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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

EMILIA WANG,

Plaintiff and Respondent,

v.

LAMA NORBU,

Defendant and Appellant.

B270210

(Los Angeles County  
Super. Ct. No. BC517398)

APPEAL from a judgment of the Superior Court of Los Angeles County. Allan J. Goodman, Judge. Affirmed.

Winston Kevin McKesson for Defendant and Appellant.

Pettibone Law and Douglas J. Pettibone for Plaintiff and Respondent.

Appellant Lama Norbu (Norbu) appeals from a judgment after a bench trial in favor of respondent Emilia Wang (Wang) in Wang’s action for damages arising out of Norbu’s sexual assaults against her. Norbu contends (1) insufficient evidence supports the trial court’s findings, and (2) the trial court abused its discretion in calculating damages. We affirm the judgment and deny the award of sanctions.

## **FACTUAL BACKGROUND AND PROCEDURAL HISTORY<sup>1</sup>**

### *1. Trial Testimony*

Norbu was born and raised in Nepal. In 1987, he entered a monastery and became an ordained monk. Pursuant to Buddhist teachings, Norbu was forbidden from killing, stealing, having sex, or lying. Norbu left the monastery in 1999, and came to the United States in June 2001 to visit his brother and friends.

While visiting his brother in Berkeley, Norbu met a woman who was associated with the Bodhi Heart Buddhist Center in Arizona. Norbu became a spiritual teacher at the center. In November 2007, Norbu met Yuan Miao, the leader of New Century Foundation (NCF). NCF is an organization that arranges for seminars on Eastern spiritual practices. In February 2008, Norbu joined NCF as its spiritual director. At this time, he had a sexual experience with Miao, whom Norbu believed was a “goddess.” He asserted that Buddhist teachings

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<sup>1</sup> No reporter’s transcript was prepared and thus the record of the oral proceedings is contained in a settled statement filed pursuant to California Rules of Court, rule 8.137.

permitted him to have sex with a “goddess” and the experience would lead to his enlightenment. However, as a result of the encounter, and pursuant to Buddhist teachings, Norbu was no longer a monk, could no longer wear a monk’s robe, and could no longer teach at the Bodhi Heart Buddhist Center. He could, however, continue to be a spiritual leader.

After leaving Bodhi Heart, Norbu moved into a house with Miao. Norbu maintained his sexual relationship with Miao until September 2011.

In May 2010, a book entitled “Love Sutra Lama” was published. The book, which was available through NCF and other sources, listed Norbu as an authority and copyright holder. The cover had a picture of Norbu, against a Grand Canyon-like backdrop, wearing a robe and sitting in a prayerful position. The book contained information on Norbu’s background, stating that Norbu was born and partially raised in China; he was ordained as a monk; and he held the equivalent of a Ph.D. degree. The book did not state, however, that Norbu was no longer a monk.

Norbu made no attempts to correct the errors in the book until after he left NCF. He liked the idea that his name and picture were on the book, although he recognized such thoughts were inconsistent with his understanding of Buddhist teachings.

At trial, Norbu claimed that he was born in Nepal and Miao wrote the book. He could not, however, explain why his name was on the book as its author and copyright holder, or why his place of birth was listed

as China, nor could he explain why the book omitted the fact he was no longer a monk.

Wang met Norbu through workshops at NCF. She was born in China and held a college degree from a Chinese university. She came to the United States in 2001 to study at USC, where she obtained a master's degree in business administration. She worked at Nissan, but left to obtain a real estate license. However, she did not pursue her real estate career because of anxiety about driving in a car.<sup>2</sup>

In the United States, Wang joined the Amida Society, a Buddhist organization. She did volunteer work at a library and at Terminal Island, teaching Buddhism to inmates. She learned of NCF from one of her Buddhist masters, and participated in workshops at NCF. While there, she saw Norbu but did not interact with him.

In September 2011, Fay Wang of NCF asked Wang to pick up Norbu on October 2, 2011 and take him to a spiritual workshop. On October 1, 2011, Norbu called Wang and spoke to her in English. Wang responded in Mandarin, and Norbu said, "Oh [I] thought you were someone else." They confirmed that she would pick him up the next day. Before the call concluded, Norbu told Wang, "Sweet dreams tonight, I'll be with you in your dreams." Wang was unsettled with what she considered to be his sexual tone. However, because Norbu was a spiritual teacher and would have had the highest moral values, she believed she was mistaken.

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<sup>2</sup> Her anxiety resulted from one of Norbu's sexual assaults, which took place while she was driving him back from a workshop.

On October 2, 2011, Wang engaged in her usual morning routine of meditation and prayer. She went to pick up Norbu, and they drove to Anadasanga Yoga studio in Venice. The drive took a little over an hour, and they spent about two and a half hours at the studio. On the drive back, Norbu asked if Wang slept well and said she looked tired. Although they were separated by the car's middle console, Norbu put his hand on hers, pinched her thigh, and said, "don't be afraid, I am giving you my empowerment." Norbu put his hand on her breast and leaned over as if to kiss her. Wang was so shocked she almost got into an accident. Norbu told her, "the master has power to empower and punish" and Wang had "just experienced that by almost getting into an accident." At trial, Norbu denied touching Wang or making any statements to her.

Norbu directed her to a store and commanded her to come into the store with him. She complied, because she was afraid that if anyone found out what he had done, she would be blamed because Norbu was a spiritual leader.

Norbu returned to the car with several bag of groceries. Wang drove them to Norbu's house, intent on leaving alone. When they arrived, Norbu took all of the bags except one to the door and directed her to bring the last bag. Wang complied and dropped the bag on the porch. When she turned to leave, Norbu grabbed her wrist. Wang screamed and broke free. As she fled, Norbu kicked at her legs, attempting to trip her, and shouted, "[O]bey me!"

Wang managed to get in her car and leave. Her wrist hurt, she had a bruise on her thigh and she felt panic. She had no appetite and

lay in bed that night crying. Norbu called her. When she did not answer, he left a message stating that it would bring bad luck if she did not obey him.

On one later occasion (October 8, 2011), Wang again traveled with Norbu, but arranged for a third person to be present. After that, she never saw him again.

For months after the incident, Wang was fearful and had feelings of worthlessness and uselessness. She meditated, and took hypnosis classes at a total cost of \$35. For many months after the incident, she awoke fearful and sweating.

Meanwhile, NCF discovered that Norbu was viewing pornography and arranging sexual liaisons on the cell phone it had supplied him. NCF dismissed Norbu for sexual impropriety, and notified him in two letters, one of which was sent to all NCF students.

After receiving the letters, Norbu called his adoptive mother, who told him to leave everything and go as quickly as he could to a house she had near Mendocino. Norbu left that same evening. Norbu continued to live near Mendocino until served with Wang's summons and complaint in 2013. In her complaint, Wang alleged claims for battery, sexual assault, intentional infliction of emotional distress, and negligent infliction of emotional distress.<sup>3</sup>

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<sup>3</sup> The complaint is not part of the record on appeal.

## 2. *Statement of Decision*

The trial court sat as factfinder and issued a detailed statement of decision. It found Wang credible, and Norbu not credible. It returned a verdict for Wang on the first two causes of action for battery, based on the two incidents of October 2, 2011 (the unconsented touchings in the car and at the house). The trial court found the third cause of action for sexual assault established by Norbu's grabbing of Wang's breast, and the fourth cause of action for intentional infliction of emotional distress was established by Wang's testimony concerning her distress after the incident. However, the trial court rejected the fifth cause of action for negligent infliction of emotional distress because Norbu's conduct was entirely intentional.

The trial court awarded Wang \$25,000 in damages based upon counsel's request for general damages in that amount. The court found Norbu had no ability to pay a punitive damages award, and denied Wang's request for punitive damages.

## **DISCUSSION**

### I. *Sufficient Evidence Supports the Judgment*

Norbu argues that the evidence is insufficient to support the judgment because there was no physical evidence of the batteries, and because, according to Norbu, the trial court based its decision on a misunderstanding of Norbu's religion and his status as a monk, not on his testimony concerning the incident. Finally, Norbu argues that even if his testimony was not credible, Wang's testimony did not support the judgment. We disagree.

A. *Standard of Review*

In evaluating the record for substantial evidence, we determine whether the evidence, contradicted or uncontradicted, will support the judgment. (*Bowers v. Bernards* (1984) 150 Cal.App.3d 870, 873–874.) Substantial evidence is evidence that is of ponderable legal significance, reasonable, credible, and of solid value. (*Roddenberry v. Roddenberry* (1996) 44 Cal.App.4th 634, 651.) The testimony of a single witness is sufficient. (*Dart Industries, Inc. v. Commercial Union Ins. Co.* (2002) 28 Cal.4th 1059, 1075.) It is not our role as a reviewing court to reweigh the evidence or assess credibility. (*Thompson v. Asimos* (2016) 6 Cal.App.5th 970, 981.)

Here, the trial court properly made its own credibility determinations and relied on the testimony of Wang, whom the trial court found to be more credible than Norbu. No documentary or physical evidence was required to corroborate her testimony. Furthermore, the fact her testimony contradicted Norbu’s testimony does not affect the analysis. Wang’s testimony, if believed by the trier of fact, is sufficient to support the judgment. (*Hauter v. Zogarts* (1975) 14 Cal.3d 104, 110.)

Nor do we find the trial court misunderstood Norbu’s religion. Rather, the trial court found Norbu’s testimony concerning his religion to be contradictory, particularly on the issue whether he remained a monk after his sexual experience with Miao. The trial court properly found such contradictions undercut Norbu’s credibility.



B. *Sufficient Evidence Supports the Judgment*

1. *Battery (Causes of Action 1 and 2)*

A battery is an intentional and offensive touching of a person who has not consented to the touching. Although typically a battery is a violation of a person's wishes to avoid bodily contact that is hostile, aggressive or harmful, the tort is committed if there is unwanted intentional touching of any kind. (*Conte v. Girard Orthopaedic Surgeons Medical Group, Inc.* (2003) 107 Cal.App.4th 1260, 1266.)

The trial court found that, based upon Wang's testimony, there were two incidents of unwanted and unconsented touching: The first in the car, and the second on the porch of Norbu's home. Wang's testimony concerning Norbu's conduct, including his touching her without her consent, is sufficient to support the judgment on these causes of action.

2. *Sexual Assault (Third Cause of Action)*

Sexual assault is defined by statute in relevant part as "(1) Acts with the intent to cause a harmful or offensive contact with an intimate part of another, and a sexually offensive contact with that person directly or indirectly results. [¶] . . . [¶] (d) For the purposes of this section 'intimate part' means the . . . breast of a female. [¶] . . . [¶] (f) For purposes of this section 'offensive contact' means contact that offends a reasonable sense of personal dignity." (Civ. Code, § 1708.5.) The statute requires a lack of consent. (*Angie M. v. Superior Court* (1995) 37 Cal.App.4th 1217, 1225.)

The trial court determined that the cause of action had been satisfied because Norbu grabbed Wang's right breast. Additionally, the trial court found in connection with the first battery claim, that Wang was offended by Norbu's conduct, that she did not consent to that conduct, and that a reasonable person would have been offended by the battery. Because the sexual assault claim was based on the same evidence as one of the battery claims, all of the elements of the sexual assault claim are supported by substantial evidence.

3. *Intentional Infliction of Emotional Distress*  
(*Fourth Cause of Action*)

Intentional infliction of emotional distress requires a showing of extreme and outrageous conduct by the defendant with the intention of causing, or extreme disregard of the probability of causing emotional distress, the plaintiff's severe or extreme emotional distress, and actual and proximate causation of emotional distress by the defendant's outrageous conduct. (*Hughes v. Pair* (2009) 46 Cal.4th 1035, 1050.) Extreme and outrageous conduct is conduct that exceeds all bounds of that usually tolerated in a civilized community. (*Id.* at pp. 1050–1051.)

Here, Wang testified that she suffered from severe emotional distress—after the assaults, she lost her appetite and was fearful and had feelings of worthlessness and uselessness. Norbu's sexual assault, given his position at NCF, either as a monk who had taken a vow of celibacy, or as a spiritual leader, supported a finding that his conduct was outrageous.

## II. *The Trial Court's Award of Damages Was Reasonable*

Norbu contends the damages award is unsupported by the evidence because the trial court did not detail how it concluded \$25,000 was a reasonable amount for the damages Wang claimed, and the court did not address whether she mitigated her damages.

Noneconomic damages are intended to compensate an injured plaintiff for nonpecuniary injuries, which include “various forms of mental anguish and emotional distress.” This type of injury is subjective, and as a result, the determination of the amount of damages by the trier of fact is equally subjective. (*Corenbaum v. Lampkin* (2013) 215 Cal.App.4th 1308, 1332.) Noneconomic damages include more than emotional distress and pain and suffering. (*Bigler–Engler v. Breg, Inc.* (2017) 7 Cal.App.5th 276, 300.) “[A] plaintiff may recover not only for physical pain but for fright, nervousness, grief, anxiety, worry, mortification, shock, humiliation, indignity, embarrassment, apprehension, terror or ordeal.” (*Capelouto v. Kaiser Foundation Hospitals* (1972) 7 Cal.3d 889, 892–893.)

“There is no fixed standard to determine the amount of noneconomic damages. Instead, the determination is committed to the discretion of the trier of fact.” (*Corenbaum v. Lampkin, supra*, 215 Cal.App.4th at p. 1332; *Garfoot v. Avila* (1989) 213 Cal.App.3d 1205, 1210.)

Here, the trial court found that plaintiff’s testimony was credible concerning the emotional distress damages she suffered. Wang testified to emotional trauma resulting from Norbu’s conduct, a period of four

years from the date of the incident to the time of trial. As a result, \$25,000 was reasonable. Further, the record fails to show that Norbu raised the issue of mitigation of damages at trial, and thus it is forfeited. (*Gutierrez v. Carmax Auto Superstores California* (2018) 19 Cal.App.5th 1234, 1244–1245.)

### **DISPOSITION**

The judgment is affirmed.<sup>4</sup>

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WILLHITE, J.

We concur:

EPSTEIN, P. J.

COLLINS, J.

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<sup>4</sup> Contending that Norbu’s appeal is frivolous and prosecuted for purposes of delay, Wang filed a motion to dismiss the appeal and a motion for sanctions. Because we affirm on the merits, we deny the motion to dismiss. As to the motion for sanctions, although the issue is close, we decline to order sanctions.