

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

BERNARD L. HARTMAN,

Case No. -CB
2020-185347-CB
Hon.

Plaintiff,

v.

JUDGE JAMES M.
ALEXANDER

RAY HSU, an individual; DAVID
APPLEGATE, an individual; and
FERRARI OF MI, LLC, a
Michigan limited liability company,

Defendants.

ALSPECTOR, SOSIN & NOVECK, PLLC

By: Robert M. Sosin (P35414)

Attorneys for Plaintiff

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This case has been designated
as an eFiling case. To review a
copy of the Notice of
Mandatory eFiling visit
www.oakgov.com/efiling.

There is no other civil action between these parties
arising out of the same transaction or occurrence as
alleged in this Complaint, nor has any such action
been previously filed and dismissed or transferred
after having been assigned to a judge.

COMPLAINT FOR EQUITABLE AND OTHER RELIEF

NOW COMES the above-named Plaintiff, by his attorneys, ALSPECTOR SOSIN &
NOVECK, PLLC, and for his civil action for equitable and other relief against the above-named
Defendants states as follows:

1. Plaintiff BERNARD L. HARTMAN (“Plaintiff”) is a resident of Oakland County,
Michigan.
2. Plaintiff is informed and believes and therefore avers that Defendant RAY HSU
 (“Defendant Hsu”) is and all times pertinent hereto has been a resident of the State of California.

3. Plaintiff is informed and believes and therefore avers that Defendant DAVID APPLGATE (“Defendant Applegate”) is and at all times pertinent hereto has been a resident of the State of California.

4. Defendant FERRARI OF MI, LLC, also sometimes known as “Ferrari of Michigan, LLC” (“Defendant Company”), is and at all times pertinent herein has been a Michigan limited liability company with the office of its registered agent located in Oakland County, Michigan.

5. Plaintiff, Defendant Hsu and Defendant Applegate each own a 33 and 1/3 membership interest in Defendant Company, and each of them is a manager of Defendant Company.

6. This Business Court has jurisdiction over the subject matter of this action, and is the appropriate venue for this action, as this case qualifies as a business or commercial dispute as defined by MCL 600.8031(1)(c) because “one or more of the parties is a business enterprise and the other parties are its or their present or former owners, managers, shareholders, members of a limited liability company,” and more particularly because this case involves the dissolution/liquidation of such business enterprise.

7. Defendant Company was formed to purchase a Ferrari sports car that could be driven and enjoyed equally between Defendant Company’s three (3) members.

8. Defendant Company’s sole asset is a 2017 Ferrari two-door coupe (the “Vehicle”) that Defendant Company purchased in about February 2017.

9. Because of certain health issues, Plaintiff has not been able to use or enjoy the Vehicle for the most of the time it has been owned by Defendant Company. In fact, Plaintiff only drove the Vehicle about 100 miles since it was purchased by Defendant Company.

10. Defendant Hsu and Defendant Applegate (sometimes collectively referred to as “Defendants”) have driven the Vehicle over 6,000 miles since Defendant Company purchased it. The use of the Vehicle by Defendants Hsu and Applegate has caused a substantial reduction in the resale value of the Vehicle.

11. Because of his inability to use or enjoy the Vehicle, Plaintiff has been asking Defendants Hsu and Applegate since September 2019 that the Vehicle be sold, the proceeds shared between the three members, and Defendant Company be dissolved.

12. Although Defendants Hsu and Applegate have indicated their agreement with Plaintiff’s request, said Defendants have taken almost no steps to accomplish such request.

13. Recently, Plaintiff located a purchaser of the Vehicle at a favorable price that reflects the reduction of the Vehicle’s resale value caused by the extensive driving of the Vehicle by Defendants Hsu and Applegate.

14. Although Defendants Hsu and Applegate both have expressed their assent to this sale of the Vehicle, they have failed or refused to cooperate with its sale, have failed or refused to provide the keys for the Vehicle (which two sets are in said Defendants’ possession), and have otherwise frustrated and interfered with this advantageous sale opportunity.

15. Plaintiff has made several reasonable proposals to Defendants Hsu and Applegate to entice said Defendants to cooperate with the arranged sale of the Vehicle, but said Defendants have unjustifiably refused to accept any of such proposals.

16. The failure of Defendants Hsu and Applegate to cooperate has forced Plaintiff to file the instant lawsuit.

17. Pursuant to MCL 450.4802, a member of an LLC may apply to the circuit court for a dissolution decree “whenever the company is unable to carry on business in conformity with the articles of organization or operating agreements.”

18. The purpose for which Defendant Company was formed – to own a Ferrari sports car that could be driven and enjoyed equally between Defendant Company’s three (3) members – has been defeated by Plaintiff’s inability to drive and enjoy the Vehicle.

19. Plaintiff, as a member of Defendant Company, hereby requests from this Court a decree of dissolution with respect to Defendant Company in light of the frustration of Defendant Company’s purpose and its inability “to carry on business in conformity with the articles of organization or operating agreements.”

20. The Court’s decree of dissolution should include an order requiring the immediate sale of the Vehicle, the distribution of the Vehicle’s sales proceeds between the members proportionately less to each member based on the amount each such member contributed to the reduction in the Vehicle’s resale value, and the award to Plaintiff of the attorney fees and costs he incurred herein.

WHEREFORE, Plaintiff requests this Honorable Court issue its Judgment of Dissolution that provides for the following relief:

- A. Immediate dissolution of Defendant Company;
- B. Expedient sale of the Vehicle – with Plaintiff authorized on behalf of Defendant Company and its members to sell the Vehicle and to distribute the proceeds of the sale pursuant to this Court’s further order;

- C. The full and immediate cooperation of Defendants Hsu and Applegate with the sale of the Vehicle, including immediately relinquishing to Plaintiff any and all keys, owner's manual and other items that belong to or with the Vehicle;
- D. Distribution of the proceeds of the sale of the Vehicle in an amount to each member that reflects the reduction in the Vehicle's resale value caused or contributed by each such member; and
- E. An award to Plaintiff and against Defendant Hsu and Applegate of Plaintiff's costs and attorney fees incurred herein.

Respectfully submitted,

ALSPECTOR, SOSIN & NOVECK, PLLC

By: /s/ Robert M. Sosin

ROBERT M. SOSIN P35414

Attorneys for Plaintiff

Dated: December 22, 2020