

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

ROGER FRIEDMAN,

Plaintiff,

-against-

FOX NEWS NETWORK L.L.C., NEWSCORP.
AMERICA, TWENTIETH CENTURY FOX and
RUPERT MURDOCH,

Defendants

Index No.:

Date Purchased:

09602005

SUMMONS

Plaintiff designates NEW YORK
COUNTY

As Place of Trial

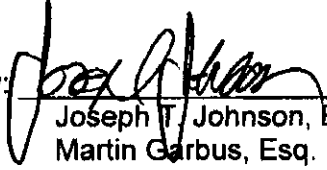
TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED and required to serve upon plaintiff, at the address below, an answer to the Complaint in this action within TWENTY (20) days after the service of this summons exclusive of the day of service or within THIRTY (30) days after the service is complete if this summons is not personally delivered to you within the State of New York. In the case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint, together with the costs of this action.

The basis of the venue designated is the County in which the parties' principal offices are located, which is New York County.

Dated: New York, New York
June 25, 2009

EATON & VAN WINKLE LLP

By: 
Joseph T. Johnson, Esq.
Martin Garbus, Esq.

3 Park Avenue, 16th Floor
New York, New York 10016
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FILED
JUN 29 2009
COUNTY CLERK'S OFFICE
NEW YORK

TO: FOX NEWS NETWORK L.L.C.
1211 Avenue of the Americas
New York, NY 10036

NEWSCORP. AMERICA
1211 Avenue of the Americas
New York, NY 10036

TWENTIETH CENTURY FOX
10201 W. Pico Blvd.
Los Angeles, CA 90064

RUPERT MURDOCH
c/o NEWSCORP. AMERICA
1211 Avenue of the Americas
New York, NY 10036

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ROGER FRIEDMAN,

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Defendants

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**COMPLAINT
PLAINTIFF REQUESTS
TRIAL BY JURY**

Plaintiff Roger Friedman, by his attorney Martin Garbus, of counsel to Eaton & Van Winkle LLP, as and for his Complaint in the above-entitled action, hereby alleges, on knowledge as to his own respective acts and otherwise on information and belief, as follows:

PARTIES

1. Roger Friedman, is an individual with a principal residence in the County, City and State of New York.
2. Defendant Fox News Network, LLC ("Fox News") is a Delaware corporation with a principal place of business located at 1211 Avenue of the Americas, New York, New York 10036.
3. Defendant NewsCorp America ("NewsCorp.") is a Delaware corporation with a principal place of business located in the County, City and State of New York.

4. Defendant Twentieth Century Fox ("20th Century Fox") is a Delaware corporation with a principal place of business located in the City of Los Angeles, State of California.

5. Defendant Rupert Murdoch ("Murdoch") is an individual who resides in the City, County, and State of New York.

09602005

FACTS COMMON TO ALL CLAIMS

6. Roger Friedman had been, pursuant to contract, an employee of Fox News for ten years.

7. On December 13, 2006, Plaintiff Roger Friedman and Fox News entered into a further written agreement employing Friedman from January 1, 2007 to December 31, 2009 at a salary of \$250,000 per year.

8. During the period of Roger Friedman's employment, he was paid by 20th Century Fox.

9. On April 4, 2009, Fox News, in violation of the employment contract, wrongfully and illegally terminated Friedman, allegedly for cause, thereby breaching the contract.

10. Roger Friedman was wrongfully fired because of a "column" he wrote for Fox News on Wednesday, April 1, 2009 and which was published online by Fox News on Thursday, April 2, 2009, stating, among other things, that he saw a film called "Wolverine" on the Internet. A copy of the column is attached as Exhibit A.

11. Upon information and belief, defendants and other writers had previously reviewed "Wolverine" on the Internet and defendants were aware of that when they terminated Roger Friedman.

12. Roger Friedman did not download "Wolverine."

13. Upon information and belief, a work print of the unfinished film "Wolverine", a copy of which was placed on the Internet, had been under the possession and control of and screened by Rupert Murdoch.

14. Prior to Fox News' publication of the column, Roger Friedman had emailed Dianne Brandi, an attorney who was in-house counsel, telling her he was watching "Wolverine," a film not yet released. He and Dianne Brandi had previously worked together.

15. Dianne Brandi never responded. In past email and phone messages, Brandi had responded instantly if she or her employer believed there was a problem.

16. But immediately upon receipt of the Wolverine column, Friedman's copy editor Jonathon Passantino, approved the article and said, "Good stuff. Thanks."

17. Roger Friedman exactly followed the Fox News protocol for submission of his column – as he and other columnists had done for ten years.

18. During the ten years of Roger Friedman's employ, the protocol had been that if an editor receiving a column had concerns or questions, the editor could decline to post the column until either the Fox News Legal Department had

approved it or until someone with more authority in the Editorial Department approved it.

19. Roger Friedman has no control over the posting of the column by Fox News and no authority to post the column for Fox News. When he filed the Wolverine column to the copy editor, he also filed the column to several other editors, including the chief of the website (Ken LaCorte) in Los Angeles; the editor of the website (Refet Kaplan) in New York; another editor in New York (Steve Bromberg); and an editor who has been with the site for ten years in New York (Andrew Hard).

20. The "Wolverine" column remained up all day Thursday, April 2, 2009 and until Friday evening, April 3, 2009.

21. Neither Roger Friedman nor, upon information and belief, did anyone else receive a single complaint from anyone, including from 20th Century Fox, the film's distributor, concerning the column.

22. Sharon Liss, political editor from Fox News in Washington, D.C., emailed Roger Friedman after reading the column: "I'm so excited to see Wolverine now. I was going to anyway but after this write up, I might be there the first weekend."

23. On Saturday morning, April 4, 2009, Roger Friedman learned the Wolverine column had been removed late on April 3, 2009 from the website.

24. Roger Friedman immediately contacted his editor, Refet Kaplan ("Kaplan"), who told him that "Rupert Murdoch ordered it taken down."

25. Upon information and belief, Rupert Murdoch did not tell anyone at Fox News, NewsCorp or 20th Century Fox that he had been in possession and control of the work print of "Wolverine", a copy of which had been posted on the Internet and that Friedman viewed, a fact that defendants knew or should have known when they terminated Roger Friedman.

26. Kaplan also told Roger Friedman that he had discussed the column with both Fox News chief Roger Ailes and John Moody, and neither said the column posed any concerns or could conceivably be a cause for his dismissal.

27. Kaplan told Roger Friedman it was not serious, and that the column would be reposted by the afternoon.

28. At 9:44 am on April 4, 2009, Kaplan emailed to Friedman a personal attack on Friedman which had appeared on a movie blog.

29. Kaplan's email said, "This attack on you is outrageous. Working with bosses to overturn this. We need to be able to defend ourselves."

30. Kaplan suggested that someone on that blog could have been motivated by membership in Scientology, a group Roger Friedman has written about critically.

31. At 10:52 am, on Saturday, April 4, 2009, when Roger Friedman asked what progress had been made, Kaplan responded: "Moody will discuss w top guy directly. Will advise as soon as I hear."

32. At 1:22 pm, on Saturday, April 4, 2009, Kaplan wrote: "We're going to respond. Not sure how yet. Ailes has got to get w Murdoch."

33. At 4:30 pm, on Saturday, April 4, 2009, Friedman was advised he was terminated. John Moody directed Roger Friedman to "remain quiet over the weekend, no one should say anything" and that a further meeting on Monday, April 6, could "repair the situation."

34. On April 4, 2009, NewsCorp issued the following public statement:

"Roger Friedman's views in no way reflect the views of News Corporation. We along, with 20th Century Fox Film Corporation, have been a consistent leader in the fight against piracy and have zero tolerance for any action that encourages and promotes piracy. When we advised Fox News of the facts they took immediate action, removed the post, and promptly terminated Mr. Friedman."

35. 20th Century Fox on the same day issued a statement saying: "We've just been made aware that Roger Friedman, a freelance columnist who writes Fox 411 on Foxnews.com – an entirely separate company from 20th Century Fox – watched on the internet and reviewed a stolen and unfinished version of *X-Men Origins: Wolverine*. This behavior is reprehensible and we condemn this act categorically -- whether the review is good or bad."

36. Upon information and belief, it was Murdoch who invalidated the NewsCorp "zero tolerance" publicly by allowing a copy of his work print from 20th Century Fox to appear on the Internet and he ordered his companies to terminate Roger Friedman to obscure that fact.

37. The public statements issued by 20th Century Fox, News Corp. and Rupert Murdoch on April 4, 2009 accused Friedman of the crime of piracy and en^{co}uraging and promoting the crime of piracy.

38. The false public statements and actions of the defendants are libel *per se* and libelous, for willfully, reck^lessly, intentionally and maliciously defaming Roger Friedman in his profession as a journalist.

39. On Sunday, April 5th, Dianne Brandi advised Roger Friedman that she did not know that he had been terminated.

40. Previously, on January 25, 2009 in an article entitled "Pirate Sharing Films Throttle Hollywood" appearing in the Times of London, which is a corporation owned and controlled by defendants, the reporters wrote about their illegally downloading a number of Golden Globe nominated films including 20th Century Fox's "Slumdog Millionaire" and "The Wrestler." (A copy of the article is attached as Exhibit B).

41. The London Times article dated January 25, 2009, gave detailed instructions on how to pirate movies.

42. The London Times article states, among other things:

Downloading films via these sites couldn't be easier, though it is illegal to possess copies or distribute them (see panel). To demonstrate, and with the knowledge of Fact, we went to filesharing sites featuring five of the films that won this year's Golden Globes awards: The Wrestler, Slumdog Millionaire, Vicky Cristina Barcelona (the latest Woody Allen), The Reader and Revolutionary Road. We also downloaded a couple of recent action films, Quantum of Solace, the most recent Bond film, and Iron Man.

Once the right free software had been installed from the internet, it was simply a matter of clicking on the film and choosing where on the computer to store it. Because the files are large — 700MB is typical — they

can take hours to download. Once the film is on the computer, it can be burnt to a DVD or streamed wirelessly to a TV via a video-receiver gadget such as a PS3 or Xbox. The picture quality is limited mainly by the size of file you download — even the lowest-quality films were almost as good as a Freeview digital broadcast.

....

Software

Downloaders use programs called BitTorrent clients to grab movies over the internet. BitTorrent distributes big files simultaneously among large groups of filesharers by breaking it up into hundreds of chunks. As soon as a user has downloaded a chunk, it becomes available to others from that user's machine. The more people sharing a file, the faster each will complete their download. BitTorrent programs such as Vuze and µTorrent are easy to use — and free — as is Transmission for Mac owners. The most popular file format for video downloads is DivX, which works in Windows Media Player and QuickTime. There is also a free DivX Player available at www.divx.com, which also burns discs, and most recent DVD players will play DivX files from discs.

43. None of the defendants ever gave any indication that there was anything improper in the Times of London reporters' January 25, 2009 article or anything improper in their downloading and anything improper in describing the piracy process to their readers.

**FIRST CAUSE OF ACTION AGAINST FOX NEWS NETWORK LLC
AND TWENTIETH CENTURY FOX AND RUPERT MURDOCH
(Wrongful Termination)**

44. Plaintiff repeats and realleges the allegations of paragraph 1 through 43 above as if fully set forth herein.

45. Friedman had a valid, existing, executory contract with Fox News and/or 20th Century Fox.

46. Friedman at all relevant times did perform and/or was ready, able and willing to perform all of his obligations under the contract.

47. Fox News and/or 20th Century Fox wrongfully terminated the contract without cause in violation of its express terms.

48. As a direct and proximate result of the breach of the contract by Fox News and/or 20th Century Fox, Friedman suffered foreseeable direct, indirect, consequential, general, and special damages which were within the contemplation of the parties at the time the contract was made.

49. As a result, plaintiff has been damaged in the amount of not less than \$180,000, which is the monies unpaid on his contract, together with interest, costs and attorneys' fees.

**SECOND CAUSE OF ACTION AGAINST TWENTIETH CENTURY FOX
NEWSCORP. AMERICA AND RUPERT MURDOCH
(Tortious Interference with Contract)**

50. Plaintiff repeats and realleges the allegations of paragraph 1 through 49 above as if fully set forth herein.

51. 20th Century Fox, NewsCorp. and Murdoch knew of the existence of Friedman's contract with Fox News.

52. Upon information and belief, 20th Century Fox, NewsCorp. and Rupert Murdoch induced and compelled Fox News to terminate Friedman's contract, in part to cover up the fact that the version of "Wolverine" that Roger Friedman saw online was actually a copy of the work print of "Wolverine" which had been in the possession and control of Murdoch.

53. Without reasonable or economic justification or excuse, 20th Century Fox, NewsCorp. and Murdoch knowingly and intentionally induced, caused and/or procured the breach of the contract by FoxNews.

54. The actions of 20th Century Fox, NewsCorp. and Murdoch in causing the breach of the contract constitutes tortious interference with contract.

55. As the direct and proximate result of the tortious interference with contract by 20th Century Fox, NewsCorp. and Murdoch, each is jointly and severally liable to Friedman for the damages he has incurred.

56. As a result, plaintiff was damaged in an amount to be determined by the Court, in an amount of not less than \$180,000, which is the monies unpaid on his contract, together with interest, costs and attorneys' fees.

THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS
(Libel Defamation, Libel Per Se)

57. Plaintiff repeats and realleges the allegations of paragraph 1 through 56 above as if fully set forth herein.

58. The statements made by NewsCorp. and by 20th Century Fox, which are fully set forth in Paragraphs 34 and 35, respectively, are false.

59. Upon information and belief, the aforementioned false statements by NewsCorp. and 20th Century Fox were made at the express direction of Murdoch and/or with his express prior approval and consent.

60. NewsCorp., 20th Century Fox and Murdoch acted with knowledge of the falsity of the aforementioned false statements, reckless disregard for the truth, and/or with malicious intent in publishing these false statements to third parties.

61. The aforementioned false statements defame and otherwise impugn Friedman's integrity and reputation in his profession as a journalist.

62. The aforementioned false statements accuse Friedman of a crime, and are defamatory per se, such that general damages may be presumed as a matter of law.

63. NewsCorp., 20th Century Fox and Murdoch are jointly and severally liable to Friedman for the damages Friedman has incurred.

64. As a result, plaintiff has been damaged in an amount to be determined by the Court, but which is not less than \$5,000,000.

PRAYER FOR RELIEF

WHEREFORE, Roger Friedman requests judgment:

On the First Cause of Action Against Defendants Fox News Network, LLC and Twentieth Century Fox – For damages in the amount of \$180,000.00, and attorneys fees and costs;

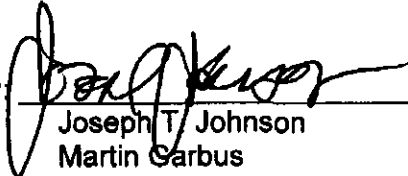
On the Second Cause of Action Against Defendants Twentieth Century Fox, NewsCorp America and Rupert Murdoch – For damages in the amount of \$180,000.00, and attorneys' fees and costs;

On the Third Cause of Action Against All Defendants – For an amount to be determined by the Court in the amount of not less than \$5,000,000.00, including damages, attorneys' fees and costs;

And for such other legal and equitable relief that the court may deem just and proper.

Dated: New York, New York
June 25, 2009

EATON & VAN WINKLE LLP

By: 
Joseph T. Johnson
Martin Garbus

3 Park Avenue
New York, New York 10016
(212) 779-9910

Attorneys for Plaintiff