

FILED
LOS ANGELES SUPERIOR COURT

NOV 03 2011

JOHN A. CLARKE, CLERK
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BY M. VANDEMAN, DEPUTY

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8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF LOS ANGELES

10 BILAL AHMED, an individual,
11 Plaintiff,
12 v.
13 LIONS GATE ENTERTAINMENT INC., a
14 California corporation, LIONS GATE
15 FILMS INC., a California corporation, HWY
16 61 FILMS LLC, a California limited liability
17 company and DOES 1-10, inclusive,
18 Defendants.

Case No. Richard A. Stone

COMPLAINT FOR: **SC114757**

- (1) APPROPRIATION OF NAME OR LIKENESS;
- (2) APPROPRIATION OF NAME OR LIKENESS UNDER THE CALIFORNIA CIVIL CODE §3344; AND
- (3) PUBLICITY THAT PLACES PLAINTIFF IN A FALSE LIGHT.

(JURY TRIAL REQUESTED)

Assigned:
Trial Dates:
Action Filed: CASE MANAGEMENT CONFERENCE

FEB 21 2012 8:30 X

Date

21 Plaintiff, Bilal Ahmed, an individual, alleges as follows:

THE PARTIES

90404 *A6025*
39500

- 23 1. At all material times Plaintiff Bilal Ahmed ("Plaintiff"), was, and is, an Oregon resident.
- 24 2. Plaintiff is informed and believes, and on that basis alleges, that at all material times,
- 25 defendant Lions Gate Entertainment Inc. and defendant Lions Gate Films Inc. (collectively hereinafter
- 26 "Lions Gate"), are and were, California corporations licensed and authorized to do business in California
- 27 with principal offices in Santa Monica, California.

1 3. Plaintiff is informed and believes, and on that basis alleges that at all material times,
2 defendant Hwy 61 Films LLC ("Hwy 61"), is and was a California limited liability company licensed
3 and authorized to do business in California with its principal California offices in Santa Monica,
4 California. Lions Gate and Hwy 61 are collectively referred to herein as "Defendants."

5 **VENUE**

6 4. Venue is proper in the County of Los Angeles pursuant to California Code of Civil
7 Procedure §395, because the causes of action alleged herein arose in Los Angeles County and because
8 defendants, or some of them, reside in Los Angeles County.

9 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

10 5. Defendants produced and distributed a for-profit film entitled "The Next Three Days"
11 (the "Movie") in which Plaintiff was depicted as a wanted fugitive along with other known or alleged
12 terrorists or fugitives, including Osama Bin Laden.

13 6. Plaintiff is not, nor at the time of the films release was, a wanted fugitive, but is currently
14 working and living in Oregon.

15 7. An image of Plaintiff was depicted for several seconds in multiple screen shots in the
16 Movie, which were also used extensively in advertising the Movie in the trailer for the Movie.
17 Beginning at 1 hour 54 minutes and 52 seconds into the Movie through 1 hour 56 minutes and 25
18 seconds into the Movie, Plaintiff's image appears four different times.

19 8. Plaintiff was informed by friends and associates who immediately recognized him, that
20 he was depicted in the Movie as a criminal fugitive wanted by federal authorities. Such unauthorized
21 use has damaged, and continues to damage, Plaintiff's reputation.

22 9. Plaintiff does not feel comfortable wearing his hair and facial hair as depicted in the
23 Movie for fear of greater connection between the Movie and him. Plaintiff's future gainful employment
24 has been impaired in relation to potential employers that might make the "wanted fugitive" connection
25 portrayed in the Movie.

26 10. The film was released globally, including in California and Oregon, and, to date, has
27 grossed over \$51,000,000 in ticket sales.
28

1 11. Defendants knowingly used Plaintiff's photograph and likeness for advertising or selling
2 their Movie, including using Plaintiff's likeness in trailers for the Movie, without Plaintiff's prior written
3 consent, in violation of California Civil Code §3344.

4 12. Plaintiff's image was used to sell and sensationalize the Movie (which is about wanted
5 fugitives). Distribution of Defendants' Movie was widely publicized.

6 **FIRST CAUSE OF ACTION**

7 **(Appropriation of Likeness Against All Defendants)**

8 13. Plaintiff realleges and incorporates by reference each and every allegation contained in
9 paragraphs 1 through 12 of this Complaint, as though set forth in full herein.

10 14. Defendants' use of Plaintiff's identity and likeness in their Movie was without Plaintiff's
11 permission or consent.

12 15. Defendants gained significant commercial benefit by their use of Plaintiff's image as
13 evidenced by the significant profits earned through the promotion and distribution of the Movie.

14 16. As a direct and proximate result of Defendant's use of Plaintiff's likeness in their Movie,
15 Plaintiff has suffered impairment to future earning capacity, damage to his reputation, mental anguish
16 and suffering, humiliation, and embarrassment for which he has incurred no less than \$250,000 in
17 economic and non-economic damages.

18 **SECOND CAUSE OF ACTION**

19 **(Violation of California Civil Code §3344 Against All Defendants)**

20 17. Plaintiff realleges and incorporates by reference each and every allegation contained in
21 paragraphs 1 through 16 of this Complaint, as though set forth in full herein.

22 18. Defendants have knowingly used plaintiff's photograph and likeness for advertising,
23 distribution and selling the Movie without Plaintiff's prior written consent, in violation of California
24 Civil Code §3344.

25 19. Defendants' use of Plaintiff's photograph and likeness did not occur in connection with a
26 news, public affairs, or sports broadcast or account, or with a political campaign.

27 20. Defendants' use of Plaintiff's identity and likeness in their Movie was without Plaintiff's
28 permission or consent.

1 21. Defendants' use of Plaintiff's photograph and likeness was directly connected to
2 Defendants' commercial purpose, e.g. the advertising, distribution and sale of the Movie.

3 22. As a direct and proximate result of Defendant's use of Plaintiff's likeness in their Movie,
4 Plaintiff has suffered impairment to future earning capacity, damage to his reputation, mental anguish
5 and suffering, humiliation, and embarrassment for which he has incurred no less than \$250,000 in
6 economic and non-economic damages.

7 23. Further, .01% of the gross sales (currently \$51,000) is a conservative and reasonable
8 amount to the profits resulting from the unauthorized use, which profits should be divulged to Plaintiff.

9 **THIRD CAUSE OF ACTION**

10 **(Publicity that Places Plaintiff in a False Light Against All Defendants)**

11 24. Plaintiff realleges and incorporates by reference each and every allegation contained in
12 paragraphs 1 through 23 of this Complaint, as though set forth in full herein.

13 25. Defendants publicized material that showed Plaintiff as a wanted fugitive

14 26. The false light of showing Plaintiff as a wanted fugitive in Defendants' Movie is, and
15 would be, highly offensive to a reasonable person in Plaintiff's position.

16 27. Defendants were negligent in determining the truth of their depiction of Plaintiff and
17 were negligent in determining whether a false impression would be created by Defendants' use of
18 Plaintiff's image in their Movie.

19 28. As a direct and proximate result of Defendant's use of Plaintiff's name and likeness in
20 their Movie, Plaintiff suffered impairment to future earning capacity, damage to his reputation, mental
21 anguish and suffering, humiliation, and embarrassment for which he has incurred no less than \$250,000
22 in economic and non-economic damages.

23 **PRAYER FOR RELIEF**

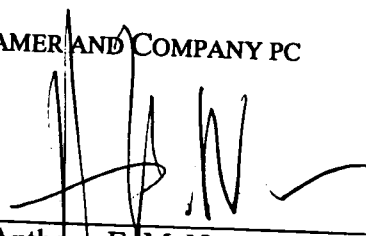
24 WHEREFORE, Plaintiff prays for judgment as follows:

25 1. The sum of \$51,000, plus interest thereon at rate of 9% per annum from the release date
26 of the Movie for Plaintiff's reasonable share of Defendants' profits for Plaintiff's First and Second
27 Claims for Relief against Defendants;

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2. The sum of \$750.00 or the actual damages, along with Plaintiff's attorney fees and costs (pursuant to California Civil Code §3344) for Plaintiff's Second Claim for Relief;
3. The sum of \$250,000 for economic and non economic damages for Plaintiff's First, Second and Third Claims for Relief against Defendants;
4. For an order to destroy all current inventory of the Movie and trailer and to delete Plaintiff's image from any further versions of the Movie;
5. For an order prohibiting any future distribution of the Movie using Plaintiff's photograph and likeness; and
6. For such other and further relief as the Court may deem just and proper.

DATED: November 1, 2011

MCNAMER AND COMPANY PC

By: _____
Anthony E. McNamer (Bar. No. 178911)
Attorneys for Plaintiff
Bilal Ahmed