

IN THE CIRCUIT COURT FOR THE SEVENTEENTH JUDICIAL CIRCUIT IN AND FOR  
BROWARD COUNTY, FLORIDA

CASE NO.:  
DIVISION:

LARRY EINBINDER, an Individual  
Plaintiff,

vs.

SVC JOINT VENTURES, LLC, a Florida Limited Liability Corporation  
d/b/a/ VIXENS GENTLEMEN' CLUB  
Defendants.

**COMPLAINT FOR DAMAGES**

Plaintiff, LARRY EINBINDER, an Individual, by and through undersigned counsel, hereby sue Defendants. SVC JOINT VENTURES, LLC, a Florida Limited Liability Corporation d/b/a/ VIXENS GENTLEMEN' CLUB (hereinafter "Vixens") pursuant to the Florida Deceptive and Unfair Trade Practices Act (FLUTPA), Florida Civil Theft Statute, Unlawful Conversion, Fraud and Breach of Contract to recover damages for unlawful and unwarranted theft of personal property from the Plaintiff. In support thereof, the Plaintiff states as follows:

**JURISDICTION AND VENUE**

This is an action for statutory and financial damages and relief, brought pursuant to the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (2008); and Florida Civil Theft Statute, F.S.A. Section 817.014 (1)(b)

1. This Court has subject matter jurisdiction pursuant to the provisions of Chapter 501, Part II of the Florida Statutes. This Court within this Courts jurisdiction as this is an action in law which exceeds the sum of \$15,000, exclusive of interest, attorney fees and costs.
2. The Plaintiff, Larry Einbinder, is an individual, sui juris and a resident of Broward County, Florida.
3. The Defendant is a Florida corporation doing business in Florida.
4. All actions material to the complaint have occurred with four years of the filing of this action.
5. The statutory violations alleged herein occurred in Broward county Florida and are within the jurisdiction of this court.

6. Venue is proper in Broward county Florida.
7. All conditions precedent to the filing of this action have been made by the Plaintiff or his counsel; namely, and consistent with FSA 772.11, the Plaintiff sent the Defendants by U.S. mail a "civil theft letter" advising the Defendants of the Plaintiff's theft and/or wrongful conversion claim. (See copy of Plaintiff's letter dated November 10, 2017 which is attached hereto as Exhibit "A")
8. The Defendants contacted Plaintiff's counsel and advised that they had received Exhibit A and were not interested in resolving this action pre litigation.

#### **STATEMENT OF FACTS AND DEFENDANT'S COURSE OF CONDUCT**

9. SVC Joint Ventures, LLC is a Florida Limited Liability Corporation that owns and or operates Vixen's Gentlemen's Club, located in Davie, Florida.
10. The Plaintiff is an individual resident of Broward county, Florida
11. On the evening and early morning hours that constitute July 14<sup>th</sup> and July 15<sup>th</sup> 2017, the Plaintiff was a patron and guest at Vixen Gentlemen's Club.
12. While at the Defendant Vixen, the Plaintiff ordered some cocktails and thereafter became groggy and highly intoxicated far more than would normally be expected from the ingestion of a few normal cocktails.
13. The Plaintiff believes that without his knowledge or consent, the cocktails served to him by the employees of Vixens had been chemically altered to induce the symptoms and conditions suffered on July 14 and July 15 2017.
14. During the ensuing hours, and as a result of Mr. Einbinder's advanced state of intoxication, the employees of Vixen's took unlawful and unfair advantage of Mr. Einbinder's intoxication. More specifically;
15. Without Mr. Einbinder's knowledge and consent, dancer/employees of Vixens purchased several expensive cocktails and bottles of champagne and charged those items to the Plaintiff's American Express card as well as other credit cards in the Plaintiff's possession.
16. In addition to the above actions by the dancer/employees of Vixens, they were charging the Plaintiff, without his knowledge and approval, an exorbitant amount of money per dancer/employee per hour for their company and their attention paid to the Plaintiff.
17. During the evening, at least one on the dancer/employees plied the Plaintiff with an illegal narcotic, possibly cocaine, to further encourage and take advantage of the Plaintiff.

18. The dancer/employees would occasionally provide the Plaintiff with an electronic bill for services which failed to have an amount charged to the Plaintiff's American Express card or for what the charge was for in terms of services rendered by Vixen's or their employees.

19. The flagrantly fraudulent and unlawful charges made by Vixen's employees on July 14-15, 2017 totaled seventeen thousand four hundred and seventy four dollars (17,474.00).

20. A copy of the charges complained of herein is attached hereto and incorporated by reference herein as Exhibit "A" to this Complaint for Damages.

### **COUNT ONE**

#### **VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES DECEPTIVE AND UNFAIR TRADE PRACTICES ACT**

21. Plaintiff repeats and realleges Paragraphs 1 through 20 with the same force and effect as fully set forth hereinabove.

22. The Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (2008), provides that "unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful."

23. The Defendants have violated and will continue to violate the Florida Deceptive and Unfair Trade Practices Act, supra, by using and continuing to use the same deceptive acts and practices visited upon the Plaintiff on July 14 and 15, 2017.

24. These above described acts and practices have injured the Plaintiff which unless remedied by the Court will irreparably harm the Plaintiff.

25. As a direct result of the Defendants actions set forth herein, the Plaintiff hired the office of the undersigned and agreed to pay the undersigned reasonable attorney fees and costs attendant to this action.

WHEREFORE, the Plaintiff demands judgment for damages against the Defendants and a trial by jury.

### **COUNT TWO**

#### **VIOLATIONS OF SECTION 812.014 (1)(B), FLORIDA STATUTES-CIVIL THEFT**

26. The Plaintiff repeats and realleges Paragraphs 1 through 20 with the same force and effect, as set forth more fully below:



27. Section 812.014(1)(b), Florida Statute (2008) provides: “(1) A person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to either temporarily or permanently:(b) Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property”.

28. The above described acts and practices of the Defendants are clearly in contravention of Florida Statute 812.014 et seq and as such constitute civil theft by the Defendants in this action.

29. The Plaintiff has been injured by the Defendants actions set forth herein and he has therefore been improperly deprived of his personal property; to wit: money by the Defendants. WEHREFORE, the Plaintiff demands judgment for damages against the Defendants and trial by jury.

### **COUNT III**

#### **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

30. The Plaintiff realleges paragraphs 1 through 20 with the same force and effect as set forth more fully herein.

31. The Defendants actions were extreme and outrageous. They were beyond the bounds of decency to be deemed intolerable in this community.

32. The Defendants, by their actions, intentionally or recklessly caused the Plaintiff to suffer severe emotional distress.

WHEREFORE, the Plaintiff demands judgment for damages against the Defendants and trial by jury.

### **COUNT IV**

#### **UNJUST ENRICHMENT**

33. The Plaintiff realleges paragraphs 1 through 20 with the same force and effect as set forth more fully herein.

34. At all times material, the Defendants benefitted from the Plaintiff by the receipt of funds.

35. At all times material, The Defendants either requested this benefit or knowingly and voluntarily accepted it.

36. Under the facts and circumstances set forth herein, it would be inequitable and unfair for the Defendants to retain the benefit of these funds without supplying the value thereof and there is no adequate available legal remedy

37. The Plaintiff has been damaged by this unjust enrichment.

WHEREFORE, the Plaintiff demands judgment against the Defendants for the return of his funds in principal damages, other actual damages, incidental damages, consequential damages and costs incurred in connection with the maintenance of this action, pre-judgement interest and for any other further relief and trial by jury.

#### **COUNT V**

#### **BREACH OF IMPLIED CONTRACT AND BREACH OF DUTY TO PLAINTIFF**

38. The Plaintiff realleges Paragraphs 1 through 20 with the same force and effect as set forth herein.

39. As a nightclub, restaurant, gentlemen's club, the Defendants owe the patron/invitee Plaintiff a duty to keep him free from torts and harmful actions by employees and third parties by way Florida law and implied contract.

40. From the actions set forth in herein, the Defendants materially breached this implied contract and resulting duty by not only allowing but promoting the exploitation of the Plaintiff by the Defendants employees and management.

41. Because of the Defendants duty breach, the Plaintiff was damaged.

WHEREFORE, the Plaintiff demands judgment against the Defendants for the return of his monies together with all other actual, consequential or incidental damages and for all costs and fees necessitated by the actions of the Defendants and trial by jury.

#### **PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff requests that this Court enter an Order finding;

- a. That the Defendants violated the Florida Deceptive and Unfair Trade Practices Act.
- b. That the actions of the Defendants constituted Civil Theft under Florida Statute 812.014.
- c. That because of the Defendants actions set forth herein, the Plaintiff was materially damaged and is entitled to treble damages as a statutory remedy for the civil theft.
- d. The Plaintiff is entitled to attorney fees and costs attendant to this action.
- e. Grant the Plaintiff a trial by jury.

f. Any additional remedy that this Court deems appropriate and just.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the above and foregoing was served via e-mail through the Florida Courts E-Filing Portal this 13<sup>th</sup> day of December 2017 with a copy e-mailed to the Office of the State Attorney.

THE LAW FIRM OF GARY S. OSTROW, P.A.  
Intracoastal Building, Suite 302  
3000 N.E. 30th Place  
Fort Lauderdale, Florida 33306  
Telephone: (954) 566-4033  
Facsimile: (954) 566-1021

By: /s/ Gary Ostrow  
GARY S. OSTROW  
Florida Bar No.: 354694



**THE LAW OFFICE OF GARY S. OSTROW, P.A.**

INTRACOASTAL BUILDING  
SUITE 302  
3000 NORTHEAST 30<sup>TH</sup> PLACE  
FORT LAUDERDALE, FLORIDA 33306

GARY S. OSTROW, P.A.

TELEPHONE: (954) 566-4033

FACSIMILE: (954) 566-1021

(877) ALL LAWS

CRIMINAL AND CIVIL TRIAL PRACTICE

November 10, 2017.

SVC Joint Ventures, LLC  
Mr. Hugh McNew/Registered Agent  
3040 SW 30<sup>th</sup> Avenue  
Pembroke Park, FL 33009

**EXHIBIT "A"**

**Regarding: Civil Theft by Club Vixens from patron Mr Larry Einbinder in the amount of \$17,474.00 on or about July 15, 2017.**

Dear Mr. McNew,

We have been retained to represent Mr. Einbinder with regard to the wrongful retention of monies as set forth above. We believe that this constitutes civil theft in Florida.

This notice is provided to you as a condition precedent for filing a lawsuit. *See Fla. Stat. Sec. 772.11.* A copy of said statute is attached hereto for your information. Be aware that the statute authorizes treble damages bringing the value of the damages and this demand to **\$52,422.00. (\$17,474.00 x 3) or pay the \$17,474.00 amount by December 9, 2017.**

The statute allows you 30 days from the receipt of this letter within which to comply with this demand. If you comply, you may be given a written release from further civil liability for the wrongful retention of the money. The statute also provides for my client's reasonable attorneys' fees and court costs in the event a suit is filed; my client's current attorney's fees and costs are \$5000.00.

Consequently, you should immediately pay to my client the amount of **\$17,474.00**. Your payment should be delivered to my attention and made out to the Gary S. Ostrow, P.A. Trust account. This demand will remain open for thirty days from the date you receive this letter.

**Govern yourself accordingly.**

Best regards,

GARY S. OSTROW, ESQ.