

Patrick T. Fleming, Esq.
FLEMING & O'LEARY, PLLP
510 East Park Street, Ste. 200
P.O. Box 527
Butte, MT 59703
Telephone: (406) 723-5600

Attorneys for Plaintiff

FILED
FEB 02 2017

by Tony Powers
Deputy Clerk

Brad Newman
Judge, Dept. II

**MONTANA SECOND JUDICIAL DISTRICT COURT
SILVER BOW COUNTY**

RHONDA STATON,)
) Cause No. *00-17-40*
Plaintiffs,)
)
-vs-) **COMPLAINT**
)
EVEL KNIEVEL DAYS, INC. and)
JOHN/JANE DOES 1 to 50,)
)
Defendants.)
)
)
)
)
)

COMES NOW Rhonda Staton, by and through her attorneys of record, Fleming & O'Leary, PLLP, to allege as follows:

Facts Common to All Causes of Action

1. Rhonda Staton is a resident of Butte, Montana.
2. On or before July 26, 2014, Rhonda Staton approached an individual holding himself/herself to be a representative of Evel Knievel Day, Inc. That individual offered to sell Rhonda Staton one or more "raffle" ticket(s) which would give Rhonda Staton a chance to win an Evel Knievel signature model motorcycle, more particularly described below.

3. The representative of Evel Knievel Days, Inc. also advised Rhonda Staton that the "raffle" tickets were being offered for sale to the public for twenty dollars (\$20.00) each or six raffle tickets for one hundred dollars (\$100.00).

4. The representative of Evel Knievel Days, Inc. advised Rhonda Staton, and the raffle ticket expressly stated, that the motorcycle which was being raffled off was a 1998 CMC Street Rider - #37 of 50 made, with a SHS 88 Cubic Inch Engine with five speed transmission." The raffle ticket displayed and offered for sale to Rhonda Staton by the Evel Knievel Days, Inc. representative contained the following description of the raffled motorcycle on the face of the raffle ticket:

Evel Knievel Signature Model

This custom bike is #37 of only 50 total manufactured. Evel was involved in the design of this motorcycle from start to finish. It was the first custom line of motorcycles that Evel ever participated in designing. He was particularly proud of the flashy USA paint scheme and its truly customized style. As a result this motorcycle is HIGHLY COLLECTABLE since there are only 50(fifty) EVER PRODUCED world wide and in existence.

5. Relying on the above representations, and the description of the motorcycle on the raffle ticket itself, Rhonda Staton purchased six (6) raffle tickets in hopes of winning the motorcycle described by the Evel Knievel Days, Inc. representative and also described on the written raffle ticket Rhonda Staton purchased several raffle tickets from an authorized representative of Evel Knievel Days, Inc.

6. On July 26, 2014, one of the raffle tickets purchased by Rhonda Staton was drawn and she was declared the winner of a motorcycle described on the winning raffle ticket as:

"a 1998 CMC Street Rider - #37 of 50 made, SHS 88 Cubic Inch Engine with five speed transmission

Evel Knievel Signature Model

This custom bike is #37 of only 50 total manufactured. Evel was involved in the design of this motorcycle from start to finish. It was the first custom line of motorcycles that Evel ever participated in designing. He was particularly proud of the flashy USA paint scheme and its truly customized style. As a result this motorcycle is HIGHLY COLLECTABLE since there are only 50(fifty) EVER PRODUCED world wide and in existence.”

7. The motorcycle actually presented to Rhonda Staton by Evel Knievel Days, Inc. as her “prize” for purchasing the winning raffle tickets from the Evel Knievel Days, Inc. representative, was not the motorcycle described by the Evel Knievel Days, Inc. representative.

8. Based on information and belief, representatives of Evel Knievel Days, Inc. knew or should have known that the motorcycle which was ultimately “awarded” to Rhonda Staton did not conform to the motorcycle described on the face of the raffle ticket.

9. Based on information and belief, the motorcycle presented to Rhonda Staton by Evel Knievel Days, Inc. is substantially less valuable than the motorcycle described by the Evel Knievel Days, Inc. representative or the motorcycle described on the raffle ticket purchased by Rhonda Staton.

COUNT I

10. Rhonda Staton incorporates and repleads the allegations in paragraphs 1 – 9, inclusive.

11. The actions taken by Evel Knievel Days, Inc. and its representative constitutes negligent misrepresentation by the named Defendant herein.

12. Rhonda Staton has been harmed as a direct result of the Defendant’s negligent misrepresentations.

COUNT II

13. Rhonda Staton incorporates and repleads the allegations in paragraphs 1 – 12, inclusive.

14. The action taken by Evel Knievel Days, Inc. and its representatives constitutes deceit, as that term is defined in § 27-1-712 MCA.

15. Rhonda Staton has been harmed as a direct result of the Defendant's deceit.

WHEREFORE, Rhonda Staton respectfully requests the following:

1. That she receive from the corporate Defendant the motorcycle advertised to Rhonda Staton by the Evel Knievel Days, Inc. representative and as described by the written raffle ticket. Specifically, Rhonda Staton prays that the Defendant herein be required to obtain for and provide Rhonda Staton:

a 1998 CMC Street Rider - #37 of 50 made, SHS 88 Cubic Inch Engine with five speed transmission

Evel Knievel Signature Model

This custom bike is #37 of only 50 total manufactured. Evel was involved in the design of this motorcycle from start to finish. It was the first custom line of motorcycles that Evel ever participated in designing. He was particularly proud of the flashy USA paint scheme and its truly customized style. As a result this motorcycle is HIGHLY COLLECTABLE since there are only 50(fifty) EVER PRODUCED world wide and in existence.

2. If Evel Knievel Days, Inc. refuses or cannot produce the above described motorcycle, Rhonda Staton prays she receive monetary damages in the sum that Rhonda Staton has incurred, including, but not limited to, the cost/value of the motorcycle advertised less the cost/value of the motorcycle actually received by Rhonda Staton;

3. That Rhonda Staton be awarded costs and attorney fees to the extent permitted by Montana law; and

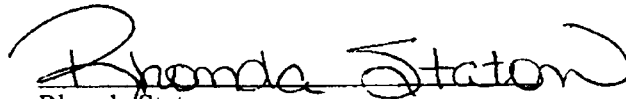
4. That Rhonda Staton be awarded such further and additional relief as the Court deems just and equitable.

VERIFICATION

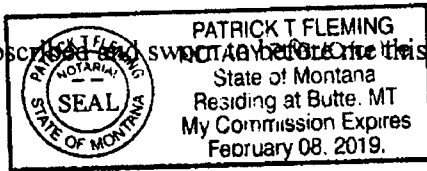
STATE OF MONTANA)
 :SS
County of Silver Bow)


Rhonda Staton, being first duly sworn upon her oath, deposes and says:

That she has read the above Complaint; that she knows the contents thereof; and that the contents are true and correct to the best of her knowledge and belief.


Rhonda Staton

Subscribed and sworn to before me this 26th day of January, 2017.




Patrick T. Fleming, Notary

DATED this 26th day of January, 2017.

FLEMING & O'LEARY, PLLP

By 
Patrick T. Fleming
P.O. Box 527
Butte, MT 59703

Attorneys for Plaintiff

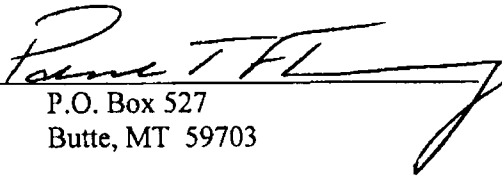
DEMAND FOR JURY TRIAL

COMES NOW plaintiff Rhonda Staton, and hereby demands a jury trial to resolve all issues raised by the allegations of her Complaint.

DATED this 26th day of January, 2017.


RHONDA STATON

FLEMING & O'LEARY, PLLP

By 
P.O. Box 527
Butte, MT 59703

Attorneys for plaintiff