

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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TAKASHI MATSUBA,

Plaintiff,

Index No.

-against-

SUMMONS

DANIEL HERNANDEZ and
SHOWTIME NETWORKS INC.,

Defendants.

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To the above-named defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: July 9, 2021

/S/

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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TAKASHI MATSUBA,

Plaintiff,

Index No.

-against-

COMPLAINT

DANIEL HERNANDEZ and
SHOWTIME NETWORKS INC.,

Defendants.

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Plaintiff TAKASHI MATSUBA, by his attorneys, Law Office of Richard A. Altman, for his complaint against defendants, alleges as follows:

INTRODUCTION; THE PARTIES

1. This is an action for damages and injunctive relief arising from the unauthorized use of plaintiff’s name for commercial or advertising purposes without consent, pursuant to Civil Rights Law §§ 50 and 51.

2. This action also asserts a claim for defamation arising from the defendants’ making and broadcasting the absolutely false and defamatory accusation that plaintiff is a heroin addict.

3. This action also asserts a claim for violation of the Lanham Act, because the use of plaintiff’s name for commercial purposes has created confusion and the false public perception that the plaintiff is associate with the defendant Hernandez.

4. Plaintiff Takashi Matsuba is a Japanese artist who engages in the profession of irezumi, the Japanese word for tattooing, a practice which has a long history in Japanese culture, going back many centuries. It is considered an ancient art form.

5. He practices his profession in a studio in Brooklyn, New York and serves the general public.

6. Defendant Daniel Hernandez is a well-known rap musician. Wikipedia describes him thus: “His music has been marked by an aggressive style of rapping, while his controversial public persona is characterized by his distinctive rainbow-colored hair, extensive tattoos, legal issues, and publicized celebrity feuds.”

7. Defendant Hernandez has recently adopted the moniker “Tekeshi 69” or “ Tekashi 69” and/or “Tekashi 6ix9ine,” without the prior knowledge or consent of plaintiff, substantially similar to plaintiff’s first name.

8. Defendant SHOWTIME NETWORKS INC. is, on information and belief, a Delaware corporation with a place of business in New York City located at 1633 Broadway, New York, NY 10019.

THE FACTS

9. On or around November 16, 2020, Hulu began streaming on the internet a documentary entitled “69: The Saga of Danny Hernandez.” The

subject is the life of defendant Hernandez. The documentary may be viewed at this link:

10. There is a scene in the documentary (beginning at 16:54) which shows plaintiff at work performing his craft, with the words “TAKASHI MATSUBA/TATTOO ARTIST” superimposed on the screen.

11. The director, Vikram Gandhi, is then heard to say, “Peter’s roommate, a Japanese tattoo artist named Takashi would inspire Danny’s new persona, Tekashi 69.”

12. There then is seen a Japanese anime-style cartoon of a naked couple sexually engaged in sixty-nine.

13. Plaintiff had never seen this clip of him working until a friend told him about the film.

14. He had no prior knowledge that it even existed, or who may have made it.

15. While plaintiff did have at one time a roommate named Peter, plaintiff has no knowledge of Peter’s connection to defendant Hernandez.

16. Plaintiff has only met defendant Hernandez briefly on one occasion, and so was shocked to learn that his first name had recently been taken up by defendant Hernandez, who has been using it as a stage name, and that he (plaintiff) is shown in the film.

17. Connecting plaintiff to defendant Hernandez, as the film does, is highly damaging to plaintiff's reputation.

18. On information and belief, defendant Hernandez is a convicted violent felon who has served time in prison, and on information and belief was also convicted of sexual misconduct with a minor.

19. Plaintiff does not wish there to be any public perception that he has any identification or connection of any sort with defendant Hernandez, but this film creates that public perception.

20. The perception is also damaging to plaintiff's reputation in his profession, which has a long and deep history, and is highly prized in Japanese culture and in the community of tattoo artists generally.

21. Because of the vulgarity of the imagery connected to plaintiff, and of the many tattoos on defendant Hernandez's body, as shown in the film, acquaintances and patrons of plaintiff have already asked him whether he is connected with defendant Hernandez. He is not.

22. The use by defendant Hernandez of plaintiff's first name is also an invasion of plaintiff's privacy, and exploits and damages his reputation. The likelihood of confusion (even with one letter being changed) is obvious; indeed it has already occurred.

23. The specific use in the film, and in public generally, of Plaintiff's name and likeness without his knowledge or consent is a violation of New York Civil Rights Law §§ 50 and 51.

24. Those statutes prohibit the use of a person's "name, portrait, picture or voice" for commercial purposes without their consent.

25. That the usage is in a documentary does not mean that the use was not for "commercial purposes." The makers of the documentary are certainly intending (and have the right) to make money from the notoriety of defendant Hernandez. But they cannot do so by exploiting plaintiff's name or picture.

26. Moreover, the use of plaintiff's name (even with one letter changed) is an attempt to capitalize on his professional reputation, and is a false designation of origin or connection, which is a violation of the Lanham Act.

27. Plaintiff has been asked by present and potential customers if he has any connection with defendant Hernandez, and has been damaged by the erroneous public perception that there is a connection.

THE SECOND DOCUMENTARY

28. On or around March 15, 2021, another documentary about defendant Hernandez began streaming on defendant Showtime's cable channel and website. It is titled "Supervillain: The Making of Tekashi 6ix9ine." A link to the documentary is <https://youtu.be/RTY0YYizi70>.

29. At around 25:15, defendant Hernandez's voice is heard saying, "there was this tattoo artist named Takashi from our neighborhood. And he was this heroin addict. He did heroin to create. He did it to get himself in his little world He did it to be himself. And that's where I got the name Tekashi from. And that's who I am. I'm Tekashi 69 and I built my whole fucking world."

30. The above-quoted language is of and concerning plaintiff.

31. The above-quoted language is false and defamatory.

32. Plaintiff has never used heroin in his life.

33. Heroin is a controlled substance under both New York and Federal law, and possession of any amount of it is a crime. Hence an accusation that plaintiff is a heroin addict is defamatory *per se*.

34. In addition, falsely claiming that someone is a heroin addict is defamatory *per se*, because social norms generally are disapproving of addiction, and would cause people to shun those accused of it.

35. Moreover, the false accusation that plaintiff is a heroin addict is highly damaging to the practice of his profession, because tattooing requires the use of needles, and heroin is connected in the public's mind with hypodermic needles.

36. Such an association would reasonably suggest to plaintiff's clients that they would be in personal danger.

37. Plaintiff has previously demanded of defendant Hernandez that he cease and desist from further use of plaintiff's name and likeness, and has also demanded of the producers and directors of the first documentary that they edit the documentary so as to remove the plaintiff's image, name and likeness from the first documentary, but they have refused.

**FIRST CAUSE OF ACTION
AGAINST DEFENDANT HERNANDEZ
(Civil Rights L. §§ 50 & 51)**

38. Plaintiff re-alleges paragraphs 1 through 37.

39. Defendant Hernandez's use of plaintiff's name and likeness amounts to the commercial exploitation of plaintiff's name and likeness and picture, without plaintiff's written consent.

40. Pursuant to Civil Rights Law §§ 50 and 51, plaintiff is entitled to a permanent injunction barring the use of plaintiff's name Takashi, or Tekashi, or plaintiff's, likeness or picture, or any similar variant thereof, for commercial exploitation.

41. Plaintiff is also entitled to such damages as the Court may determine.

**SECOND CAUSE OF ACTION
AGAINST DEFENDANTS
HERNANDEZ AND SHOWTIME
(Defamation)**

42. Plaintiff re-alleges paragraphs 1 through 37. .

43. The above-stated language is false and defamatory and the words taken as a whole are slanderous *per se*.

44. Defendant Showtime is jointly and severally liable to plaintiff for facilitating the broadcasting of the slanderous statement of defendant Hernandez.

**THIRD CAUSE OF ACTION
AGAINST DEFENDANT HERNANDEZ
(Lanham Act)**

45. Plaintiff re-alleges paragraphs 1 through 37.

46. The use by defendant Hernandez of the name or moniker Tekashi 69 or Tekashi 6ix9ine is a false or misleading representation that he and plaintiff are related.

47. The aforesaid use is a false and misleading description and representation of the nature, characteristics or quality of plaintiff's services, because among other reasons, plaintiff creates tattoos and defendant Hernandez is heavily tattooed.

48. The representations were used in commerce, because plaintiff performs his services under his true name, and defendant Hernandez uses the name or moniker in connection with his musical creations, and as part of his public persona, as he states in the second documentary.

49. Defendant Hernandez is making the false and misleading representations in the context of promoting himself and his persona.

50. Defendant Hernandez's false and misleading representations have caused damage to the plaintiff's professional reputation in the community which he serves.

51. Plaintiff is entitled to damages in such amounts as a Court may determine.

52. Plaintiff is entitled to a permanent injunction barring defendant Hernandez from using plaintiff's name Takashi, or Tekashi, or any similar variant thereof, for commercial exploitation.

`` WHEREFORE, plaintiff demands relief as follows:

1. On all three causes of action, a preliminary and permanent injunction barring defendant Hernandez from any use plaintiff's name Takashi, or Tekashi, or any similar variant thereof, for commercial exploitation.

2. On the First Cause of action, compensatory and punitive damages against defendant Hernandez in such amount as a jury and the Court may determine;

3. On the Second Cause of Action, a judicial declaration that the slanderous statement complained of is false and defamatory, an injunction against its further publication in the documentary or elsewhere, and

compensatory and punitive damages against defendants Hernandez and Showtime in such amount as a jury and the Court may determine;

4. On the Third Cause of Action, compensatory and punitive damages in against defendant Hernandez such amount as a jury and the Court may determine;

Together with the costs and disbursement of this action, and such further relief as may be just.

Dated: New York, New York
July 9, 2021

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