

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

HARRIET THOMPKINS,

Plaintiff,

vs.

Case No. 8:10-CV-1518-T23-TBM

GULF BEACHES PUBLIC LIBRARY, INC.,
a Florida Non-Profit Corporation,

Defendant.

DEFENDANT’S, GULF BEACHES PUBLIC LIBRARY, INC.,
MOTION TO STRIKE PUNITIVE DAMAGES

COMES NOW, Defendant, GULF BEACHES PUBLIC LIBRARY, INC., a Florida non-profit corporation, by and through its undersigned counsel, and file this Motion to Strike Punitive Damages, and states as follows:

1. On or about July 9, 2010, Plaintiff, HARRIET THOMPKINS, filed a Complaint and Demand for Jury Trial against Defendant, GULF BEACHES PUBLIC LIBRARY, INC. (hereinafter referred to as “GULF BEACHES”).
2. Plaintiff’s Complaint and prayer for relief claim that she is suing GULF BEACHES for “punitive damages.” A true and accurate copy of Plaintiff’s Complaint and Demand for Jury Trial is attached hereto as Exhibit A.
3. To the extent that such “punitive damages” are sought against GULF BEACHES pursuant to the Plaintiff’s claims arising under Florida law,

pleading entitlement to such damages at this juncture in the Plaintiff's pleadings is premature and improper.

4. Specifically, Section 768.72, Florida Statutes provides that no claim for punitive damages shall be permitted unless there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recover of such damages. Fla. Stat. § 768.72(1) (2010).
5. Although the Plaintiff may move to amend her Complaint to assert a claim for punitive damages, Plaintiff has failed to provide a reasonable showing by evidence in the record, nor has she proffered a reasonable basis for recovery of such damages, at this time.
6. As such, the Plaintiff's prayer for punitive damages against Defendant, GULF BEACHES as contained within the Complaint should be stricken as a matter of law.

WHEREFORE, the Defendant, GULF BEACHES PUBLIC LIBRARY, INC. Respectfully requests that this Court strike the Plaintiff's claim for punitive damages as contained in the Complaint and Demand for Jury Trial, and grant any and all additional relief it deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 9, 2010, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to the following: Craig L. Berman, Esquire (cberman@tampabay.rr.com), Plaza Tower, 111 Second Avenue NE, Suite 706, St. Petersburg, Florida 33701.

/s/ Andrew J. Salzman

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