

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
TWENTY-FIRST JUDICIAL CIRCUIT
STATE OF MISSOURI

JOHN T. WELDON

Plaintiff,

vs.

SOTHEBY'S, INC.

Serve: Registered Agent
CSC-LAWYER'S
INCORPORATING
SERVICE COMPANY
221 Bolivar Street
Jefferson City, MO 65101

SCP AUCTIONS, INC.

Serve: Registered Agent
David Kohler
32451 Golden Lantern
Suite 308
Laguna Niguel, CA 92677

JO SPORTS, INC.

Serve: Registered Agent
Craig R. Hamilton
4 Blair Lane
Brookhaven, NY 11719

CRAIG HAMILTON

Serve: 4 Blair Lane
Brookhaven, NY 11719

Defendants

Case No.

Div No.

PLAINTIFF DEMANDS
TRIAL BY JURY

PETITION

(for Fraud and Violation of the Missouri Merchandising Practice Act)

COUNT I

(FRAUD)

COMES NOW PLAINTIFF John T. Weldon, and for his cause of action against the Defendants, jointly and severally, states as follows.

Parties, Jurisdiction and Venue

1. At all relevant times, Plaintiff John T. Weldon (“Mr. Weldon”) is an individual resident in Wildwood, St. Louis County, Missouri.

2. At all relevant times, Defendant Sotheby’s Inc. (“Sotheby’s”) is a New York Corporation in good standing in that State, and which maintains a Registered Agent in Missouri, to-wit, CSC-Lawyers Incorporating Service Company, 221 Bolivar Street, Jefferson City, Missouri 65101 in the County of Cole.

3. At all relevant times, Defendant SCP Auctions, Inc. (“SCP”) is a California Corporation in good standing in that State, and which maintains a Registered Agent in California, to wit, David Kohler, 32451 Golden Lantern, Suite 308, Laguna Niguel, CA 92677.

4. At all relevant times, Defendant JO Sports, Inc. (“JO Sports”) is a New York Corporation in good standing in that State, and which maintains a Registered Agent in New York, to wit, Craig R. Hamilton, 4 Blair Lane, Brookhaven, New York 11719.

5. Defendant Craig R. Hamilton (“Mr. Hamilton”) is an individual residing at 4 Blair Lane, Brookhaven, New York 11719.

6. Defendant Sotheby’s is subject to the jurisdiction of the State of Missouri because it regularly conducts business in the State; and Defendant Sotheby’s is also subject to the long-arm jurisdiction of the State of Missouri because it transacted business within the State, and thereby committed the tortuous conduct, which gave rise to this Petition, all pursuant to Sections 506.500 (1) and (3) R.S.Mo. 2000.

7. Defendant SCP is subject to the long-arm jurisdiction of the State of Missouri because it regularly transacts business within the State, and thereby committed the tortuous conduct which gave rise to this Petition, pursuant to Sections 506.500(1) and (3) R.S.Mo. 2000.

8. Defendants JO Sports. and Mr. Hamilton are subject to the long-arm jurisdiction of the State of Missouri because they regularly transact business within the State, and thereby committed the tortuous conduct which gave rise to this Petition, pursuant to Sections 506.500(1) and (3) R.S.Mo. 2000.

9. Venue is proper in St. Louis County, State of Missouri pursuant to Sections 508.010 (4) and (6), R.S.Mo. 2000, in that the Plaintiff resides herein and the tort and statutory causes of action accrued herein.

The False Conduct

10. Mr. Weldon is a long-time collector of the memorabilia connected with the late Muhammad Ali ("Mr. Ali"), including sporting gear such as fight robes, training trunks, fight trunks, etc.

11. JO Sports and its owner, operator, and principal employee, Mr. Hamilton, hold themselves out as, and in fact are, the foremost authenticators of Mr. Ali sporting gear memorabilia in the World. Upon information and belief, together, they own the largest boxing collection in the World. At all relevant times, including the present, no reputable auction house would or will sell Mr. Ali sporting gear memorabilia without authentication by JO Sports and Mr. Hamilton. JO Sports and Mr. Hamilton heretofore enjoyed sterling reputations for accuracy and honesty in and among the world of collectors of Mr. Ali sporting gear memorabilia.

12. Mr. Weldon, on the one hand, and JO Sports and Mr. Hamilton, on the other, have traded, sold, and exchanged Mr. Ali sporting gear memorabilia, over many years.

13. In the latter part of 2005, Sotheby's and SCP, advertised in a Catalogue # 8155 that they were going to conduct a sale of "Important Sports Memorabilia and Cards" at auction to be held at Sotheby's in New York City, New York on December 10, 2005 ("the Auction"). Sotheby's and SCP heretofore enjoyed sterling reputations for accuracy and honesty in the world of public auctions.

14. In Catalogue #8155, Sotheby's and SCP set forth "TERMS OF GUARANTEE". They represent in pertinent part: "...for all lots Sotheby's and SCP guarantee that the authorship, period, culture or origin (collectively, "Authorship") of each lot in the catalogue is as set out in the **BOLD** or **CAPITALIZED** type heading in the catalogue description of the lot...."

15. Included in the Auction, and as described in Catalogue #8155 was Lot No. 144, styled in **BOLD** and **CAPITALIZED** "**MUHAMMAD ALI FIGHT WORN ROBE VS. CHUCK WEPNER - MARCH 24TH, 1975**".

16. Catalogue # 8155 describes Lot No. 144 as *a very important robe*, and therefore *one of the most desirable* to Ali Memorabilia collectors because it was authenticated to the famous Ali-Wepner Fight, in pertinent part as follows:

"This Everlast robe was worn by heavyweight champion Muhammad Ali in his win against Chuck Wepner in Cleveland, Ohio on March 24, 1975. The previous summer Ali had defeated George Foreman in Zaire to reclaim his heavyweight crown. Don King managed the fight, which paid a then astounding \$1.5 million to to [*sic*] Ali. His opponent, Wepner, was a journeyman fighter known as the Bayonne Bleeder for the cuts he often suffered. He combined his boxing career with a full time job as a liquor salesman.

Somehow Wepner managed to battle through fifteen rounds with the champ until Ali finally knocked him down and the referee stopped the fight with just 19 seconds to go. That night, Sylvester Stallone watched Wepner's gutsy challenge and was inspired to write the script for Rocky. After the movie's success, Wepner would later sue Stallone, unsuccessfully, for a share of the profits."

17. The value of this important and desirable robe arises directly from the authentication to the famous Ali-Wepner Fight.

18. In their Catalogue # 8155, Lot No. 144, Sotheby's and SCP state that the Ali Fight Robe was authenticated by JO Sports and Mr. Hamilton. Sotheby's and SCP estimated that the Ali Fight Robe would fetch \$8,000 to \$12,000 at the Auction.

19. Also in their Catalogue # 8155 was Lot No. 145, styled **"MUHAMMAD ALI TRAINING TRUNKS, CIRCA 1970s"**. Sotheby's and SCP described Lot No. 145 as follows:

"This pair of trunks was made by Everlast for Ali in the late 1970's. These trunks are white satin with faded black trim on each leg and at the waistband [sic]. On the center of the waistband is the manufacturer's label for Everlast. Included on this manufacturer's label is the logo, *Made Expressly for Muhammad Ali*. These trunks date to the late 1970's but do not match actual fight worn trunks used by Ali during this period of his career. These trunks show heavy wear and moderate fading and were most likely used by Ali during this period of his career. These trunks show heavy wear and moderate fading and were most likely used by Ali during training sessions for his fights with Leon Spinks in 1978. LOA: JO Sports, Inc. (Craig Hamilton)."

"LOA" refers to "Letter of Authentication".

20. Sotheby's and SCP estimated that the Spinks Training Trunks would fetch \$4,000 to \$6,000 at the Auction.

21. Sotheby's and SCP mailed Catalogue # 8155 to Mr. Weldon in Missouri prior to the Auction.

22. In reliance upon the JO Sports/Mr. Hamilton authentications of Lots 144 and 145, to wit, that the Ali Robe was fight robe used by Mr. Ali in the Ali-

Wepner Fight on March 24, 1975, and that the Spinks Training Trunks were most likely used by Mr. Ali while training for the Leon Spinks fights in 1978, Mr. Weldon placed bids on these two lots in the Auction via telephone from Missouri to Sotheby's bid acceptance employee in New York City on December 10, 2005.

23. Mr. Weldon was entitled to rely upon the authentications set forth in Catalogue # 8155, and did so rely.

24. Mr. Weldon was the successful bidder on Lot No. 144, paying \$30,000 to Sotheby's and SCP, including a buyer's premium.

25. Mr. Weldon was the successful bidder on Lot No. 145, paying \$5,100 to Sotheby's and SCP, including a buyer's premium.

26. Sotheby's and SCP shipped Lot No. 144 with the JO Sports-Mr. Hamilton Letter of Authentication dated July 25, 2002 to Mr. Weldon in Missouri.

The Authentication reads in pertinent part as follows:

"I have examined the robe described herein and believe it is the robe which was used by Muhammad Ali in his fight with Chuck Wepner in Cleveland, Ohio fought on March 24, 1975 and won by Muhammad Ali by KO in round 15....

....

In reviewing the fight tape for the Ali-Wepner bout the robe can be seen being held by Ali's trainer, Angelo Dundee. In addition to comparing the robe to the other corner outfits worn in the fight (particularly Drew "Bundini" Brown's) you can see that the exact design used to trim the cornerjackets was used on this robe. Further, the owner of the robe when interviewed independently with no coaching indicated that when she was given the robe she was advised it was worn by Muhammad Ali in his fight with Chuck Wepner. This is a vintage mid 1970's Everlast robe which further reinforces my opinion this is, indeed,

the robe worn by Muhammad Ali in his fight with Chuck Wepner.”

The Authentication is signed “Craig R. Hamilton” and “JO Sports, Inc.”

27. Sotheby’s and SCP shipped Lot No. 145, the Training Trunks, to Mr. Weldon in Missouri, together with an envelope styled in pertinent part “Lot #145” ***“Muhammed Ali Fight Worn Trunks vs. Leon Spink”***[sic] (Italics added.) However the envelope was empty and no actual authentication was enclosed with the Spinks Training Trunks. Mr. Weldon never received the actual JO Sports and Mr. Hamilton Spinks Training Trunks authentication.

28. Between December 10, 2005 and the Summer of 2016, Mr. Weldon had no reason to question the JO Sports and Mr. Hamilton authentications of Lots # 144 and 145, as advertised by Sotheby’s and SCP. Mr. Weldon retained those lots as collectibles and expected them to appreciate in value over time.

29. In the Summer of 2016, Mr. Weldon submitted the Ali Fight Robe and the Spinks Training Trunks, to one Heritage Auctions, a nationwide auction house, to be sold in its September 30, 2016 sale of sports collectibles. Mr. Weldon submitted to Heritage Auctions the Sotheby’s and SCP’s Catalogue 8155, Lots # 144 and 145 descriptions, and for Lot 144, the authentication of JO Sports and Mr. Hamilton, to wit, the July 25, 2002 signed letter of authentication of the Ali Fight Robe.

30. Heritage Auctions widely advertised the Ali Fight Robe as the "1975 Muhammad Ali Fight Robe from Check Wepner Bout", and listed as its estimate "\$40,000 plus."

31. On August 8, 2016, Mr. Hamilton called Heritage Auctions to advise that he no longer stood by his July 25, 2002 letter of authentication of the Ali Fight Robe. He stated that he was no longer of the opinion that Ali wore the Robe in the Ali-Wepner fight. His authentication was meaningless. The now so-called Ali Fight Robe was just a garment with Ali's name on it, which may have been worn by Ali at some point in some training or fight, but not in the historic Ali-Wepner fight.

32. Mr. Hamilton and JO Sports did not contact, and have never contacted, Mr. Weldon regarding his repudiation of his July 25, 2002 letter of authentication of the now so-called Ali Fight Robe.

33. Mr. Weldon learned of this repudiation on or about August 29, 2016 through representatives of Heritage Auctions.

34. Because Mr. Hamilton and JO Sports repudiated their authentication, Heritage Auctions refused to include the "Ali Fight Robe" in its September 30, 2016 auction and removed it from the sale.

35. Heritage Auctions also asked Mr. Weldon to pay for a current authentication by JO Sports and Mr. Hamilton of the Spinks Training Trunks. Mr. Weldon did so, and received another attribution repudiation from JO Sports and Mr.

Hamilton. They were now of the opinion that the now so-called Spinks Training Trunks were linked with Mr. Ali's training at Deer Lake, and not with training for the 1978 Ali-Spinks fights.

36. Heritage Auctions did include the now, non-Spinks Training Trunks in its September 30, 2016 auction. However, the value of the Training Trunks depended upon their association with Mr. Ali's pre-championship training against Leon Spinks. With that association gone, the Training Trunks sold at auction for the hammer price of \$3,600, plus buyer's premium. This was, \$1,500 less than the \$5,100, that Mr. Weldon had paid to Sotheby's and SCP for them fourteen years earlier on December 10, 2005.

37. At all relevant times, Sotheby's, SCP, JO Sports and Mr. Hamilton were and are well-aware of the fact that the historic association of Mr. Ali's robes and other sports gear memorabilia to specific and famous Ali fights is critical to their value.

38. If the now so-called Ali Fight Robe had been included in the Heritage Auction as originally authenticated by JO Sports and Mr. Hamilton, and advertised, promoted, and offered by Sotheby's and SCP, it would have brought in excess of \$75,000 in bids.

39. If the now so-called Spinks Training Trunks had been included in the Heritage Auction as originally authenticated by JO Sports and Mr. Hamilton, and

advertised, promoted, and offered by Sotheby's and SCP, would have brought in excess of \$17,000 in bids.

40. Sotheby's, SCP, JO Sports, and Mr. Hamilton hold themselves out to the public as respectively, sophisticated, knowledgeable and expert merchandisers, auctioneers, and authenticators of Ali Sporting Gear memorabilia. They provide these goods' descriptions and authentications so that the public can rely upon their verifications in determining whether to purchase. They do this for a price, and do so with every expectation that potential buyers will trust their information.

41. In the case of Sotheby's and SCP, the seller and the buyer both pay premiums for the marketing and information accompanying each sale.

42. In the case of JO Sports and Mr. Hamilton, they are staking their reputation on each letter of authentication, and receive payment for the same.

43. The auction/verification system is in place so that auctions of unique, non-fungible goods, including Ali Sporting Gear Memorabilia, do not become rackets to extort excessive, unjust, and unjustified prices for false goods.

44. In view of the heretofore sterling reputations of Sotheby's, SCP, JO Sports, and Mr. Hamilton for accuracy and honesty, Mr. Weldon had every reason and right to rely upon the Ali Fight Robe and Training Trunks attributions issued by JO Sports and Mr. Hamilton, and advertised, promoted and offered by Sotheby's and SCP.

45. The Ali Fight Robe and Spinks Training Trunks attributions were false.

46. By December 10, 2005, JO Sports and Mr. Hamilton knew or should have known by review of their large reference library of recordings and pictorial publications that they routinely rely upon in making attributions that the so-called Ali Fight Robe was not in fact worn in the famous and iconic 1975 Ali-Wepner prize fight, and was falsely so attributed.

47. Sotheby's and SCP adopted and endorsed the JO Sports and Mr. Hamilton authentication of the so-called Ali Fight Robe with reckless disregard of its veracity, and knew or should have known that the verification was false.

48. By December 10, 2005, JO Sports and Mr. Hamilton knew or should have known by review of their large reference library of recordings and pictorial publications that they routinely rely upon in making attributions that the so-called Spinks Training Trunks were not in fact worn by Mr. Ali in training for his 1978 Spinks fights, and were falsely so attributed.

49. Sotheby's and SCP adopted and endorsed the JO Sports and Mr. Hamilton authentication of the so-called Ali Fight Robe with reckless disregard of its veracity, and knew or should have known that the verification was false.

50. Sotheby's, SCP, JO Sports, and Mr. Hamilton's behavior in this matter was so wanton and reckless as to amount to an intention to defraud Mr. Weldon.

51. Mr. Weldon has been damaged by Sotheby's, SCP, JO Sports, and Mr. Hamilton, jointly and severally in the amount of \$75,000 for the false attribution of

the so-called Ali Fight Robe, or more as to be proved at trial, plus \$5,000 in fees incurred in shipping, insuring, and storing the so-called Ali Fight Robe.

52. Mr. Weldon has been damaged by Sotheby's, SCP, JO Sports, and Mr. Hamilton, jointly and severally in the amount of \$17,000 for the false attribution of the so-called Spinks Training Trunks, or more as to be proved at trial, plus \$3,000 in fees incurred in shipping, insuring, storing, and re-authenticating the so-called Spinks Training Trunks.

53. Sotheby's, SCP, JO Sports, and Mr. Hamilton's individual and combined behavior was wanton and reckless, and intentionally fraudulent, justifying an award of punitive damages in favor of Mr. Weldon and against these defendants, in an amount to be determined at trial.

WHEREFORE, FOR THE FOREGOING REASONS, Plaintiff John T. Weldon prays that the Court enter its Judgment in his favor and against Defendants Sotheby's, Inc., SPC Auctions, Inc., JO Sports, Inc., and Craig R. Hamilton, jointly and severally for fraud, in actual and punitive damages in an amount to be determined at trial, together with such other and further relief as the Court deems just and proper.

COUNT II
(FOR VIOLATION OF THE MISSOURI MERCHANDISING PRACTICES ACT)

54. Plaintiff John T. Weldon hereby adopts as if fully set forth herein Paragraphs 1 through 53 of Count I.

55. The Missouri Merchandising Practices Act, Chapter 407 R.S.Mo. 2000, at Section 407.025.1, provides for a private right of action for damages to

“any person who purchases or leases merchandise primarily for personal, family or household purposes and thereby suffers an ascertainable loss of money or property, real or personal, as a result of the uses or employment by another person of a method, act or practice declared unlawful by section 407.020....The court may, in its discretion, award punitive damages and may award to the prevailing party attorney’s fees, based on the amount of time reasonably expended, and may provide such equitable relief as it deems necessary or proper.”

56. Section 407.020.1 provides that:

“The act, use or employment by any person of any deception, fraud, false pretense, false promise, **misrepresentation**, unfair practice or the concealment, suppression or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce ... is declared to be an unlawful practice.... **Any act, use or employment declared unlawful by this subsection violates this subsection whether committed before, during or after the sale, advertisement or solicitation.**”

(Emphasis added.)

57. The purpose of the Missouri Merchandising Practice Act (“MMPA”) is to preserve fundamental honesty, fair play and right dealings in public transactions.

58. Pursuant to the MMPA, plaintiff must plead, and thereafter establish the following elements: 1) a purchase of merchandise; 2) for personal, family or household purposes; 3) suffer ascertainable loss or harm; and 4) that said loss was the result of an act declared unlawful under the MMPA.

59. Mr. Weldon purchased the Ali Fight Robe and the Spinks Training Trunks.

60. Mr. Weldon purchased said items for his personal purposes.

61. Mr. Weldon has suffered ascertainable loss of the value of the items as misrepresented by Sotheby's, SCP, JO Sports, and Craig Hamilton. Said misrepresentation was also deceitful, fraudulent, false, and unfair.

62. Mr. Weldon has suffered ascertainable loss of the value of the items as misrepresented by Sotheby's, SCP, JO Sports, and Craig Hamilton and as they have concealed, suppressed and omitted the fact of this misrepresentation.

63. To bring and prosecute this action, Mr. Weldon has incurred and will incur further attorney's fees, to be established at the trial of this action.

64. The Court in its discretion should award punitive damages in favor of Mr. Weldon and against each defendant, jointly and severally.

WHEREFORE, FOR THE FOREGOING REASONS, Plaintiff John T. Weldon prays that the Court enter its Judgment in his favor and against Defendants Sotheby's, Inc., SPC Auctions, Inc., JO Sports, Inc., and Craig R. Hamilton, jointly and severally for violation of the MMPA for actual and punitive damages in an amount to be determined at trial and his attorney's fees, together with such other and further relief as the Court deems just and proper.

GOLDSTEIN & PRESSMAN, P.C.

By /s/ Kathryn M. Koch_____

Kathryn M. Koch (MBE 32010)
Norman W. Pressman (MBE 23900)
10326 Old Olive Street Road
St. Louis, MO 63141-5922
FAX: (314) 727-1447
(314) 727-1717
kmk@goldsteinpressman.com
nwp@goldsteinpressman.com

Attorneys for John T. Weldon, Plaintiff

PLAINTIFF DEMANDS TRIAL BY JURY