

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ORIGINAL

American I

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DONALD J. TRUMP,

Plaintiff,

Index No.:
Dated Purchased:

-against-

SUMMONS 08110830

MORRISON COHEN LLP and
Y. DAVID SCHARF,

Plaintiff designates New York
County as the place of trial.

Defendants.
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Basis for venue:
Defendants' place of business

FILED

AUG 08 2008

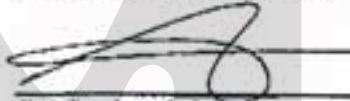
COUNTY CLERK'S OFFICE
NEW YORK

To the above-named Defendants:

YOU ARE HEREBY SUMMONED and required to appear on Plaintiff's attorneys an answer to the Complaint in this action within 20 days of this summons, exclusive of the day of service, or within 30 days after service if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
August __, 2008

MEISTER SEELIG & FEIN LLP



By: Stephen B. Meister
2 Grand Central Tower
140 East 45th Street - 19th Floor
New York, New York 10017
(212) 655-3500
Attorneys for Plaintiff

TO:
MORRISON COHEN LLP

Y. DAVID SCHARF

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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DONALD J. TRUMP,

Plaintiff,

-against-

MORRISON COHEN LLP and
Y. DAVID SCHARF,

Defendants.
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Index No.:
**VERIFIED
COMPLAINT**

Plaintiff Donald J. Trump ("Trump" or Mr. Trump"), by and through his attorneys, Meister Seelig & Fein LLP, as and for his Complaint against Morrison Cohen LLP ("Morrison Cohen") and Y. David Scharf ("Scharf"), alleges as follows:

Nature of the Action

1. This is an action brought pursuant to New York Civil Rights Law Section 51 for violation of Plaintiff's statutory right not to have his name used for advertising purpose or purposes of trade without his written consent. New York Civil Rights Law Section 51 codifies two distinct private rights of action: a claim for invasion of privacy, wherein the plaintiff seeks redress for the public disclosure of his name or image, without his written consent, for advertising purposes or for purposes of trade; and a claim for violation of the right to publicity, wherein a plaintiff seeks redress for the commercialization of his name or image, without his written consent (or compensation), for advertising purposes or for purposes of trade. Here, the Plaintiff proceeds under Section 51 of the New York Civil Rights Law seeking redress for the violation of his right to publicity as codified therein.

2. Defendants, a New York City law firm and one of its partners, have commercially exploited Plaintiff's name repeatedly and flagrantly, using Plaintiff's name for rank advertising purposes and purposes of trade, in a manner patently intended to preserve their existing clients and to educate and solicit new ones, by displaying Plaintiff's name on Defendant Morrison Cohen's web site, using Plaintiff's name in various press releases and in published interviews and mentioning Plaintiff's name in televised broadcasts, all without the written consent of Plaintiff.

3. Such conduct is a misdemeanor under New York Civil Right Law Section 50. Section 51 of the New York Civil Rights Law also creates a private right of action against parties who use a living person's name or likeness for advertising purposes or purposes of trade without such person's written consent. Section 51 of the Civil Rights Act provides that a person may obtain injunctive relief and damages, including exemplary damages, where as here Defendants knowingly violated Section 51, through the unauthorized use of the plaintiff's name or likeness for advertising purposes for purposes of trade. This action seeks both injunctive relief and damages, including exemplary damages.

Parties, Jurisdiction and Venue

4. Plaintiff, Donald J. Trump, is a natural person with a principal place of residence in New York County, New York.

5. Defendant, Morrison Cohen, is a limited liability partnership organized under the laws of the State of New York with a principal place of business at 909 Third Avenue, New York, New York 10022

6. Defendant, Y. David Scharf, is a natural person with a principal place of business at 909 Third Avenue, New York, New York 10022.

7. This Court has jurisdiction over this matter pursuant to CPLR 301.

8. Venue is proper pursuant to CPLR 503.

Facts

9. Mr. Trump is a well-known American businessman who has invested millions of dollars and considerable resources and time over several decades in developing his name and reputation. Mr. Trump, among other things, is a world renowned developer of luxury residential housing, best selling author, and television star with his own top rated reality based television show, "The Apprentice." In consequence, Mr. Trump is a worldwide celebrity with a well-known reputation for his keen real estate and business expertise.

10. Part of Mr. Trump's business includes, among others, the licensing of his name for commercial purposes and for purposes of trade. Mr. Trump has trademarked his name in many countries, and has organized and established companies engaged in the licensing of these registered trademarks, bearing his name. As a result, Mr. Trump earns substantial royalties through the licensing of his name and associated trademarks. Mr. Trump has also endorsed products and services in the past, and has received significant compensation for such endorsements.

11. Certain Trump business entities were formerly clients of Morrison Cohen, a law firm; Scharf, a Morrison Cohen partner, was counsel for these Trump business entities.

12. On or about September 19, 2006, Trump discharged Morrison Cohen and Scharf as his attorneys.

13. Defendants, without Trump's written consent, have used—really commercially exploited—Mr. Trump's name and reputation, and continue to do so, on Morrison Cohen's website. This use is for advertising purposes and purposes of trade.

14. For example the Morrison Cohen website as of the date of this complaint contained a posting regarding *Trump Briarcliff Manor Devel. LLC v. Columbus Constr. Corp.*, Westchester Co. Index No. 12562/01.

15. In addition, the Morrison Cohen website as of the date of this Complaint contained the following additional posting regarding Mr. Trump:

Scharf on Fox - Litigation Partner Y. David Scharf Appears on Fox Business Channel's "America's Nightly Scorecard"
11/14/07

On November 14, 2007, litigation partner Y. David Scharf appeared on the Fox Business Channel's "America's Nightly Scorecard" to discuss how perceived losses have been turned into triumphs by notable business luminaries and sports figures such as Carl Icahn, Donald Trump, Lance Armstrong, and others. He then participated in the nightly panel feature called "buy, sell or hold" and discussed the merits of a lawsuit filed against Mylie Cyrus by her fan club for not having received tickets to her sold out concert series "Hannah Montana."

16. In an article appearing in the publication, "Real Estate Weekly," Mr. Scharf is quoted as saying or represented that:

"I've tried to do as much as I can, as quickly as I can," Scharf says. "My father's death was instrumental in my development--I always remember that we don't know what tomorrow will bring.

Perhaps that's how Scharf, who always had an inferiority complex about his understanding of real estate, ended up as counsel to **such real estate giants as Donald Trump** and Leona Helmsley. Having grown up in a development family--the Scharfs were involved in the creation of various assisted living communities around the city--Scharf chose to study law because he wasn't certain he was fit to work in the family business." (emphasis supplied).

17. In another publication, "Crains New York Business," Mr. Scharf is quoted as saying or represented that:

"Attorney David Scharf may be the only person in the country to have gotten **free wake-up calls from Donald Trump**. A client since 2001, Mr. Trump frequently called the attorney at 5 a.m. during his 16-month court battle over the fate of the General Motors Building. **Mr. Trump isn't the only powerful New Yorker who relies upon Mr. Scharf's legal acumen.** Carl Icahn, Ian Schrager, Howard Lutnick, Leona Helmsley and Stewart Rahr all call upon the Morrison Cohen partner to handle their multimillion-dollar litigation." (emphasis supplied).

18. In yet another Crains' article, Mr. Scharf is quoted as saying or represented that:

"Attorney David Scharf may be the only person in the country to have gotten **free wake-up calls from Donald Trump**. A client since 2001, Mr. Trump frequently called the attorney at 5 a.m. during his 16-month court battle over the fate of the General Motors Building. **Mr. Trump isn't the only powerful New Yorker who relies upon Mr. Scharf's legal acumen.** Carl Icahn, Ian Schrager, Howard Lutnick, Leona Helmsley and Stewart Rahr all call upon the Morrison Cohen partner to handle their multimillion-dollar litigation. **"Because of who they are, these clients demand victory," he says. "These clients know that I win."** (emphasis supplied).

19. The aforesaid use and commercial exploitation of Mr. Trump's name and reputation are plainly designed for advertising purposes—to preserve the existing clients of Defendants and to educate and solicit new clients. Through their self laudatory plaudits—by both implying and overtly stating that because of who Mr. Trump is, he demands victory and Defendants are able to deliver it—Defendants have engaged in the rank commercialization of Mr. Trump's reputation and unyielding

demand for excellence—all in patent effort to solicit new clients and preserve existing ones simply based on Defendants having represented the world renowned Donald J. Trump.

20. Defendants' website and the published and broadcast interviews referenced above constitute advertising media, are plainly designed to preserve existing clients of Defendants and to educate and solicit new ones, and thereby contain an unmistakable commercial message.

21. Defendants' repeated mentioning of Mr. Trump's name was not in connection with a newsworthy article, but at best in connection with an advertisement in disguise. Defendants cannot escape liability for their willful violation of Section 51 of the New York Civil Rights act by wrapping their advertising message in a cloak of public interest.

22. Nor was Mr. Trump's name mentioned by Defendants in connection with a truthful recounting of an actual current event, as Defendants' web postings remain live and on line, for years after the "reported" events occurred. Such continued web postings and the other published interviews remain available permanently through the advertising medium of the world wide web and as such are republished daily to this day.

23. Through these and other flagrant, unauthorized uses of Mr. Trump's name for advertising and trade purposes, Scharf and Morrison Cohen have wrongly profited, by promoting to third parties their own alleged legal skills purely by virtue of their former association with and representation of Mr. Trump.

24. On April 10, 2008, Alfred E. Donnellan, counsel for Trump wrote to Scharf and demanded that Morrison Cohen cease and desist the use of Trump's name and remove all references to Trump from Morrison Cohen's website.

25. Despite Mr. Donnellan's written demand, the web postings quoted above remain on Morrison Cohen's website to this day.

**First Cause of Action
New York Civil Rights Law § 51
Injunction and Compensatory and Exemplary Damages**

26. Trump repeats and realleges paragraphs 1 through 25 above as if fully set forth herein.

27. By including Trump's name on their web postings and quoting Mr. Trump's name in various published and broadcast interviews, Defendants have used Mr. Trump's name for advertising purposes or purposes of trade.

28. Defendants did not obtain Mr. Trump's written consent prior to including Mr. Trump's name on their web postings or quoting Mr. Trump's name in published or broadcast interviews, all of which were for advertising purposes or purposes of trade. In fact, due to the poor results obtained by Scharf on previous legal matters that he handled for Mr. Trump, Mr. Trump would not have consented to (and did not consent to) endorsing Scharf.

29. By reason of the foregoing, Defendants have violated New York Civil Rights Law Section 51.

30. By continuing to maintain the Trump related postings on their website subsequent to receiving Plaintiff's cease and desist letter of April 10, 2008, and given

that Defendants are lawyers, Defendants have engaged in a knowing violation of Section 51 of the New York Civil Rights Act.

31. By virtue of Defendants' knowing violation of New York Civil Rights law Section 51, Trump is entitled to a permanent injunction directing Defendants to cease and desist their use of Trump's name on their web site and in further published and broadcast interviews, as well as a judgment awarding compensatory and, particularly given their willful refusal to remove the web postings mentioning Mr. Trump's name after receiving Plaintiff's cease and desist letter, exemplary damages, in an amount to be determined at trial, but not less than \$5,000,000.00.

**Second Cause of Action
Unjust Enrichment**

32. Trump repeats and realleges paragraphs 1 through 25 above as if fully set forth herein.

33. Defendants knew that they did not have Trump's consent to use his name for advertising purposes or purposes of trade.

34. Defendants knew that Trump was in the business of licensing his name for commercial purposes and purposes of trade.

35. The licensing of the name "Trump" and endorsements by Mr. Trump have substantial commercial value.

36. Defendants wrongfully used the name "Trump" and represented to the public that they were the beneficiaries of an endorsement by Mr. Trump, in each case for commercial or advertising purposes, without having contracted and paid for the rights to do so. In fact, due to the poor results obtained by Scharf on previous legal

matters that he handled for Mr. Trump, Mr. Trump would not have consented to (and did not consent to) endorsing Scharf.

37. By reason of the foregoing, Defendants have injured Mr. Trump's business and deprived Mr. Trump of his property rights and his name and personal reputation.

38. Additionally, by reason of the foregoing, Defendants have been unjustly enriched.

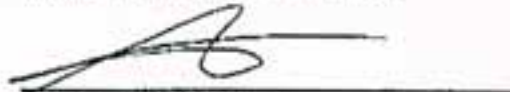
39. As a result, Mr. Trump is entitled to a judgment in an amount to be determined at trial, but not less than \$5,000,000.00, plus exemplary damages.

WHEREFORE, Trump demands judgment:

- A. on the first cause of action, for a permanent injunction directing Defendants to cease and desist the use of Trump's name on Morrison Cohen's web site and in further published and broadcast interviews, and compensatory and exemplary damages in an amount to be determined at trial, but not less than \$5,000,000.00, plus exemplary damages.
- B. on the second cause of action, for a judgment in an amount to be determined at trial, but not less than \$5,000,000.00, plus exemplary damages;
- C. for Plaintiff's legal fees, and the costs and disbursements of this action;
and
- D. for such other and further relief as the Court deems just and proper.

Dated: New York, New York
August 6, 2008

MEISTER SEELIG & FEIN LLP



By: Stephen B. Meister
2 Grand Central Tower
140 East 45th Street -19th Floor
New York, New York 10017
(212) 655-3500

Attorneys for Plaintiff

TO:

MORRISON COHEN LLP

Y. DAVID SCHARF



VERIFICATION

State of New York)
)
County of New York) ss.:

DONALD J. TRUMP, being duly sworn, deposes and says:

1. I am the plaintiff in the above-captioned action. I have read the foregoing Complaint and know the contents thereof; and the same are true to my own knowledge, information and belief, except as to the matters therein alleged upon information and belief, and as to those matters I believe them to be true.



DONALD J. TRUMP

Sworn to before me this
4th day of August, 2008


Notary **STEPHANIE A. LEVINE**
NOTARY PUBLIC, State of New York
No. 31-4955771
Qualified in New York County
Commission Expires September 5, 2009



SUPREME COURT OF THE STATE OF NEW YORK
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DONALD J. TRUMP,

Plaintiff,

Index No.: 05110530

-against-

MORRISON COHEN LLP and
Y. DAVID SCHARF,

Defendants.
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COUNTY CLERK'S OFFICE
NEW YORK

SUMMONS AND VERIFIED COMPLAINT

MEISTER SEELIG & FEIN LLP

Attorney(s) for Plaintiff

2 Grand Central Tower
140 East 45th, 19th Floor
NEW YORK, NEW YORK 10017
(212) 655-3500

To

Service of a copy of the within is hereby admitted.

Dated: _____