

OAKLAND COUNTY

11-122030-CZ



JUDGE DANIEL P. O'BRIEN
DEMING.SARAH, v CH NOVI

STATE OF MICHIGAN
IN THE SIXTH JUDICIAL CIRCUIT

Sarah Deming – an individual

Plaintiff,

CZ

-v-

CH NOVI LLC a Michigan limited Liability Company dba EMAGINE NOVI, and
FILMDISTRICT DISTRIBUTION LLC, a California Limited Liability Company

Joint and Several Defendants.

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COMPLAINT AND JURY DEMAND

Plaintiff states:

JURISDICTIONAL STATEMENT AND VENUE

1. This is an action brought under the Michigan Consumer Protection Act, MCL §445.901 *et seq.*
2. Plaintiff is an individual residing in Oakland County Michigan.
3. Defendant CH NOVI LLC is a Michigan LLC. Defendant FilmDistrict Distribution llc ("FILMDISTRICT") is a California LLC with sufficient business activity in Oakland County Michigan for personal jurisdiction.
4. A public display of a motion picture, for a fee, is a service under the Michigan

Consumer Protection Act.

5. The acts complained of took place in Oakland County Michigan.

COMMON FACTS

5. Plaintiff incorporates all previous paragraphs as though pled herein.

6. Defendant CH NOVI LLC, owns and operate a Motion Picture theater in Novi, Michigan.

7. Defendant FILMDISTRICT has marketed and distributed a motion picture called DRIVE.

8. DRIVE was distributed by Defendant FILMDISTRICT to Defendant CH NOVI to be publicly displayed on or about September 20, 2011, and thereafter.

9. DRIVE was advertised and promoted by Defendant FILMDISTRICT in theaters, and other media by utilizing trailers, one page media promotional descriptions, a website, posters, advertising, and other types of promotion.

10. Said advertising and promotion by Defendants promoted the film DRIVE as very similar to the *Fast and Furious*, or similar, series of movies.

11. Despite said advertising and promotion, DRIVE bore very little similarity to a chase, or race action film, for reasons including but not limited to DRIVE having very little driving in the motion picture.

12. Despite said advertising and promotion, DRIVE bore very little similarity to the style and character of the movie Defendants, through their marketing and advertising purported and represented DRIVE to be.

13. Despite said advertising and promotion by Defendants, DRIVE was a gratuitously, extremely graphically violent film, including a slow motion depiction of a

young woman's head being blown off .

14. Despite said advertising and promotion by Defendants, DRIVE was a motion picture that substantially contained extreme gratuitous defamatory dehumanizing racism directed against members of the Jewish faith, and thereby promoted criminal violence against members of the Jewish faith.

15. Plaintiff viewed the short trailer during the motion picture performance of "The Debt", and because of that trailer, caused to be purchased for Plaintiff a ticket for DRIVE, which Plaintiff ultimately paid for.

16. Plaintiff viewed the performance of the motion picture DRIVE on or about September 23, 2011, at Defendant CH NOVI'S theater.

COUNT I

VIOLATION OF MICHIGAN CONSUMER PROTECTION ACT

17. Plaintiff incorporates all previous paragraphs as though pled herein.

18. Defendants jointly and severally profited from the screenings of DRIVE at Defendant CH NOVI's theater.

19. Defendant FILMDISTRICT's marketing was in violation of MCL §445.903(c) because the actual "character" of the film was not as Defendant FILMDISTRICT represented, as set forth more fully herein, causing Plaintiff to suffer damages including but not limited to the purchase price of the ticket.

20. Defendant FILMDISTRICT's marketing was in violation of MCL §445.903(e) because the actual "style" of the film was not as Defendant FILMDISTRICT represented, causing Plaintiff to suffer damages including but not limited to the purchase price of the ticket, as set forth more fully herein.

21. Defendant FILMDISTRICT's marketing was in violation of MCL §445.903(s)

because Defendants failed to reveal a material fact, the omission of which tended to, and in fact did mislead and deceive the Plaintiff, and which fact could not reasonably be known by the Plaintiff, to wit: Extreme gratuitous defamatory racism and promotion of violence directed against members of the Jewish faith.

22. Defendant FILMDISTRICT's marketing was in violation of MCL §445.903(cc) because Defendants failed to reveal facts material to the transaction, in light of representations of fact made in a positive manner, to wit: Extreme gratuitous defamatory racism and promotion of violence directed against members of the Jewish faith.

REQUEST FOR INJUNCTIVE RELIEF

MCL §445.903(1)(b) provides injunctive relief even if there is a remedy at law. Plaintiff, as a person entitled under MCL §445.903(1)(b), respectfully requests that this Honorable Court issue a temporary and permanent injunction against Defendants, requiring a notice to the public, paid for by Defendants that will minimize the likelihood of violations of MCL §445.903(3) *et. seq.*, including, but not limited to, a notice to the public regarding the extreme gratuitous defamatory racism, and promotion of violence, directed against members of the Jewish faith.

Defendants are continuing and will continue to violate the Michigan Consumer Protection Act if such injunction is not issued.

REQUEST FOR CLASS ACTION CERTIFICATION

MCL §445.911(3) provides for class action certification, and Plaintiff respectfully requests that such certification be granted and that the representative Plaintiff for the class be the instant Plaintiff. In addition, Plaintiff requests that the cost of notification of the class action be borne by Defendants.

JURY DEMAND

Plaintiff demands a jury in this matter

RELIEF REQUESTED

Wherefore Plaintiff respectfully requests that this Honorable Court grant the relief requested herein, including the greater of actual or statutory damages, reasonable attorney fees, class certification, and injunctive relief against all Defendants as pled herein.

Dated: September 27, 2011

Respectfully submitted,



Martin H. Leaf(P43202)
Attorney for Plaintiff