

CJ-19-5250
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IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

Jessica Harston,)
)
 Plaintiff,)
)
 vs.)
)
 The International Professional Rodeo Association,)
 Inc. d/b/a Miss Rodeo USA Association, and)
 Kirbi D. Allen,)
)
 Defendants.)

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

SEP 18 2019

RICK WARREN
COURT CLERK

No. CJ-2019-

48

CJ-2019-5250

PETITION

COMES NOW the Plaintiff, Jessica Harston, and for her cause of action against the Defendants, The International Professional Rodeo Association, Inc. d/b/a Miss Rodeo USA Association and Kirbi D. Allen, alleges and states as follows:

PARTIES

1. The Plaintiff, Jessica Harston ("Plaintiff"), is an individual and resident of Winder, Barrow County, Georgia.
2. The Defendant, The International Professional Rodeo Association, Inc. ("IPRA"), is a not-for-profit corporation organized and existing under the laws of the State of Oklahoma, and can be served with process in Oklahoma County, Oklahoma.
3. The Miss Rodeo USA Association ("MRUSA") is a wholly owned trade name of IPRA, under which it conducts the Miss Rodeo USA Pageant (the "Pageant") in conjunction with the International Finals Rodeo competition in Oklahoma City, Oklahoma County, Oklahoma.
4. The Defendant, Kirbi D. Allen ("Allen"), is an individual and resident of Danville, Yell County, Arkansas.

JURISDICTION AND VENUE

5. The Plaintiff incorporates by reference and re-alleges each and every allegation contained above as though fully set forth herein and further states as follows:

6. The Defendants have sufficient contacts with the State of Oklahoma, and this Court has both in personam and subject matter jurisdiction over the parties and claims asserted herein.

7. The District Court of Oklahoma County is a proper venue for this action under 12 O.S. § 134, 12 O.S. § 137, and 12 O.S. § 187.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

8. The Plaintiff incorporates by reference and re-alleges each and every allegation contained above as though fully set forth herein and further states as follows:

9. Between January 11, 2015 and January 18, 2015, the IPRA conducted the Pageant at the State Fair Arena, and Oklahoma County Fairgrounds, in Oklahoma City, Oklahoma. As a part of the Pageant, the Plaintiff competed against seventeen (16) other contestants from across the United State in horsemanship, written exams, interviews, modeling and public speaking.

10. On January 18, 2015, the IPRA and MRUSA announced to the general public that the Plaintiff had been selected as the winner of the 2015 Pageant, and crowned the Plaintiff as the 2015 Miss Rodeo USA. The Plaintiff also: (i) won the People's Choice Award, as voted on and selected by the general public, and (ii) received the Highest Test Score award.

11. On the same day, and immediately after she was crowned the 2015 Miss Rodeo USA, the Plaintiff and MRUSA, as agent for the IPRA, executed a Personal Services Contract (the "Contract"). A copy of the Contract is attached hereto as Exhibit "A".

12. The Contract: (i) was for a one (1) year term, subject to MRUSA's right to extend it for a period of ninety (90) days, (ii) confirmed that the Plaintiff was the winner of the 2015 Pageant, (iii) entitled Plaintiff to receive the title of Miss Rodeo USA for 2015 and represent the IPRA and MRUSA in this capacity at functions and public appearances, and (iv) entitled Plaintiff to continue using the designation "Former Miss Rodeo USA" or "Miss Rodeo USA 2015" on resumes and historical/biographical information after the Contract term.

13. Among other things, the Contract required Plaintiff to: (i) make public appearances and give interviews, (ii) promote the IPRA and MRUSA's goals and the sport of rodeo, and (iii) appear at the 2016 Pageant, for which she was entitled to receive compensation, as well as reimbursement for expenses, and be eligible to qualify for a Career Advancement award.

14. The only grounds for MRUSA's termination of the Contract was: (i) a noticed material breach by Plaintiff, not cured within fifteen (15) days; (ii) a material breach of any warranty or representation by Plaintiff, (iii) a materially false statement made by Plaintiff during the Pageant, (iv) Plaintiff's conduct which damaged the IPRA and MRUSA's reputation or goodwill, and (v) Plaintiff's failure to fulfill her duties and requirements as Miss Rodeo USA 2015. However, the Plaintiff did not commit any act which would have entitled MRUSA to terminate the Contract.

15. Under the MRUSA Rules and Regulations a written grievance could also be filed by another contestant within one (1) month of Plaintiff's selection as Miss Rodeo USA 2015, or by February 17, 2015, which would only then require verification of the Pageant results after execution of the Contract. However, no grievance to Plaintiff's selection as Miss Rodeo USA

2015 was filed on or prior to February 17, 2015. A copy of the MRUSA Rules and Regulations is attached hereto as Exhibit "B".

16. After executing the Contract, the Plaintiff fully performed, or stood ready to perform, all obligations required of her under the Contract.

17. However, on or about February 5, 2015, even though MRUSA had already executed the Contract and had no legal or legitimate basis to do so under the Contract, or the MRUSA Rules and Regulations, the IPRA and MRUSA materially breached the Contract by unilaterally: (i) conducting "an independent audit of the [Pageant] judges' score sheets", and (ii) revoking Plaintiff's position and status as the sole legitimate Miss Rodeo USA 2015, thereby naming the runner-up, Allen, as the Pageant winner in Plaintiff's place and stead.

18. In so doing, the IPRA and MRUSA wrongfully terminated and discharged the Plaintiff from her position as the sole legitimate Miss Rodeo USA 2015, and directed the Plaintiff to refrain from the performance of any further service under the Contract, thereby making it impossible for Plaintiff to complete her performance under the Contract.

19. The IPRA and MRUSA's subsequent announcement to media outlets and the general public that Allen was the actual Miss Rodeo USA 2015 after the Plaintiff was publicly crowned Miss Rodeo USA 2015, and after MRUSA executed the Contract, caused the Plaintiff to suffer great embarrassment and humiliation, and extreme emotional distress and damage.

20. As a result of the IPRA and MRUSA's actions, Allen served as Miss Rodeo USA 2015 for the entire year, until a Miss Rodeo USA 2016 was selected, and voluntarily received and retained the full recognition, awards, benefits, monies, and income, as well as other tangible and intangible assets to be hereinafter determined, which were conferred upon Allen as Miss Rodeo USA 2015, and which should have been conferred on the Plaintiff.

21. The Plaintiff made due demand on the IPRA and MRUSA to be rightfully restored to her position and status as the sole and legitimate Miss Rodeo USA 2015, but they arbitrarily failed and refused to comply with Plaintiff's demand, and prevented Plaintiff from serving as Miss Rodeo USA 2015.

22. By reason of the IPRA and MRUSA's material breach of the Contract, the Plaintiff was deprived of all income, as well as all additional benefits and recognition, which the Plaintiff was entitled to receive under the Contract.

23. Due to the unique nature of the personal services to be performed by the Plaintiff under the Contract, and the IPRA and MRUSA's material breach of the Contract as aforesaid, the Plaintiff has been, and is, being irreparably damaged, and will continue to be irreparably damaged. The Plaintiff is also without an adequate remedy at law as a result of the IPRA and MRUSA's material breach of the Contract, and Allen's unjust enrichment.

COUNT I

BREACH OF CONTRACT **(Against IPRA and MRUSA)**

24. The Plaintiff incorporates by reference and re-alleges each and every allegation contained above as though fully set forth herein and further states as follows:

25. The Contract executed by the Plaintiff and MRUSA, as IPRA's agent, was supported by good and valuable consideration.

26. The Plaintiff had no role or part in the drafting of the Contract and MRUSA Rules and Regulations, which were drafted by the IPRA and/or MRUSA, or their agents.

27. The Plaintiff fully performed all conditions, covenants and promises required of her under the Contract, or was prevented from doing so by the IPRA and MRUSA's material breach of the Contract, as aforesaid.

28. If there was any mistake in declaring the Plaintiff as Miss Rodeo USA 2015, it was unilaterally and solely caused by the IPRA and MRUSA, who had the exclusive authority and control over the Pageant process, and not the Plaintiff.

29. The IPRA and MRUSA's material breach of the Contract, as aforesaid, was so extreme that it amounted to their repudiation of the Contract and its terms.

30. By reason of the IPRA and MRUSA's breach and repudiation of the Contract, the Plaintiff has been damaged in an unknown amount, to be hereinafter determined, but which is believed to be in excess of the amount required for diversity jurisdiction pursuant to 28 U.S.C. § 1332.

COUNT II
ESTOPPEL
(Against IPRA and MRUSA)

31. The Plaintiff incorporates by reference and re-alleges each and every allegation contained above as though fully set forth herein and further states as follows:

32. In announcing to media outlets and the general public that Plaintiff was the Miss Rodeo USA 2015, and executing the Contract which contractually obligated the IPRA and MRUSA to recognize that Plaintiff as Miss Rodeo USA 2015, the IPRA and MRUSA made a clear and unambiguous promise and representation that Plaintiff was, in fact, Miss Rodeo USA 2015.

33. It was reasonably foreseeable that the Plaintiff would materially rely on the IPRA and MRUSA's promises and representations that the Plaintiff was Miss Rodeo USA 2015.

34. The Plaintiff did, in fact, reasonably rely on the IPRA and MRUSA's promises and representations, that the Plaintiff was Miss Rodeo USA 2015, to her material detriment, embarrassment and humiliation.

35. Due to the unique nature of the services to be provided by the Plaintiff under the Contract, as well as the material detriment, embarrassment and humiliation caused the Plaintiff by the IPRA and MRUSA's breach of the Contract, the IPRA and MRUSA is estopped from refusing to: (i) recognize that the Plaintiff is, or was, Miss Rodeo USA 2015, and (ii) perform their duties and obligations owed to Plaintiff under the Contract.

36. By reason of the IPRA and MRUSA's breach and repudiation of the Contract, the Plaintiff has been damaged in an unknown amount, to be hereinafter determined, but which is believed to be in excess of the amount required for diversity jurisdiction pursuant to 28 U.S.C. § 1332.

COUNT III

INTENTIONAL OR RECKLESS INFLICTION OF EMOTIONAL DISTRESS **(Against IPRA and MRUSA)**

37. The Plaintiff incorporates by reference and re-alleges each and every allegation contained above as though fully set forth herein and further states as follows:

38. When the IPRA and MRUSA engaged in the conduct described above, particularly in their public revocation and repudiation of Plaintiff's position and status as the sole legitimate Miss Rodeo USA 2015, through no fault of her own, they did so intentionally, or with wanton recklessness, in order to cause Plaintiff severe emotional distress and humiliation.

39. The IPRA and MRUSA's public revocation and repudiation of Plaintiff's position and status as the sole legitimate Miss Rodeo USA 2015, as well as the Contract, was done with the knowledge, or reckless disregard, of the consequences to the Plaintiff and the great distress and humiliation that the Plaintiff would suffer.

40. The conduct of the IPRA and MRUSA: (i) was outrageous and beyond the bounds of decency, (ii) exceeded their authority under the Contract, and (iii) constituted an intentional,

or wantonly reckless, infliction of emotional distress against the Plaintiff.

41. As a direct and proximate cause of the IPRA and MRUSA's wrongful acts, the Plaintiff has been damaged in an amount to be determined and in excess of the amount required for diversity jurisdiction pursuant to 28 U.S.C. § 1332.

42. The IPRA and MRUSA also either acted intentionally and with malice towards the Plaintiff, or with wantonly reckless disregard of the Plaintiff's rights. Consequently, the Plaintiff is entitled to recover punitive damages from the IPRA and MRUSA in a sum to be hereinafter determined as set forth in 23 O.S. § 9.1.

COUNT IV
UNJUST ENRICHMENT
(Against Allen)

43. The Plaintiff incorporates by reference and re-alleges each and every allegation contained above as though fully set forth herein and further states as follows:

44. Allen voluntarily and willingly accepted the position and status as the IPRA and MRUSA's Miss Rodeo USA 2015, after the IPRA and MRUSA materially breached the Contract with the Plaintiff by revoking Plaintiff's position and status as the sole legitimate Miss Rodeo USA 2015.

45. Thereafter, Allen reigned as the IPRA and MRUSA's Miss Rodeo USA 2015 for the entire year until a Miss Rodeo USA 2016 was selected to replace Allen.

46. In so doing, Allen was unjustly enriched through her voluntary acceptance, receipt and retention of the full allotment of benefits as the IPRA and MRUSA's Miss Rodeo USA 2015, including but not limited to the recognition of her position, awards, monies, and income, as well as other tangible and intangible assets and benefits to be hereinafter determined, at the expense of the Plaintiff, who was the sole legitimate Miss Rodeo USA 2015.

47. It is unjust for Allen to retain the foregoing allotment of benefits under the circumstances at the expense of the Plaintiff, who was the sole legitimate Miss Rodeo USA 2015, without paying to the Plaintiff the full value of the benefit allotted to Allen.

48. The Plaintiff is entitled to damages as a result of Allen's unjust enrichment, including the disgorgement of all awards, monies, and income, as well as other tangible and intangible assets and benefits to be hereinafter determined, unlawfully accepted by Allen during her reign as the IPRA and MRUSA's Miss Rodeo USA 2015.

WHEREFORE, the Plaintiff prays for judgment against the IPRA, the MRUSA, and/or Allen as follows:

1. Damages against the IPRA and MRUSA, in an exact amount to be determined, and in excess of the amount required for diversity jurisdiction pursuant to 28 U.S.C. § 1332;
2. Punitive damages against the IPRA and MRUSA to which the Plaintiff may be entitled as set forth in 23 O.S. § 9.1;
3. Damages against Allen, in an exact amount to be determined, and in excess of the amount required for diversity jurisdiction pursuant to 28 U.S.C. § 1332, for the full value of benefits allotted to Allen, and for which she was unjustly enriched at the Plaintiff's expense;
4. Restoring the Plaintiff to her status as the sole legitimate Miss Rodeo USA 2015;
5. Requiring the IPRA and MRUSA to replace Allen's name with the Plaintiff's name as the sole legitimate Miss Rodeo USA 2015, on the records of the IPRA and MRUSA;
6. Prejudgment and post judgment interest;
7. The costs of this action, as well as a reasonable attorney's fee; and
8. Such other and further relief as the Court may deem just and equitable.