

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

DAVID WAYNE SEMIEN, AS THE
SUCCESSION REPRESENTATIVE
OF ARTHUR TOLSON, LEGAL
GUARDIAN OF ANTOINETTE TOLSON,
AND AGENT OF KAREN TOLSON,
KENNETH TOLSON, SR., KENNETH
TOLSON, JR., AND DELORES TOLSON,
BEING ALL THE LIVING DECEDENTS
OF MELVIN B. TOLSON

VERSUS

CIVIL ACTION NO.

HARPO FILMS, INC., THE WEINSTEIN
COMPANY, LLC, AND METRO-
GOLDWYN-MAYER DISTRIBUTION CO.

COMPLAINT AND JURY DEMAND

Plaintiff, David Wayne Semien, for his complaint against the defendants Harpo Films, Inc., the Weinstein Company, LLC, and Metro-Goldwyn-Mayer Distribution Co., respectfully represents:

1. Plaintiff, Mr. Semien, is the succession representative of Melvin B. Tolson's son Arthur Tolson; the legal guardian of Melvin B. Tolson's granddaughter Antoinette Tolson; and the agent for Mr. Tolson's daughter-in-law Delores T. Tolson; grandson, Kenneth R. Tolson, granddaughter Karen T. Tolson; and great-grandson, Kenneth R. Tolson, Jr.
2. Melvin B. Tolson (1898-1966) was an American Modernist poet, educator, columnist, and politician. Mr. Tolson is the protagonist of the 2007 biographical film "The Great Debaters." The film was released in theaters on December 25, 2007.
3. "The Great Debaters" was produced by Oprah Winfrey and was directed by and starred Denzel Washington. The film is based on Mr. Tolson's work with students at historically

black Wiley College as its debate coach as they struggled to compete with whites in the American South during the 1930s, eventually realizing some success.

4. Plaintiff, David Wayne Semien, resides in Louisiana.
5. Defendant Harpo Films, Inc., is an Illinois corporation with its principal place of business in California and doing business in this district. It produced the film.
6. Defendant The Weinstein Company, LLC, is a Delaware limited liability company doing business in this district with its principal place of business in New York. It produced and distributed the film.
7. Defendant Metro-Goldwyn-Mayer Distribution Co. is a Delaware corporation doing business in this district, with its principal place of business in California. It distributed the film.
8. This Court has original subject matter jurisdiction under 28 USC 1332 because the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States.
9. Venue is proper within this district pursuant to 28 USC 1391 because a substantial part of the events or omissions giving rise to the claim occurred in this district. Specifically, the movie was filmed at Central High School, Grand Cane, Louisiana.
10. “The Great Debaters” grossed tens of millions of dollars. It was nominated for Image Awards for Outstanding Motion Picture, Outstanding Actor in a Motion Picture, Outstanding Actress in a Motion Picture, Outstanding Supporting Actor in a Motion Picture, Outstanding Director in a Motion Picture, and for a Golden Globe Award for Best Motion Picture—Drama.
11. When the film was being made and produced, Melvin B. Tolson, Jr., offered to the producers family assets in the form of several recordings of his father, Melvin B. Tolson, Sr., so that Denzel Washington could use the recordings to study him.

12. The defendants never requested, nor did Mr. Tolson's heirs ever give the defendants consent to use or exploit Mr. Tolson's name, image, likeness in making and distributing a film about his life without any consideration or cause. The Tolson estate was not compensated in any monetary way for the defendants' commercial use of Mr. Tolson's name, distinctive attributes, and unique life experiences.
13. The family members represented here were invited to attend the premiere of the film in Los Angeles. They attended the premiere but were not acknowledged by any of the actors or filmmakers.
14. Harpo staffers told family members, "we are going to take care of you and the family." In so doing, defendants dissuaded the plaintiffs from hiring a lawyer and exploited the plaintiffs' lack of business experience and relative lack of education, as well as their trust in their understanding of the character (mis)represented by Winfrey, Denzel Washington, and the defendants.
15. After not hearing from anyone at Harpo or otherwise involving the film, family members attempted to contact Winfrey, but were never able to make contact with her. A family member received a letter from a staffer stating that in the months to come Winfrey would contact him, but she never did.
16. By their unauthorized commercial use of Mr. Tolson's name, distinctive attributes, and unique life experiences in the making and distribution of the biographical film "The Great Debaters," the defendants have violated Mr. Tolson's right of publicity, which is now owned by his heirs, and have thereby been unjustly enriched at the expense of the plaintiff. See *Factors Etc., Inc. v. Pro Arts, Inc.*, 579 F.2d 215 (2 Cir.1978); *Price v. Hal Roach Studios, Inc.*, 400 F.Supp. 836 (S.D.N.Y. 1975).

17. Defendants have exploited Mr. Tolson's family and have been unjustly enriched by their actions, at plaintiff's expense, in the amount of millions of dollars, in violation of La. C.C. art. 2298, and there is no other satisfactory remedy available to the plaintiff and estate than to recover under the legal theory of unjust enrichment. Unjust enrichment is a personal action subject to a ten-year prescriptive period.
18. Plaintiff has been impoverished because he did not give the defendants license to use Mr. Tolson's unique life experiences, name, and distinctive attributes, and defendants by making and distributing a biological film about Mr. Tolson have diluted or destroyed the plaintiff's ability to make such a film that would experience commercial success.
19. By their conduct, defendants have been unjustly enriched in an amount to be determined at trial, but estimated to be not less than \$75,000.00, and are liable to plaintiff in such amount.
20. Plaintiff demands a jury trial.

WHEREFORE, the plaintiff prays that after due proceedings are had there be judgment rendered in favor of the plaintiff and against the defendants awarding plaintiff all damages to which he and those he represents are entitled, together with interest, costs, reasonable attorney fees, and all other legal, general, and equitable relief.

Respectfully submitted:

SCOTT D. WILSON
A PROFESSIONAL LAW CORPORATION
533 Europe Street
Baton Rouge, Louisiana 70802
Phone 225-388-9788; Fax 225-344-1200
sdwilsonlaw@aol.com

BY: s/Scott D. Wilson
SCOTT D. WILSON (#19835)