11/20/2020 2:57 PM
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Envelope No. 48301376
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Filed: 11/20/2020 2:57 PM

CAUSE NO. 2020-51549

ELIZABETH WILLIAMS,	§	**IN THE DISTRICT COURT**
Plaintiff,	§	
	§	
v.	§	**HARRIS COUNTY, TEXAS**
	§	
WILLIAM P. RAMEY and	§	
RAMEY & SCHWALLER, LLP	§	**157TH JUDICIAL DISTRICT**
Defendants.		

DEFENDANT RAMEY & SCHWALLER, LLP'S
MOTION TO DISMISS PURSUANT TO TEXAS RULE OF CIVIL PROCEDURE 91a

Ramey & Schwaller, LLP ("R&S"), a Defendant in the above-entitled and numbered cause, files this Motion to Dismiss Pursuant to Texas Rule of Civil Procedure 91a, and would show:

I.
BASIS TO DISMISS FOR FAILURE TO STATE A CLAIM

Plaintiff Elizabeth Williams joined her former employer, a law firm, in a lawsuit in which it does not belong. This case stems from the hotly contested accusation that, on September 28, 2018, Defendant William Ramey, a lawyer and partner in R&S, physically assaulted and attempted to sexually assault Williams, his paralegal at the time. Ramey adamantly denies Williams's allegations, which he maintains were falsely lodged and that Williams now opportunistically attributes injuries sustained after an alcohol-related blackout to an alleged assault by Ramey rather than a fall, as she originally told Ramey and others. Although R&S joins Ramey in denying the accusations, Williams's pleadings, whether true or false, fail to state a viable claim against the firm. There is no avenue by which Williams can seek to hold the firm liable for the alleged intentional and assaultive acts of a partner based on the facts alleged.

Williams's claims against the firm are not based in law or fact and should be dismissed under Rule 91a for the following reasons:

(1) With respect to the intentional tort claims (assault, IIED, invasion of privacy), the law firm cannot be directly or vicariously liable for Ramey's alleged assaultive acts as a matter of law because they are not within the scope of any position or engagement with the law firm and were not in furtherance of, or in the ordinary course of, the firm's business;

(2) Williams failed to state a claim for IIED because she fails to allege an independent or viable basis for the claim;

(3) Williams failed to state a claim for invasion of privacy because the alleged physical assault is not an intrusion on seclusion as a matter of law; and

(4) Williams's negligence claim against the firm is pre-empted by the statutory scheme regulating an employer's duty to address and correct complaints of sexual harassment, Chapter 21 of the Texas Labor Code.

II.
BACKGROUND

A. Williams's Employment with R&S

Plaintiff Elizabeth Williams worked as paralegal for Defendant William Ramey, an experienced intellectual property lawyer, for several years – most recently at Ramey & Schwaller, a Texas limited liability partnership.[1] Williams and Ramey worked closely together, often ate lunch and worked late together, and platonically socialized outside of work.[2]

B. The Night of September 28, 2018 and the Disputed Assault Allegations

On September 28, 2018, Williams and Ramey went to a working lunch to discuss a case with an upcoming trial date and to go over operations during Ramey's upcoming, extended international trip for a charity event.[3] The two drank wine during lunch and returned to the office that afternoon to continue work, but they also continued to consume alcohol.[4] Ultimately, around 7:00 p.m., Williams and Ramey began discussing serious, personal matters.[5]

[1] Plaintiff's Original Petition, ¶ 5.1.
[2] Plaintiff's Original Petition, ¶ 5.1, 5.3.
[3] Plaintiff's Original Petition, ¶ 5.4.
[4] Plaintiff's Original Petition, ¶ 5.4.
[5] Plaintiff's Original Petition, ¶ 5.4.

Defendants categorically deny Williams's alleged recollections of the subsequent events of that evening (and into the early morning hours) and the following days in the wake of her evolving allegations to prop up her demand for monetary payment. Williams pleads that after consuming alcohol and blacking out, she woke up in the women's restroom of the office with injuries to her face and body.[6] After initially attributing these injuries to a fall, the most plausible (but not a profitable) explanation, Williams now alleges that at some point during the evening, while in the office conference room, Ramey attempted to physically force Williams to perform sexual acts and that she allegedly fought him off, resulting in her injuries.[7]

C. Williams Files Baseless Claims Against the Law Firm

Almost two years after the alleged assault, on August 26, 2020, Williams filed the instant lawsuit against Ramey and R&S. She asserts the following causes of action against the firm: (1) assault, battery, and sexual assault,[8] (2) intentional infliction of emotional distress (IIED), (3) invasion of privacy based on intrusion of seclusion, and (4) negligence. Her theories as to the firm's liability are twofold. First, with respect to the three intentional tort claims, she contends that Ramey's alleged assault is attributable to the firm based on his employee or partner status, despite established precedent to the contrary that intentional acts of sexual assault are not imputed. Second, as to the fourth and final claim of negligence, Williams claims that the law firm received prior notice of sexually harassing (but not assaultive) behavior by Ramey and failed to adequately address it, leading to and causing the subsequent assault. This theory is pre-empted by Texas's employment discrimination statute governing an employer's duty to address sexual harassment.

Regardless of the veracity of Williams's allegations (and Ramey and R&S adamantly deny those allegations), she must first meet her initial burden to state claims supported by a legal and

[6] Plaintiff's Original Petition, ¶ 5.5, 5.6.
[7] Plaintiff's Original Petition, ¶ 5.5, 5.6.
[8] The Texas Supreme Court has recognized that Texas courts in civil cases use the terms "assault," "battery," and "assault and battery" interchangeably. *See Waffle House, Inc. v. Williams,* 313 S.W.3d 796, 801 n.4 (Tex. 2010).

factual basis, and she failed to do so. Because Williams does not and cannot state any plausible claim for relief against the firm, and because the firm cannot be liable for Williams's injuries allegedly sustained during the assault as a matter of law, Williams's claims against R&S should be dismissed.

III.
LEGAL STANDARD UNDER RULE 91a

Rule 91a.1 states that "a party may move to dismiss a cause of action on the grounds that it has no basis in law or fact." The standard for "no basis in law or fact" is as follows:

> A cause of action has no basis in law if the allegations, taken as true, together with inferences reasonably drawn from them do not entitle the claimant to the relief sought. A cause of action has no basis in fact if no reasonable person could believe the facts pleaded.

Tex. R. Civ. P. 91a.1. A dismissal under this rule "is appropriate if the court determines beyond doubt that the plaintiff can prove no set of facts to support a claim that would entitle him to relief." *GoDaddy.com, LLC v. Hollie Toups*, 429 S.W.3d 752, 754 (Tex. App.—Beaumont 2014, pet. denied). The court must decide the motion based on the pleading of the cause of action, together with any exhibits permitted by Rule 59.[9] Tex. R. Civ. P. 91a.6.

IV.
PLAINTIFF FAILS TO STATE A CLAIM AGAINST R&S

A. Counts 1-3: The Alleged Intentional Torts Cannot be Imputed to R&S

Williams's claims of assault, IIED, and invasion of privacy (Counts 1-3) solely arise from the alleged assault on September 28, 2018, on which date Williams claims Ramey attempted to force her to perform sexual acts and allegedly caused bodily injuries to her. Williams does not specify in her pleadings how she contends the law firm may be held directly or vicariously liable for Ramey's alleged assaultive conduct, other than to generally allege that he acted (1) within the

[9] Rule 59, in relevant part, allows "written instruments, constituting, in whole or in part, the claim sued on [to] be made part of the pleadings…for all purposes." Tex. R. Civ. P. 59.

scope of his employment (i.e. vicarious liability under the doctrine of respondeat superior), and (2) as a partner of the firm.[10] With respect to the former, Ramey is not an employee of the firm. Even if a favorable construction of the pleadings is applied to encompass Ramey's potential status as an agent of the firm (employee and agent status being interchangeable in this context), Williams's claims based on vicarious liability fail.[11]

1. Sexual Assaults Cannot Be Imputed As a Matter of Law

Vicarious liability for an agent or employee's conduct will only arise if the agent's acts are within the scope of the agent's general authority in furtherance of the principal's business and for the accomplishment of the object for which the agent was hired. *Soto v. El Paso Natural Gas Co*., 942 S.W.2d 671, 681 (Tex. App.—El Paso 1997, writ denied). The general rule is that it is not ordinarily within the scope of a servant's authority to commit an assault on a third person because such an assault is usually the expression of personal animosity or for a personal objective and is not for the purpose of carrying out the master's business. *Smith v. M System Food Stores*, 297 S.W. 2d 112, 114 (Tex. 1957). The Texas Supreme Court has noted that, "[w]hen the servant turns aside, for however short a time, from the prosecution of the master's work to engage in an affair wholly his own, he ceases to act for the master, and the responsibility for that which he does in pursuing his own business or pleasure is upon him alone." *Texas & P. Ry. Co. v. Hagenloh*, 247 S.W.2d 236, 239, 241 (Tex. 1952) (quoting *Galveston, H. & S.A. Ry. Co. v. Currie*, 96 S.W. 1073 (Tex. 1906)). For an employer to incur liability, the assault must stem directly from the employee's exercise, however inappropriate or excessive, of a delegated right or duty. *ANA, Inc. v. Lowry*, 31 S.W.3d 765, 770 (Tex. App.--Houston [1st Dist.] 2000, no pet.).

[10] Plaintiff's Original Petition, ¶ 6.1.
[11] *See St. Joseph Hosp. v. Wolff*, 94 S.W.3d 513, 542 (Tex. 2002).

Sexual assaults committed by an agent or employee are not within the course and scope of employment as a matter of law. In *Buck v. Blum*, 130 S.W.3d 285 (Tex. App.—Houston [14th Dist.] 2004, no pet.), a patient asserted a respondeat superior claim based on her allegation that she was sexually assaulted by a doctor during a neurological exam. The court held that the doctor was not acting in the course and scope of his employment as a matter of law, even though the assault occurred during the exam, because "he was acting in his own prurient interest and ceased to be acting for the employer." *Id*. at 289. The court further stated that neurological examination, at that point, was only a pretense or a means for the doctor's inappropriate personal gratification and that his employer could not liable for his assaultive conduct. *Id*.

Likewise, in *Mackey v. U.P. Enterprises*, 935 S.W.2d 446 (Tex. App.--Tyler 1996, no pet.), the plaintiff alleged she was sexually assaulted by fellow employees at her place of employment, a restaurant. The court held that the sexually assaultive conduct could not be imputed to the employer because there was no relationship between the assaultive acts and the employees' duties as managers of the restaurant. *Id*. at 453. The court held that the acts were solely those of the individuals and were not within the course and scope of employment as matter of law. *Id*.

It is indisputable that the alleged, physical assault and attempted sexual assault by Ramey was outside the scope of his duties of a lawyer or partner of the law firm, and that the alleged acts were not in the furtherance of the law firm's business. The alleged assault is wholly unrelated from the practice of law or law firm management, and the alleged conduct, if taken as true, was unequivocally a deviation from any work-related activity. Thus, Ramey's alleged conduct cannot be imputed to the firm and the intentional tort claims against the firm based on respondeat superior have no factual or legal basis.

2. <u>The Partnership Is Not Liable for a Partner's Alleged Assault</u>

Ramey's partnership in the firm is not a basis to hold the firm liable for his alleged intentional torts, either. The Texas Business Organizations Code governs a partnership's liability, or lack thereof, to a third party for injuries caused by a partner. Section 152.303, entitled "Liability of Partnership for Conduct of Partner," states in relevant part:

> (a) A partnership is liable for loss or injury to a person, including a partner, or for a penalty caused by or incurred as a result of a wrongful act or omission or other actionable conduct of a partner acting:
>
> (1) in the ordinary course of business of the partnership; or
>
> (2) with the authority of the partnership.

Tex. Bus. Orgs. Code § 152.303(a).[12] Thus, a partnership is not liable for a third party's injury or loss caused by an individual partner's wrongful act absent these requirements being met. *See Doctors Hosp. at Renaissance, Ltd. v. Andrade*, 493 S.W.3d 545, 547–48 (Tex. 2016) (Physician, a limited partner in limited partnership that owned hospital, was not acting in ordinary course of partnership's business at the time of his alleged negligence that purportedly resulted in permanent injuries to newborn baby; partnership was not vicariously liable because the purpose of the limited partnership was to operate health care facilities, as opposed to practicing medicine).

As set out above, Ramey's alleged assaultive conduct was not, as matter of law, in the ordinary course of the law firm's business to provide legal services. Further, Williams does not plead, presumably for obvious reasons, that R&S in any way "authorized" the alleged assault (nor could a reasonable person believe such an allegation). Therefore, the partnership cannot be liable for Ramey's alleged injurious conduct, regardless of his partner status. Counts 1-3 against the firm should be dismissed because there is no basis to impute Ramey's alleged conduct to the firm.

[12] Chapter 152 of the Business Organizations Code governs "General Partnerships" and Chapter 153 governs "Limited Partnerships." However, the provisions of Chapter 152 are applicable to limited partnerships to the extent that chapter 153 and other limited partnership provisions are silent. Tex. Bus. Orgs. Code. § 153.051(d); § 153.003 ("(a) Except as provided by Subsection (b), in a case not provided for by this chapter and the other limited partnership provisions, the provisions of Chapter 152 governing partnerships that are not limited partnerships and the rules of law and equity govern. (b) The powers and duties of a limited partner shall not be governed by a provision of Chapter 152 that would be inconsistent with the nature and role of a limited partner as contemplated by this chapter.").

B. Alternative Basis to Dismiss Count 2: Williams's Claim for IIED is Not Viable

Separate and apart from the issue of whether Ramey's intentional acts can be imputed to the firm, Williams otherwise fails to state a viable claim for IIED. The Texas Supreme Court has recognized that an intentional infliction of emotional distress claim is "a 'gap-filler' tort, judicially created for the limited purpose of allowing recovery in those rare instances in which a defendant intentionally inflicts severe emotional distress in a manner so unusual that the victim has no other recognized theory of redress." *Standard Fruit & Vegetable Co. v. Johnson*, 985 S.W.2d 62, 68 (Tex. 1998). "Where the gravamen of a plaintiff's complaint is really another tort, intentional infliction of emotional distress should not be available." *Hoffmann-La Roche, Inc. v. Zeltwanger*, 144 S.W.3d 438, 447 (Tex. 2004). An IIED claim is barred where the plaintiff's injuries can be remedied by existing statutory or common law remedies, even if those avenues are barred. *Creditwatch, Inc. v. Jackson*, 157 S.W.3d 814, 816 (Tex. 2005).

In this case, the same facts supporting Williams's assault and negligence causes of action support her IIED claim. Williams does not even attempt to allege separate facts regarding other extreme or outrageous conduct or any independent basis. As a result, IIED is not an available claim as a matter of law.

C. Alternative Basis to Dismiss Count 3: Assault is Not Actionable as Invasion of Privacy

Williams also fails to state a cognizable claim for invasion of privacy for intrusion on seclusion. The alleged physical assault causing bodily injury does not give rise to an invasion of privacy claim.

The elements of a cause of action for invasion of privacy by intrusion on seclusion are: 1) the defendant intentionally intruded on the plaintiff's solitude, seclusion, or private affairs, 2) the intrusion would be highly offensive to a reasonable person, and 3) the plaintiff suffered injury as a result of the defendant's intrusion. *Valenzuela v. Aquino*, 853 S.W.2d 512, 513 (Tex. 1993). This

type of invasion of privacy is generally associated with either a physical invasion of a person's property, eavesdropping on another's conversation with the aid of wiretaps, microphones, or spying. *Vaughn v. Drennon*, 202 S.W.3d 308, 320 (Tex. App. -- Tyler 2006, no pet). Put differently, intrusion on seclusion is the wrongful intrusion into one's private activities in such manner as to outrage or cause mental suffering, shame or humiliation to a person of ordinary sensibilities. *Billings v. Atkinson*, 489 S.W.2d 858, 860 (Tex. 1973) (adopting a cause of action for invasion of privacy and awarding plaintiff damages against a defendant for unlawfully tapping plaintiff's phone); *see also Cornhill Ins., P.L.C. v. Valsamis, Inc.*, 106 F.3d 80, 85 (5th Cir.1997) (acts of sexual harassment, including inappropriate touching and harasser's attempt to "force himself" on plaintiff, was not actionable as invasion of privacy).

The alleged assault on Williams's person, even if considered true, did not physically intrude into her property, nor does it involve any intrusion akin to spying or eavesdropping, or involve taking or retaining intrusive recordings or photographs. The alleged physical assault is exactly that, an assault, and standing alone does not qualify as and is not actionable as "invasion of privacy" under Texas law.

D. Count 4: Williams's Negligence Claim Based on the Firm's Alleged Failure to Adequately Address a Previous Report of Harassment is Pre-empted

Negligence is the only asserted cause of action based on the firm's direct conduct. The claim hinges on the allegation that in early 2018, before the September 28, 2018 incident forming the basis of this suit, Williams reported to Melissa Schwaller, the other named partner of the firm, that Ramey verbally propositioned her for sex several months earlier, in September 2017.[13] Williams alleges that she and Schwaller discussed Ramey's proposition of Schwaller and his previous "affair" with another former employee of the firm.[14]

[13] Plaintiff's Original Petition, ¶ 5.2.
[14] Plaintiff's Original Petition, ¶ 5.2.

Based on this alleged report to Schwaller, Williams contends that the firm was "on notice of Mr. Ramey's sexually inappropriate conduct" and failed "to conduct any investigation or take any remedial action," which, she claims, proximately caused the later September 28, 2018 incident and Williams's injuries allegedly sustained therefrom.[15]

As a result, Williams's negligence claim against the firm stems solely from its alleged failure, as an employer, to address an employee's report of sexual harassment. However, Texas's statutory scheme, Chapter 21 of the Texas Labor Code (also referred to as the Texas Commission on Human Rights Act or TCHRA) governs an employer's duty to investigate and correct prohibited workplace discrimination, including sexual harassment. Chapter 21, therefore, preempts any claim against the firm based on such an employment practice. A claim within the scope of that legislative framework, regardless of whether Williams timely or properly pursued it, was her sole avenue of relief and the instant negligence claim based on the same conduct fails.

1. Williams Cannot Circumvent the Texas Anti-Discrimination Statutory Scheme by Re-Labeling the Complained of Employment Practice as Negligence

The TCHRA was enacted to "provide for the execution of the policies of Title VII of the Civil Rights Act of 1964," which was passed by Congress to target employment discrimination. Tex. Lab. Code § 21.001(1); 42 U.S.C. § 2000e. The TCHRA/Chapter 21 creates a comprehensive administrative review system, granting specific remedies for civil actions alleging its violation. *Hoffman-La Roche Inc. v. Zeltwanger*, 144 S.W.3d 438, 445–46 (Tex. 2004). This legislative design is circumvented when a plaintiff brings a common law action for conduct that the TCHRA was intended to cover. *Id*.

In *Waffle House, Inc. v. Williams*, 313 S.W.3d 796, 804 (Tex. 2010), the Texas Supreme Court held that that allowing the same conduct that supports or would support a statutory claim

[15] Plaintiff's Original Petition, ¶ 6.7.

under the TCHRA to support a common law claim for negligent hiring, supervision and retention would improperly permit plaintiffs to bypass the TCHRA's remedial scheme. *Id*. at 803. The court also found implied exclusivity in the TCHRA's election-of-remedies provision. *Id*.

In *Waffle House*, the plaintiff's various tort claims against the employer, including negligence, were based on repeated boorish behavior by a supervisor that occurred over several months, including included incidents of inappropriate touching. *Id.* at 799-800. The Texas Supreme Court characterized the common law tort claims arising therefrom as repackaged statutory sexual harassment claims against the employer. *Id*. at 811-12. The common law claims overlapped with conduct regulated by the statute because proof that the employer improperly retained or supervised a "known harasser" was critical to both the negligence claim and a hostile work environment/sexual harassment claim. *Id*. Highly relevant here, and with respect the basis of the employer's liability for not addressing previous reports of harassment, the court concluded:

> "…the target of Williams' common-law negligence claim—the efficacy of Waffle House's response to her harassment allegations and whether the company erred in supervising and retaining Davis after Williams lodged her complaints—is already part of what determines Waffle House's statutory liability under the TCHRA."

Id. at 811. Thus, in applying the doctrine of pre-emption, the court affirmed dismissal of the common law tort claims against the employer, including negligence. *Id*.

Williams's negligence theory is indistinguishable from that discussed and rejected in *Waffle House*. She claims that the firm was negligent and proximately caused the alleged subsequent assault because it (1) failed to investigate or take corrective action after a report of sexual harassment, and (2) retained and failed to adequately supervise Ramey as an alleged "known harasser." Just as in *Waffle House*, Williams cannot avoid the statutory requirements and limitations of the TCHRA by labeling her employment practice claims against the firm as negligence.

2. Plaintiff's Negligence Claim is Distinct from the Claims Arising from Assault

The Texas Supreme Court's related decision in *B.C. v. Steak N Shake Operations, Inc.* does not create an opening for Williams's negligence claim against the firm to survive dismissal. 512 S.W.3d 276 (Tex. 2017). In *Steak N Shake*, the plaintiff's common law assault claims were not pre-empted by the TCHRA because the "gravamen" of her complaint was assault rather than harassment. *Id.* at 282-83. The claims at issue arose directly from a single instance of an alleged violent assault by her supervisor, and the plaintiff claimed that the intentional conduct was imputed to the employer because the supervisor was a "vice principal." *Id.* The court's holding is not applicable here because (1) the fundamental theory of employer liability was different – the issue at hand regards the firm's own alleged negligence, rather than direct or vicarious liability for the tortfeasor's assaultive conduct, and (2) the basis of liability is different - here the negligence claim necessarily relies on allegations regarding prior notice to the firm of a previous incident of sexual harassment (not assault). The *Steak N Shake* court did not consider the employer's practices or any potential negligence related to responding to a harassment complaint or retaining or supervising a "known harasser" in the workplace.

3. Williams' Negligence Claim is Intertwined with and Inseparable from Sexual Harassment Allegations

Williams's negligence claim against the firm is pre-empted because the alleged breach of a legal duty is the very conduct regulated by the TCHRA/Chapter 21, namely an employer's statutory duty to address sexual harassment in the workplace.

The analysis in *McNutt v. Bhakta-BCP Mgmt, LLC* is particularly instructive on this point. 2016 WL 5853203, at *1 (Tex. App.—Eastland Sept. 30, 2016, no pet.). In that case, McNutt asserted that her supervisor, Desai, sexually assaulted her "when he grabbed her, took her to the ground, attempted to remove her clothing and attempted to sexually assault her." *Id.* at *1. She

also maintained that, before this incident, the employer was "continually made aware and knowledgeable of the improper and sexually charged conduct and harassment manifested and displayed by ... Desai against the female employees working under [him]." *Id*. Further, McNutt alleged that the employer "failed to terminate ... Desai and/or take prudent action to prevent the improper actions, conduct and sexual harassment." *Id*. Because of her employer's failure to act, McNutt pleaded, the employer breached its duty owed to her and caused more aggressive behavior by Desai, which finally led to the sexual assault. *Id*.

The appellate court characterized McNutt's complaint as "sexual harassment that culminated in her being assaulted." *Id*. at *3. It held that the negligence claims against the employer were pre-empted by the TCHRA. *Id*. The court explained that, based on how she pleaded her case, McNutt could not sustain the negligence cause of action against the employer in the absence of the sexual harassment allegations. *Id*. Her sexual harassment allegations - that Desai previously engaged in inappropriate conduct, and that the employer was aware of this behavior but failed to take appropriate action, leading to the assault - were "intertwined" with her common law complaints of negligent hiring, supervision, training, control, and retention. *Id*. The court concluded, "because those complaints are grounded in, and intertwined with, her sexual harassment allegations, they are preempted by the comprehensive remedial scheme of the TCHRA." *Id*.

The court further noted that, other than these sexual harassment allegations regarding failure to address harassing conduct prior to escalation to assault, McNutt did not allege any other facts or basis to support her negligence claim against the employer. *Id*.

The same scenario exists here. The only basis of Williams's negligence claim is that the firm allegedly received notice of prior incidents of sexual harassment by Ramey and failed to take appropriate steps to prevent the later, alleged assault. This conduct falls squarely within the

parameters of Chapter 21 and Williams's only viable cause of action arising therefrom is under that statute, regardless of whether she pursued that claim. Williams's negligence claim, therefore, is pre-empted and should be dismissed.

V.
CONCLUSION

R&S, a law firm and employer, is improperly present in this litigation regarding an alleged, intentional assault by one of its partners. Dismissal of all claims against it is needed to prevent the firm's unnecessary and groundless participation in litigation. Williams's efforts to join her former employer in this action has no basis under Texas law. An attempted sexual assault and alleged assault of this nature is not within the scope of a lawyer's duties or in furtherance of, or in the ordinary course of, a law firm's business as a matter of law. In addition, Williams's IIED and invasion of privacy claims are not tenable. With respect to the firm's alleged negligence related to failure to respond to a prior report of sexual harassment, the negligence claim is pre-empted by Texas's statute prohibiting sex discrimination in the workplace, including sexual harassment. Williams fails to state any cognizable claim against R&S, and it is therefore entitled to dismissal and for costs and attorney's fees.

PRAYER

Defendant Ramey & Schwaller, LLP prays that all claims against it be dismissed and for all such other and further relief to which it may show itself to be justly entitled.

Respectfully submitted,

GORDON REES SCULLY MANSUKHANI, LLP

/s/ Laura E. De Santos
LAURA E. DE SANTOS
State Bar No. 00793612
ldesantos@grsm.com
KRISTINA M. BRAR
State Bar No. 24064013
kbrar@grsm.com
TransWestern Tower
1900 West Loop South, Suite 1000
Houston, TX 77027
Phone: (713) 961-3366
Fax: (713) 961-3938

H. BARRET MARSHALL, JR.
State Bar No. 24050991
bmarshall@grsm.com
2200 Ross Avenue, Suite 3700
Dallas, TX 75201
(214) 231-4660 – Telephone
(214) 461-4053 – Facsimile

ATTORNEY FOR DEFENDANT
RAMEY & SCHWALLER, LLP

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was served pursuant to TEXAS RULES OF CIVIL PROCEDURE 21 and 21a on all counsel of record on November 20, 2020 via electronic service.

/s/ Laura E. De Santos
Laura E. De Santos