

IN THE CIRCUIT COURT OF MARYLAND FOR BALTIMORE COUNTY
(Civil Division)

FRANK W. JAROWSKI, :
9272 Bellbeck Road :
Baltimore, MD 21234 :

Plaintiff :

v. : Case No. 01-14293

WYNDHAM VACATION RESORTS, INC. :
Suite 200, 8669 Commodity Circle :
Orlando, FL 32819 :

SERVE ON: :
CSC-LAWYERS INCORPORATING :
SERVICE COMPANY, Resident Agent :
7 St. Paul Place, Suite 1660 :
Baltimore, MD 21202 :

Defendant :
* * * * *

COMPLAINT

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CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Frank W. Jarowski, Plaintiff, by Gina M. Harasti, and Gina M. Harasti, P.C., his attorney, files this complaint against Defendant Wyndham Vacation Resorts, Inc. (hereafter "Defendant" and/or "Wyndham") and in support thereof states as follows:

INTRODUCTION

1. This is an action under the Maryland Consumer Protection Act, Md. Code Ann., Com. Law II, §§ 13-101, *et seq.*, which was in effect at all times herein mentioned.

FACTS CONCERNING JURISDICTION AND VENUE

2. At all times herein mentioned the Plaintiff was an individual citizen and resident of the State of Maryland, residing in Baltimore County, Maryland.

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3. At all times herein mentioned Defendant was a corporation organized under the laws of the State of Delaware and headquartered in Orlando, Florida, and authorized and doing business in the State of Maryland.

4. The Court has jurisdiction and venue over the Parties to this action pursuant to Md. Code Ann. Cts. & Jud. Proc. § 6-102 and 201.

FACTS COMMONT TO ALL COUNTS

5. In late 2008, Defendant solicited Plaintiff in Maryland by e-mail with an offer for two free nights at a hotel and tickets to a show in Branson, Missouri contingent upon Plaintiff agreeing to listen to a ninety (90) minute informational presentation by Defendants' agents outlining the supposed benefits of purchasing a Vacation Ownership Interest, i.e., a "timeshare" from Defendant.

6. Plaintiff accepted and the Defendant's presentation occurred on Friday, November 14, 2008;

7. Instead of a 90 minute informational program as Defendant had indicated in its solicitation, Plaintiff was subjected to a 4 hour ordeal in which various representatives of Wyndham engaged in hard sale, high pressure, deceptive and predatory tactics culminating in the Plaintiff signing a contract in which he unknowingly obligated himself for \$43,806.80 financed over 10 years at 13.39% interest annually with payments of \$325.64 beginning the following month on December 28, 2008 (hereafter referred to as "the contract").

8. In addition, Plaintiff was charged with settlement fees of \$349; program fees of \$75.59 per month; a membership fee of \$49.95; and an assessment fee of \$89, all of which more

than covered the two “free” nights at the hotel and the “free” entertainment Wyndham used to lure Plaintiff from Maryland to Missouri.

9. The Wyndham information and literature presented to Plaintiff during Branson presentation is filled with detailed pricing and point system terms.

10. Plaintiff told Defendant’s representatives he did not want to sign the contract, that he did not understand the pricing or points, and that he did not have the money for a down payment.

11. Defendant’s representatives ignored the Plaintiff’s protests, assuring him they would help him with the points system while at the same time stating the deal being offered to Plaintiff was a one day only offer and would not be repeated.

12. Each time Plaintiff declined the offer and would attempt to leave, Michael Loy, Inventory Manager for Defendant and one of the head salesmen at the presentation Plaintiff attended in Branson, would encourage Plaintiff to sign the contract by offering larger units, additional points, more assistance, additional benefits, and his availability to Plaintiff when needed.

13. Defendant’s representatives then misled Plaintiff into opening an RCI Elite Rewards (“RCI”) credit card through Bank of America that is now billing Plaintiff for a down payment of Two Thousand Three Hundred Ninety-five (\$2,395.00) Dollars at 14.99% annual interest, and which has been referred to an independent collection agency.

14. RCI is owned by and a subsidiary of Defendant.

15. Plaintiff felt much pressure from Defendants, could not think clearly, did not want to be rude, and after four (4) hours of badgering by Defendant's representatives gave into the urgings of Defendants' agents and signed the contract.

16. Following his signing of the contract on Friday, November 14, 2008, Plaintiff continued his vacation in Branson, returning to Maryland in the early morning hours on Sunday, November 16, 2008.

17. On Monday, November 17, 2008, Plaintiff attempted unsuccessfully to reach Michael Loy, Inventory Manager for Defendant ("Loy") by telephone at both his office (417-334-5344) and on Loy's mobile (602-704-5228) telephones to cancel the contract, leaving messages for Mr. Loy that he wanted to cancel the contract and including Plaintiff's home and two (2) cell phone numbers for Loy to call him. Loy never returned Plaintiff's calls.

18. Due to an unexpected storm, Plaintiff was dispatched by his employer, BGE, on Tuesday, November 18, 2008 to Prince George's County, Maryland to assist with returning power to the storm area, where Plaintiff remained for thirty-five (35) days working 14 to 16 hours per day six (6) days a week.

19. On Tuesday, November 18, 2008, Plaintiff again attempted unsuccessfully to reach Loy on both his office and mobile phone numbers to let him know Plaintiff intended to cancel the contract. Plaintiff left messages for Loy asking him to return Plaintiff's calls, but Loy never did so.

20. Plaintiff made several more attempts on different days to reach Defendant and its agents by telephone at Defendant's customer service number during business hours when

Plaintiff was also at work. Due to lengthy wait times Plaintiff was not able to connect with a representative and there was no means by which to leave a message.

21. Finally, on November 24, 2008, Plaintiff reached Defendant's customer service and advised that he was canceling the contract. The representative there advised Plaintiff that the cancellation of the contract must be in writing.

22. On November 24, 2008, a mere ten (10) days after signing the Defendant's contract, Plaintiff faxed a letter to Defendant at Wyndham Consumer Finance Rescission Dept. at (702) 227-3298 to cancel the contract. The fax line provided by Wyndham proved to be problematic, taking 32 minutes to transmit due to repeated busy/no response and poor line condition messages.

23. Plaintiff then made several more calls to confirm receipt of his rescission letter, again with lengthy wait times. When he finally connected to Defendant's representative in the Rescission Department where he had sent the cancellation letter as instructed, Plaintiff was then advised he would need to contact Wyndham's legal department.

24. Plaintiff then went through another series of unsuccessful attempts to reach a representative in Defendant's legal department. Upon reaching a representative in Defendant's legal department, Plaintiff was told his letter of rescission, coming just 10 days after the alleged contract and considered timely under Maryland law, was too late despite the fact Defendant had been placed on notice by virtue of Plaintiff's earlier telephone calls advising that he wanted to cancel the contract.

25. Upon reviewing the documents with an attorney, Plaintiff learned for the first time that the total contract price is \$43,806.80 financed over 10 years at 13.39 annual percentage

rate with payments of \$325.64 beginning on 12/29/08, plus a settlement fee of \$349; program fees of \$75.59 per month; membership fee of \$49.95; and an assessment fee of \$89.

26. Plaintiff did not understand the pricing or the points system and was unaware of the total cost, plus the extra fees and ongoing payments. Plaintiff felt trapped by Defendant in a four (4) hour presentation that was only supposed to have been ninety (90) minutes and finally gave in to the non-stop pressure and signed to get out.

27. At the time of the alleged contract with Defendant, Plaintiff had a good credit rating and would not have made a decision to obligate himself for 10 years on a loan that he clearly could not afford had he been given a chance to properly consider the contract without the intense sales pressure.

28. Plaintiff was detained for nearly four (4) hours in a presentation involving high pressure hard sale tactics by Defendant's agents, sub-agents, and/or employees that was designed to peel away his resistance and cause him to act swiftly to purchase a time share. These tactics were unfair and deception and included but were not limited to the following:

- (a) Placing an assortment of contracts, and other agreements in front of Plaintiff and pressuring him to sign;
- (b) Each time Plaintiff expressed hesitation, rather than giving Plaintiff any time and space for contemplation and reflection, Plaintiff was immediately introduced to a more experienced agent of superior rank and broader deal making authority;
- (c) Refusing and/or neglecting to provide Plaintiff with any, much less sufficient, time to read and fully comprehend that which he was being pressured to sign;
- (d) Refusing and/or neglecting to explain to Plaintiff several material terms in the contracts and agreements, including but not limited to:
 - (1) That "Points" acquired by Plaintiff (initially 154,000 upon signing), which were ostensibly intended to provide flexibility in how Plaintiff used his "Vacation Ownership Interest" were actually non-transferable except to others possessing a similar "Vacation Ownership Interest," or to approved guests over the age of 21;
 - (2) That transferring under the above terms came with a fee;

- (3) That Plaintiff's "Use Year" for the points did not begin until April 1st although the contract was signed in November;
 - (4) That Points unused at the end of each annual cycle would expire;
 - (5) That unused Points could not be transferred to cover the cost of Plaintiff's monthly payments;
 - (6) That in the event Plaintiff signed the contract, Plaintiff would have only five (5) business days to rescind his contract (insufficient time to fully review the terms, particularly while still on vacation) and further that any rescission was effective only when received by Defendant;
 - (7) That reservations cancelled two (2) weeks or less prior to check-in date resulted in forfeiture of all points used to make the reservation;
- (e) Overall, the contract and agreements Plaintiff was pressured to sign bore only a trace resemblance to the terms explained during the presentation;
 - (f) False representations that price demanded for time share was valid only for that day and would be higher thereafter;
 - (g) Preventing Plaintiff from consulting with anyone else outside of Wyndham

29. Each of the foregoing deceptive acts, practices and/or omissions by Defendant through its agents occurred in the course of conduct involving trade or commerce, and was undertaken with the intent that Plaintiff would rely on them.

30. As a direct and proximate result of the foregoing deceptive acts, practices, and/or omissions on the part of the Defendant, its agents, sub-agents, or employees, as aforesaid, Plaintiff purchased a Vacation Ownership Interest from Defendant, and did so without understanding or being given the opportunity to seek independent guidance of what he was actually signing.

31. Through the Defendant's acts as set forth herein, Plaintiff was fraudulently induced to contract to purchase the time share.

32. But for Defendant's high pressure hard sale tactics and deceptive acts, Plaintiff would not have purchased the time share.

33. Plaintiff has been fraudulently deprived of honest earned income, a deprivation which continues, and has had his credit rating compromised due to RCI credit card put in place at Defendant's insistence.

34. Plaintiff has made no payments to either Defendant on the contract or Defendant's subsidiary, RCI, on the credit card charge and has endured repeated telephone calls from Wyndham and RCI on his work phone requesting payment.

35. On April 9, 2009, undersigned counsel left a message for Susan R. Young, Senior Consumer Affairs Specialist in Defendant's Legal Compliance Office in an effort to end the harassing phone calls to Plaintiff and resolve the matter. Ms. Young did not return the call.

36. On April 29, 2009, undersigned counsel sent a cease and desist letter to Defendant, attached hereto as **Exhibit A** and incorporated by reference, in which counsel's call to Susan R. Young on April 9, 2009 was referenced and inviting Defendant to discuss a resolution of Plaintiff's claims short of resolution. To date, no response has been received from the Defendant.

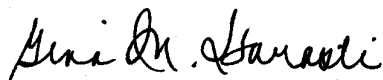
WHEREFORE, Plaintiff demands judgment against Defendant for

(1) **Compensatory damages of \$47,596.83, representing the contract price of \$43,806.80, plus a settlement fee of \$349; program fees of \$75.59 per month ; membership fee of \$49.95; an assessment fee of \$89; and \$2,395.00 charged to the RCI credit card to include any late fees assessed; plus interest.**

(2) **Alternatively, an order from this Court directing Defendant to rescind the contract; refund the charge to the RCI credit card plus any interest and late fees assessed; and**

notify the credit bureau of the contract rescission, refund on credit card, and take appropriate steps to correct and repair Plaintiff's credit rating as a result of this transaction.

- (3) Payment of Plaintiff's attorney's fees and costs to date.
- (4) For such other and further relief as this Court deems proper.



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