

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MARQUES ANDRE JOHNSON,
Plaintiff,

v.

WARNER BROS. ENTERTAINMENT, INC,
TMZ PRODUCTIONS, INC.,
TTT WEST COAST, INC.,
BARSTOOL SPORTS, INC.,
BET INTERACTIVE, LLC,
REAL TIMES MEDIA, LLC,
DAILY NEWS, L.P., CHERI MEDIA LLC,
INTERACTIVE ONE, LLC,
GANNET COMPANY, INC.,
CBS INTERACTIVE, INC.,
VIACOM INTERNATIONAL, INC.,
TOWNSQUARE MEDIA, INC., and
IHEARTMEDIA, INC.,

Defendants

CIVIL ACTION NO.:

VERIFIED COMPLAINT

PARTIES

1. Plaintiff Marques Andre Johnson is an adult male residing in Philadelphia, Pennsylvania.
2. Defendants Warner Bros. Entertainment, Inc., (“Warner Bros.”), a Delaware corporation, and TMZ Productions, Inc., (“TMZ”), a California corporation, own and operate TMZ.com, an entertainment news website in the United States. The TMZ website offers information related to various categories, including, photos, videos, exclusive, celebrity gossip, celebrity justice, and celebrity toys, as well as celebrity beauty, celebrity fashion, celebrity hook-ups, sports, and games. Warner Bros. and TMZ are both headquartered in Los Angeles, California.

3. Warner Bros. and Defendant TTT West Coast, Inc., also publish the website “www.extratv.com”, the website associated with the television news and entertainment show “Extra.” TTT West Coast, Inc., is a California corporation with its headquarters in Glendale, CA.
4. Defendant Barstool Sports, Inc. (“Barstool Sports”) publishes the Barstool Sports website (“www.barstoolsports.com”), an online publication focused on sports and “men’s lifestyle” issues. Barstool Sports is currently headquartered in Milton, MA.
5. BET Interactive, LLC, (“BET”) is a Delaware company that publishes BET.com, the online outlet for BET Networks, a company focusing on entertainment, music, news and public affairs for an African-American audience. BET is headquartered in Washington, D.C.
6. Real Times Media, LLC, (“Real Times”) is a Michigan company that owns and operates The Atlanta Daily World, a weekly print newspaper focused on issues of interest to the African-American community in Atlanta, GA, and its associated website (“atlandadailyworld.com”). Real Times Media also owns and operates The Chicago Defender, a Chicago-based weekly newspaper primarily serving African-American Readers, as well as its associated website (“www.chicagodefender.com”). The Atlanta Daily World is headquartered in Atlanta, GA. The Chicago Defender is headquartered in Chicago, IL. Real Times Media, LLC, is headquartered in Detroit, MI.
7. Daily News, L.P., (“Daily News”) is a Delaware company that owns and publishes the New York Daily News, a daily tabloid newspaper published in New York City, and “www.nydailynews.com”, the newspaper’s online outlet. It is headquartered in New York, NY.

8. Cheri Media LLC (“Cheri”) is a Nevada company with headquarters in Los Angeles, CA, that owns and publishes Hiphop DX (“www.hiphopdx.com”), an online magazine for hip hop music criticism and news.
9. Interactive One, LLC, (“Interactive One”) is Delaware company with headquarters in New York City, NY. It is a digital publishing company that publishes the website The Urban Daily (“www.urbandaily.com”), a website covering the entertainment industry and targeting African-American audiences. Interactive One also publishes the website “News One” (“newsone.com”).
10. Gannet Company, Inc., (“Gannet”), is a Delaware corporation with headquarters in Tysons Corner, VA. It owns and publishes the daily newspaper USA Today and its associated website, “www.usatoday.com”.
11. CBS Interactive, Inc., (“CBS”) is a Delaware corporation with headquarters in San Francisco, CA. CBS Interactive publishes the website “CBS.com.”
12. Viacom International, Inc., (“Viacom”) publishes the website MTV.com, a website containing news and entertainment from the music industry. Viacom is a Delaware corporation with headquarters in New York City, NY.
13. Townsquare Media, Inc., (“Townsquare”), publishes the website XXL (“www.xxl.com”), a website devoted to news relating to hip hop music. Townsquare is a Delaware corporation with headquarters in Greenwich, CT.
14. iHeartMedia, Inc., publishes the website “wibb.iheart.com”, a website devoted to the radio and music industry, and owns radio stations across the United States. iHeartMedia is a Delaware corporation with headquarters in San Antonio, TX.

JURISDICTION

15. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1332, because the parties are diverse and the amount in controversy exceeds \$75,000.
16. This Court has jurisdiction over the Defendants Warner Bros. Entertainment, Inc., BET Interactive, LLC, Daily News, L.P., Interactive One, LLC, CBS Interactive, Inc., Gannet Company, Inc., Viacom International, Inc., Townsquare Media, Inc., and iHeartMedia, Inc., because they are business organized under the laws of Delaware.
17. This Court has jurisdiction over the Defendants TMZ Productions, Inc., TTT West Coast, Inc., Barstool Sports, Inc., Cheri Media LLC, and Real Times Media, LLC, pursuant to 10 Del. C. § 3104 because, through their online businesses, they do business nationally, including within the State of Delaware, and because the Defendants' acts on those online businesses resulted in harm to the Plaintiff's reputation within the State of Delaware.
18. Venue is proper in this Court pursuant to 28 U.S.C. §1391(a), because all Defendants are subject to personal jurisdiction within this district.

FACTUAL ALLEGATIONS

Plaintiff's Music Career and Association With the Wu Tang Clan

19. Plaintiff Marques Johnson is a hip hop artist who has been writing, recording and performing since he was seven years old.
20. Over the years, Plaintiff has performed under different stage names, and began using the name Andre Roxx in or around 2002.
21. For several years after graduating from high school, Plaintiff worked odd jobs, writing and performing on the side, in various cities up and down the East Coast.
22. In 2006, Plaintiff made the decision to devote his full time efforts to his music career. At that point in time he was living in Colorado.

23. At around this time, Plaintiff reached out to a musician known as Killah Priest, another hip hop artist affiliated with the nationally known Wu Tang Clan. Plaintiff began booking Killah Priest's appearances, and touring with him as the opening act.
24. Over the next few years, audiences began associating Plaintiff with Killah Priest and other Wu Tang affiliated artists, including Cappadonna and Eternal.
25. In or around June, 2012, Killah Priest invited Plaintiff to become a member of the Killa Beez.
26. The Killa Beez was created as the next generation of Wu Tang Clan members, and consists of several sub-groups organized by region.
27. Because he is originally from Johnstown, Pennsylvania, Plaintiff was invited to join the Midwest Killa Beez.
28. Plaintiff's induction into the Killa Beez was announced by Killah Priest in Denver, Colorado.
29. Almost immediately after the announcement, Plaintiff began receiving calls from promoters looking to book him for shows under his own name.
30. For the next year and a half, Plaintiff toured under his own name to venues in smaller towns across the United States, and in larger venues in the United States, Canada, and Mexico with Killah Priest, Cappadonna, and/or Eternal.
31. From the time of the Killa Beez /Wu Tang announcement until late 2013, Plaintiff was performing on average 4-6 times per month, with compensation ranging from \$2000-\$4500 per appearance.
32. Plaintiff also was booked and compensated at approximately \$1500 per session to record with other artists.

33. From the time of his initial association with Killah Priest until late 2013, Plaintiff performed and/or recorded in multiple states, including California, Colorado, Pennsylvania, Delaware, Florida, Indiana, Maine, Massachusetts, Missouri, Montana, Nevada, New Mexico, New York, North Dakota, North Carolina, South Carolina, and Washington.
 34. In 2013, Plaintiff recorded and released a single called Grown Folks Music.
 35. By the beginning of 2014, through years of effort, Plaintiff had established a solid beginning to his musical career. He was able to make a living performing solo in smaller venues and had released a single.
 36. Though he had not yet established a national reputation, Plaintiff was poised to do so, through his affiliation with the Wu Tang Clan and the fan base he had been developing since 2006.
 37. In March, 2014, Plaintiff was arrested and subsequently served sixteen months in a Pennsylvania County prison.
 38. At the time of his arrest, Plaintiff did not have a permanent address. His most recent address at that time was in North Carolina.
- The Acts of Self-Mutilation Wrongly Attributed to Plaintiff*
39. In April, 2014, another musician named Andre Johnson, known by his stage name Christ Bearer, severed his penis from his body and jumped out of a window while at a party in California, apparently to commit suicide. He did not die.
 40. Christ Bearer had been affiliated with a group called Northstar, and also with the Wu Tang Clan through the West Coast Killa Beez.
 41. Defendant TMZ picked up the story first on April 16, 2014, but reported that it was Plaintiff, and not Christ Bearer, who had cut off his penis and jumped out of a window.

42. TMZ also posted a picture of Plaintiff, and not Christ Bearer, along with the story.
43. Specifically, TMZ reported that “A rapper affiliated with Wu-Tang Clan was rushed to the hospital early Wednesday after he cut off his penis and then jumped off a second story balcony” and identified the rapper as “Andre Johnson aka Andre Roxx.”
44. Later that day, TMZ re-wrote its post to reflect that it was Christ Bearer, not Plaintiff, who had done these things, but did not issue a retraction.
45. The corrected post did not contain any reference to the fact that it had been corrected, and did not state that any of the information in the original post was false.
46. TMZ’s original, inaccurate, story immediately spread across the internet and to television and radio news.
47. On April 16, 2014 Defendant BET Interactive, LLC, through BET.com, published the following statement: “A 40 year old rapper cut off his penis and then jumped off his balcony in a failed suicide attempt;” “Andre Johnson, who spits under the name Christ Bearer and Andre Roxx...”
48. On April 16, 2014, Defendant Gannett Publishing, through USA Today, identified the rapper who “cut off his penis and jumped off a building” as “Johnson, also known as Andre Roxx and Christ Bearer...”
49. On April 16, 2014, Defendant Warner Brothers, through Extra, reported the story, and claimed that “Johnson is known in the rap world as Andre Roxx and is a member of the Wu Tang affiliated group Killa Bees.”
50. On April 16, 2014, Defendant Radio One, Inc., through newsone.com, reported that “[t]hough Johnson, who also goes by the names Andre Roxx and Christ Bearer, was seriously injured, he survived the jump from the second floor of a North Hollywood building.”

51. On April 16, 2014, Defendant Real Times Media LLC, through the Atlanta Daily World and the Chicago Defender, published stories reporting that a “Wu Tang Clan Affiliate Attempts Suicide In The Most Gruesome Way,” and that “Andre Roxx- an affiliate rapper of Wu Tang Clan just tried to commit suicide by cutting off his own member”
52. On April 16, 2014, Defendant Daily News LP, through the New York Daily News, reported the story and published a photo with the caption: “Andre Johnson or Christ Bearer or Andre Roxx.”
53. On April 16, 2014, Defendant Interactive One, through the Urban Daily, also reported that: “Andre Roxx- an affiliate rapper of Wu Tang Clan just tried to commit suicide by cutting off his own member.”
54. On April 16, 2014, Defendant Barstool Sports published a story with the headline: “Rapper Andre Johnson aka Andre Roxx Cut Off His Dick Then Jumped Off His Balcony In An Apparent Suicide Attempt.”
55. Even after TMZ posted a corrected story, and after other media outlets had made some effort to correct their stories, Defendants continued to report the same false information- that Plaintiff had cut off his penis and jumped off a balcony, and to this day no Defendant other than TMZ has even corrected the story.
56. On April 17, 2014, Defendant iHeartMedia, on the website of its radio station 100.3 The Beat, published a story under the headline: “O my! Wu Tang Affiliated Rapper Andre Roxx Jumps Off Balcony in Suicide Attempt.” The story went on to explain that “a rapper affiliated with the Wu Tang Clan was rushed to the hospital early Wednesday after he cut off his penis and the jumped off a second story balcony in what police believe is a suicide attempt.”

57. The 100.3 The Beat article also included a video of Plaintiff performing, with his name repeated.
58. On information and belief, this false information was carried on other iHeartMedia radio stations and associated websites across the country.
59. Several Defendants even updated their stories after April 16, 2014, but still did not correct their earlier error in identifying the individual as Plaintiff.
60. Extra (Warner Brothers) later updated its story to correct the name of the band that Christ Bearer was associated with, but made no effort to clarify that Christ Bearer was not Plaintiff.
61. On April 17, 2014, Defendant Cheri Media LLC, through HiphopDX.com, repeated the story and identified the individual as “Wu Tang Kill Bees member Andre Johnson, also known as Christ Bearer and Andre Roxx...”
62. On April 17, 2014, the Atlanta Daily World and the Chicago Defendant also posted updates, still tagging those updates “Andre Roxx.”
63. Newsone.com posted an updated on April 17, 2014 about Christ Bearer’s condition, but made no effort to clarify that Christ Bearer was not Plaintiff.
64. The Daily News site shows that it was updated on April 18, 2014, but no effort was made to clarify that Christ Bearer was not Plaintiff.
65. BET.com published a follow up piece almost a month later, on May 12, 2014, titled: “Andre Johnson explains why he severed his penis.” Not only was there no effort made to clarify that Johnson was not Plaintiff, but BET.com repeated the erroneous information, still referring to him as: “Andre Johnson, the rapper known as Christ Bearer a/k/a Andre Roxx.”
66. The false information published by the Defendants spread across the United States and was also covered internationally, including an article in the London-based Daily Mail.

67. Other than their affiliation with the Killa Beez and the Wu Tang Clan, and the fact that they are both African American male musicians, there are and were key differences between Plaintiff and Christ Bearer.
68. Their names, though containing the overlapping (and common) names “Andre” and “Johnson,” are not the same. Christ Bearer’s given name is Andre Johnson; Plaintiff’s is Marques Johnson.
69. The two did not bear a physical resemblance at the time of the incident: Christ Bearer is at least ten years older than Plaintiff, and Plaintiff’s appearance is distinct due to his green eye color, which is unusual in African American men.
70. At the time of the incident, Plaintiff had a publicly available website, www.andreroxx.com, which featured a biography identifying his given name (Marques Johnson) and explaining that his stage name was Andre Roxx based on his middle name, Andre.
71. The website further set forth the details about Plaintiff’s career and band affiliations, which were clearly different from Christ Bearer’s.
72. This website was available to any reporter or news outlet seeking to fact-check the story about Christ Bearer’s genital mutilation and attempted suicide.
73. On information and belief, some or all of the defendants in fact consulted Plaintiff’s website before publishing these inaccurate facts, as Plaintiff did not use his last name “Johnson” in any other publicly available materials.

The Harm Caused to Plaintiff

74. Plaintiff became aware of the story while watching a local news program in the day room in prison, and also heard it broadcast on a local radio station affiliated with Defendant CBS.

75. Plaintiff was forced to go into protective custody (in isolation 23 hours a day) because other inmates began threatening, harassing and attacking him.
76. When he was released from prison in June, 2015, Plaintiff immediately started trying to rebuild his music career.
77. Plaintiff made thousands of telephone calls, to every disc jockey and promoter he knew, as well as cold calls to clubs and promoters, but was unable to generate any interest.
78. Plaintiff was told many times during these calls that it was too “risky” to book him for a venue because of the publicity.
79. The Wu Tang Clan, once Plaintiff’s entrée to broader recognition in the hip hop world, immediately denounced any affiliation with him, posting on their blog that “This m***** ain't got s*** to do with the WUTANG brand.” The blog post included a picture of Plaintiff and not Andre Johnson a/k/a Christ Bearer.
80. In a private conversation with Plaintiff in 2015, Killah Priest acknowledged that he knew the story about Plaintiff was not true, but that others in the public did not, and therefore he could not put Plaintiff on the ticket with him or any other Wu Tang musicians.
81. The fallout from the continued publication and re-publication of this false information has continued.
82. Comments in threads following the video for Grown Folks Music reflect the continuing fallout from these publications. A listener comment prior to the incident that states: “I LOVE it!!!! Open your ears and mind, people! Thank you, Roxx” is followed by a comment following the incident that asks: “when does he cut his dick off?”
83. Comments on other videos of Plaintiff’s music following the incident include: “I can't wait for his new album – ‘Yo, I Cut Off my Johnson;” “Look, it's the dickless wonder!”; “He'll be

doing his next album as a soprano;” “Bye bye Johnson” and “This shit so hard make me wanna hack my dick off and jump off something tall. YOLO.”

84. A postscript to the false story run on Barstool Sports sums up the challenge Plaintiff now faces rebuilding his music career:

When he wakes up alive and without a cock, he’s for sure going to kill himself for real right? How can you be a rapper without a dick? What’s even the point? Would be like being a blogger with no hands.

85. The harm Plaintiff has suffered as a result of the publication and republication of this false story is not limited to the damage to his music career.

86. The continued association of Plaintiff’s name and image with Christ Bearer’s actions has made it exceedingly difficult for Plaintiff to earn a living even outside of the music industry, as it is common practice for prospective employers to conduct internet searches on job candidates, and the stories about Christ Bearer’s actions still dominate the search results for Plaintiff’s name.

87. Starting the day he was released from prison, Plaintiff has also been repeatedly approached and harassed by strangers in public places who recognize him from the pictures posted with these inaccurate stories as the rapper who had cut off his genitals and attempted suicide.

88. This behavior has continued, to the point where Plaintiff has to attempt to disguise himself with sunglasses and a hat before going into public places.

89. To this day, the misperceptions caused by the above-referenced publications and re-publications continue to interfere with Plaintiff’s ability to interact on social media.

90. In a recent conversation on facebook about race relations in America, one commenter interjected that: “I was the white boy rolling through Philly bumping my MTX terminators to your music back in the day. How’s your penis btw? Did you actually cut it off?”

91. The continued association of Plaintiff's name and image with Christ Bearer's actions has also affected his private life, as many people who might otherwise be social or romantic connections do not want to be seen in public with him.
92. Despite efforts by some media outlets to correct the story, the false information remains on the internet for all to see, and is likely to remain there indefinitely.
93. Therefore, in addition to the continuation of all of the harm described above, this false and defamatory information about Plaintiff will be readily available to his five year old son and seven year old stepson when they are old enough to search the internet unsupervised.
94. As a result of Defendants' actions, Plaintiff has been humiliated, harassed, ostracized and shut out of career opportunities within and without the music industry.

Count One
Libel (against TMZ and Warner Bros.)

95. Plaintiff re-alleges and incorporates by reference all of the preceding allegations.
96. The Defendant TMZ published a news item that contained false and defamatory information regarding the Plaintiff. The Defendant published this information negligently and with reckless disregard to whether the facts contained therein were true or false. This false information was published on the Defendant TMZ's website and was therefore immediately available throughout the United States and internationally.
97. Following the Defendant TMZ's publication of the false statements, numerous other websites and news outlets have repeated the false statements initially published by TMZ.
98. Due to TMZ's actions, Plaintiff has been humiliated and has suffered damage both to his reputation and to his recording and performing career. Plaintiff has suffered and continues to suffer economic harm as a result of the unwillingness of individuals in the music industry to

hire, work with, or contract with him following the broad dissemination of the false statements published by the Defendant TMZ.

Count Two
Libel (against all Defendants)

99. Plaintiff re-alleges and incorporates by reference all of the preceding allegations.
100. The Defendants published a news item that contained false and defamatory information regarding the Plaintiff. This information included republished false statements that were initially published by the Defendant TMZ. The Defendants published and/or re-published this information negligently and with reckless disregard to whether the facts contained therein were true or false. False statements regarding the Plaintiff and the April, 2014 incident remain available on the Defendants' websites.
101. Due to the Defendants' actions in publishing this material, Plaintiff has been humiliated and has suffered damage both to his reputation and to his recording and performing career. Plaintiff has suffered and continues to suffer economic harm as a result of the unwillingness of individuals in the music industry to hire, work with, or contract with him following the broad dissemination of the false statements published by the Defendants.

Count Three
False Light Invasion of Privacy (against all Defendants)

102. Plaintiff re-alleges and incorporates by reference all of the preceding allegations.
103. The Defendants published a news item that contained information about the Plaintiff that was highly offensive. The false and offensive information regarding the Plaintiff was broadly disseminated by the Defendants. The Defendants published this information negligently and with reckless disregard to whether the facts contained therein were true or false, and with reckless disregard to the false light in which this information would place the Plaintiff.

I verify under the pains and penalties of perjury that the above statements are true and correct to the best of my knowledge.

3-3-2016

Dated

A handwritten signature in black ink, appearing to read 'MAJ', with a long horizontal stroke extending to the right.

Marques Andre Johnson

PRAYER FOR RELIEF

WHEREFORE Plaintiff Marques Andre Johnson requests that the Court:

- i. Award damages for the harm to Plaintiff arising from the Defendants' improper conduct;
- ii. Award punitive damages;
- iii. Award costs and attorneys' fees; and
- iv. Award such other legal or equitable relief as may be appropriate.

Plaintiff requests a jury trial on all issues so triable.

Respectfully submitted,

MARQUES ANDRE JOHNSON,
By counsel:

/s/ Ronald J. Drescher

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