAL and such other relief this Court deems just and proper.

COUNT III: INVASION OF PRIVACY

80. LOPEZ reincorporates the allegations contained in paragraphs 2-67 above as though fully set forth herein.

81. This is a cause of action for invasion of privacy by intrusion.

82. O'NEAL intentionally intruded, physically or otherwise, upon the solitude and seclusion of LOPEZ in her private affairs and concerns by hacking into her communications, voice

mails, test messages, and e-mails, reviewing her communications, and deleting them at will.

83. O'NEAL intentionally intruded, physically or otherwise, upon the solitude and seclusion of LOPEZ in her private affairs and concerns by using Spoof software to make it appear that her cell phone was being used when it was not.

84. These intrusions would be highly offensive to a reasonable person.

WHEREFORE Plaintiff LOPEZ demands judgment for damages against Defendant O'NEAL and such other relief this Court deems just and proper.

COUNT IV: CONVERSION

85. LOPEZ reincorporates the allegations contained in paragraphs 2-67 above as though fully set forth herein.

86. This is cause of action for conversion.

87. O'NEAL obtained the communications belonging to LOPEZ in that he exercised dominion and control over the communications and made unauthorized use of the communications.

88. O'NEAL knowingly obtained or used, or endeavored to obtain or to use, the communications of LOPEZ with intent to, either temporarily or permanently, deprive LOPEZ of a right to the property or a benefit from his property.

89. Alternatively, O'NEAL knowingly obtained or used, or endeavored to obtain or to use, the communications of LOPEZ with intent to, either temporarily or permanently, appropriate the property to the use of the O'NEAL or to the use of another person not entitled to the use of the communications.

90. By his intentional conduct, O'NEAL converted LOPEZ's property.

91. At all times material, O'NEAL acted with criminal intent.

92. At all times material, O'NEAL perpetrated conduct upon LOPEZ with wanton, willful and malicious disregard of LOPEZ's rights.

WHEREFORE, Plaintiff LOPEZ demands judgment for compensatory damages against Defendant O'NEAL, together with prejudgment interest and court costs. Plaintiff reserves the right to add a claim for punitive damages upon compliance with § 768.72, Florida Statutes (2007).

COUNT V: FLORIDA CIVIL RICO

93. LOPEZ reincorporates the allegations contained in paragraphs 2-67 above as though fully set forth herein.

94. This is a cause of action against O'NEAL for violation of Florida R.I.C.O., pursuant to §772.103, Fla. Stat., and §772.104, Fla. Stat.

95. O'NEAL and others engaged in an enterprise, an ongoing organization, formal or informal, that functions both as a continuing unit and has a common purpose of engaging in a course of conduct that was to control the actions of LOPEZ through fear, threat of violence, and/or violence.

96. O'NEAL and the others came to a mutual understanding to try to accomplish a common and unlawful plan, specifically to control the actions of LOPEZ through fear, threat of violence, or violence.

97. Each of them ----O'NEAL and the others --- knowingly and willfully became a member of such conspiracy.

98. At the time O'NEAL and each of the others joined such conspiracy, he or she did so with the specific intent either to personally engage in at least two incidents of racketeering, as alleged herein, or he or she specifically intended to otherwise participate in the affairs of the "enterprise"

with the knowledge and intent that other members of the conspiracy would engage in at least two incidents of racketeering, as alleged herein, as part of a “pattern of racketeering activity.”

99. O’NEAL and the others intentionally participated in a scheme to control the actions of LOPEZ through fear, threat of violence or violence by engaging in the following:

a. By making repeated harassing and heavy breathing calls to her, deleting her communications, and spoofing her communications, O’NEAL engaged in a scheme to defraud LOPEZ and, in furtherance of that scheme, communicated with LOPEZ with the intent to obtain property from her in violation of §817.034(4)(b), Fla. Stat.

b. By making threatening phone calls and by spoofing her communications, Justin engaged in a scheme to defraud LOPEZ and, in furtherance of that scheme, communicated with LOPEZ with the intent to obtain property from her in violation of §817.034(4)(b), Fla. Stat.

c. By making threatening phone calls, Ayesha Harrison engaged in a scheme to defraud LOPEZ and, in furtherance of that scheme, communicated with LOPEZ with the intent to obtain property from her in violation of §817.034(4)(b), Fla. Stat.

d. By making repeated harassing and heavy breathing calls to her and causing others, including but not limited to Justin and Ayesha Harrison to threaten LOPEZ, intentionally, unlawfully threatened by word and act to do violence to LOPEZ, coupled with an apparent ability to do so, and acting in such a manner as to create a well-founded fear in LOPEZ that such violence is imminent, in violation of §784.011(1), Fla. Stat.

e. By making the call and texting LOPEZ on October 1, 2009, letting her know that he was on the way to get her and spoofing the use of her own cell phone number, Justin intentionally, unlawfully threatened by word and act to do violence to LOPEZ, coupled with an

apparent ability to do so, and acting in such a manner as to create a well-founded fear in LOPEZ that such violence is imminent, in violation of §784.011(1), Fla. Stat.

f. By making threatening phone calls a block away from the house of LOPEZ, Ayesha Harrison intentionally, unlawfully threatened by word and act to do violence to LOPEZ, coupled with an apparent ability to do so, and acting in such a manner as to create a well-founded fear in LOPEZ that such violence is imminent, in violation of §784.011(1), Fla. Stat.

g. By making repeated harassing and heavy breathing calls to her, deleting her communications, and spoofing her communications, directing Ayesha Harrison and Justin to threaten and/or harm LOPEZ, O'NEAL willfully, maliciously, and repeatedly followed, harassed, and/or cyberstalked LOPEZ, and made a credible threat with the intent to place LOPEZ in reasonable fear of her death or her bodily injury in violation of §784.048(2) & (3), Fla. Stat.

h. By making the call and texting to LOPEZ on October 1, 2009, letting her know that he was on the way to get her and spoofing the use of her own cell phone number, Justin willfully, maliciously, and repeatedly followed, harassed, and/or cyberstalked LOPEZ, and made a credible threat with the intent to place LOPEZ in reasonable fear of her death or her bodily injury in violation of §784.048(2) & (3), Fla. Stat.

i. By making a series of threatening phone calls a block away from the house of LOPEZ, Ayesha Harrison willfully, maliciously, and repeatedly harassed LOPEZ, and made a credible threat with the intent to place LOPEZ in reasonable fear of her death or her bodily injury in violation of §784.048(2) & (3), Fla. Stat.

j. By making repeated phone calls with such frequency during the day and in the middle of the night so as to constitute harassment which constituted a credible threat and with

the intent to place LOPEZ in reasonable fear of her death or her bodily injury in violation of §784.048(2) & (3), Fla. Stat.

k. O'NEAL knowingly obtained or used, or endeavored to obtain or to use, the property of LOPEZ with intent to, either temporarily or permanently deprive LOPEZ of a right to her property ---- her right to privacy and her communications---- or a benefit from the property or appropriate the property to his own use or to the use of any person not entitled to the use of the property violation of §812.014(1), Fla. Stat.

l. O'NEAL willfully, knowingly, and without authorization accessed or caused to be accessed the computer of LOPEZ in violation of §815.06(1), Fla. Stat.

100. O'NEAL controlled the enterprise.

101. O'NEAL, through a pattern of criminal activity acquired or maintained, directly or indirectly, an interest in or control of the enterprise in violation of §772.103(2), Fla. Stat. Justin and Ayesha Harrison — the others --- were employed by, or associated with, the enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of criminal activity in violation of §772.103(3), Fla. Stat.

102. O'NEAL and the others conspired or endeavored to violate any of the provisions of §772.103(2) & (3), Fla. Stat., in violation of §772.103(4), Fla. Stat.

103. LOPEZ has incurred attorney's fees and costs in bringing this action, and LOPEZ is entitled to an award of attorney's fees and costs pursuant to §772.104.

WHEREFORE, Plaintiff LOPEZ demands judgment for treble damages against Defendant O'NEAL, an award of the Plaintiff's attorney's fees, together with pre-judgment interest, and court costs.

Plaintiff demands trial by jury on all issues so triable.

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By /s/ Jonathan A. Heller
JONATHAN A. HELLER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of September, 2010, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF, which will send notification of such filing to Counsel of Record for Defense, Benjamine Reid, Esq., Carlton Field, 4000 International Place, 100 S.E. Second Street, Miami, Florida 33131.

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