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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT
UNLIMITED CIVIL JURISDICTION

GEORGE LUTZ,
Plaintiff,

vs.

DIMENSION FILMS, a division of Miramax
Film Corp, a New York Corporation;
METRO-GOLDWYN-MAYER, INC., a
Delaware Corporation; METRO-GOLDWYN-
MAYER DISTRIBUTION CO., a Delaware
Corporation; UNITED ARTISTS PICTURES,
INC., a Delaware Corporation; SONY
CORPORATION OF AMERICA, a New
York Corporation; RADAR PICTURES, INC.,
a California Corporation; PLATINUM
DUNES PRODUCTIONS, a California
Corporation; SCOTT KOSAR, an individual;
SHELDON TURNER, an individual; and
DOES 1 to 100, inclusive,

Defendants.

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

JUN 10 2005

John A. Clarke, Executive Officer/Clerk
By _____, Deputy
J. SUNGA

Case No.: BC334845

COMPLAINT FOR:

- 1) LIBEL
2) BREACH OF CONTRACT

1 1. Plaintiff George Lutz ("Lutz") is an individual residing in the state of Nevada.

2 2. Defendant Dimension Films is a division of MIRAMAX FILMS CORP, a New York
3 corporation, with its principal place of business located in New York City, New York.

4 3. Defendant METRO-GOLDWYN-MAYER, INC. is a Delaware Corporation with its
5 principal place of business in Los Angeles, California.

6 4. Defendant METRO-GOLDWYN-MAYER DISTRIBUTION CO. is a Delaware
7 Corporation with its principal place of business in Los Angeles, California.

8 5. Defendant UNITED ARTISTS PICTURES, INC. is a Delaware Corporation with its
9 principal place of business in Los Angeles, California.

10 6. Defendant SONY CORPORATION OF AMERICA is a New York Corporation with its
11 principal place of business in Los Angeles, California.

12 7. Defendant RADAR PICTURES, INC. is a California Corporation with its principal place
13 of business in Los Angeles, California.

14 8. Defendant PLATINUM DUNES PRODUCTIONS is a California Corporation with its
15 principal place of business in Los Angeles, California.

16 9. Defendant Scott Kosar ("Kosar") is an individual believed to reside in the county of Los
17 Angeles, State of California. Kosar is the co-screenwriter of the 2005 remake film *The*
18 *Amityville Horror* ("the Remake").

19 10. Defendant Sheldon Turner ("Turner") is an individual believed to reside in the county of
20 Los Angeles, State of California. Turner is the co-screenwriter of the Remake.

21 11. Plaintiff is ignorant of the true names or capacities of the defendants sued herein under
22 the fictitious names DOE 1 through 100, inclusive. Each fictitiously named defendant is
23 responsible in some manner for the occurrences alleged herein and that such defendant's acts are
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1 a direct and proximate cause of the harm alleged herein.

2 12. On information and belief, it is alleged that each of the DOE defendants named herein
3 is, and at all times mentioned herein was, the agent, servant, employee, principal and/or joint
4 venturer of one or more of the named defendants and, in doing the things alleged herein, each
5 was acting within the scope of such agency, employment and/or joint venture, with the
6 permission and consent of the named defendant, and each defendant authorized and ratified the
7 acts of each of the remaining defendants.
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10 FACTS COMMON TO ALL CAUSES OF ACTION

11 13. In November 1974, Ronald DeFeo ("DeFeo") murdered his mother, his father, his two
12 brothers and two sisters in their house in Amityville, Long Island, New York. DeFeo was
13 convicted of the six murders and is currently serving consecutive life sentences in prison for this
14 crime.

15 14. On December 18, 1975, Lutz purchased the former DeFeo house and, later that day, Lutz,
16 his wife Kathleen, and his three children moved into the house. After 28 days, the Lutz family
17 moved out of the house, leaving behind most of their personal possessions. Later, Lutz claimed
18 that there were supernatural forces that existed in the house. [A1]

19 15. In 1977, Lutz entered into a written contract with a writer named Jay Anson ("Anson") to
20 write a book detailing the Lutz Family's experiences in the house. Under the terms of the
21 contract, the copyright to the book was co-owned by Anson, George Lutz and Kathleen Lutz.

22 16. The book titled *The Amityville Horror* ("the Book") was released in 1977. The Book
23 was a best seller, selling approximately 10 million copies around the world.

24 17. In or about 1978, Anson, George Lutz and Kathleen Lutz entered into a written
25 agreement with Professional Films, Inc. ("PFI") whereby Anson, George and Kathleen Lutz, as
26 the copyright owners to the Book, assigned to PFI the right to make a motion picture based on
27 the Book and the incidents the book was based on. The agreement also allowed PFI the right to
28 produce a remake of the motion picture based on the Book.

1 18. PFI subsequently entered into an agreement with American International Pictures, Inc.
2 ("AIP") to produce a motion picture based on the Book. AIP began production of a motion
3 picture starring James Brolin and Margot Kidder as George and Kathleen Lutz ("the Original
4 Amityville Picture.")

5 19. In or about 1978, George and Kathleen Lutz entered into a separate written agreement
6 with PFI and AIP entitled the Right of Privacy Release. In the Right of Privacy Release George
7 and Kathleen Lutz acknowledged that PFI and AIP were producing a picture based on the Book.
8 In the Right of Privacy Release, George and Kathleen Lutz granted PFI and AIP the following
9 rights:

10 "(a) The exclusive right to use our names, portraits and pictures in and in connection with
11 the Picture and all publicity and advertising pertaining thereto in any manner that you
12 may deem proper;

13 (b) The right to have us represented and impersonated in the Picture under our own
14 names, and by any actor or actress (as the case may be) whom you in your sole discretion
15 may select; and

16 (c) The exclusive right to distribute and exhibit the Picture throughout the world."

17 20. The Right of Privacy Release also contained a provision in which George and Kathleen
18 Lutz agreed that they would not make or assert any claim "that anything contained in the Picture
19 defames us or either of us."

20 21. The provisions in the Right of Privacy Release only applied to the Original Amityville
21 Picture. Nowhere in the Right of Privacy Release did George or Kathleen Lutz agree that they
22 would not assert a claim for defamation in the event that a subsequent motion picture defamed
23 either of them. The Original Amityville Picture was released on or about July 27, 1979 and the
24 credits stated that the film was based on the Book.

25 22. On or about September 30, 2002, Lutz entered into a written agreement with Barstu
26 Productions ("Barstu") whereby Lutz granted Barstu the right to make a motion picture which
27 depicted Lutz in events that occurred after the period depicted in the Book ("the Barstu
28 Agreement"). In the Barstu Agreement, the parties agreed that although Barstu had the right to

1 fictionalize, dramatize, change or embellish events in Lutz's life, Barstu could not "intentionally
2 defame or libel Lutz." The project contemplated by the Bartsu Agreement is hereinafter referred
3 to as the Bartsu Amityville Horror Project.

4 23. On or about June 23, 2003, Barstu assigned its rights in the Barstu Agreement to a joint
5 venture consisting of Barstu, EFF Independent, Inc., Integrated Films & Management, LLC and
6 Martien Holding AVV ("the Joint Venture Parties"). Subsequently, the Joint Venture Parties
7 entered into a written assignment agreement in which the Joint Venture parties assigned all of
8 their Amityville Horror related rights to Nu Image, Inc ("the Nu Image Assignment"). The Nu
9 Image Assignment included the rights obtained by Barstu from Lutz in the Barstu Agreement
10 and subject to the terms and conditions of the Bartsu Agreement.

11 24. On or about October 22, 2003, Nu Image and Lutz entered into a written agreement
12 which amended certain provisions of the Barstu Agreement ("the October 22 Agreement"). In
13 the October 22 Agreement the parties agreed that Nu Image would pay Lutz a theatrical box
14 office bonus of \$50,000 when Daily Variety reported that the theatrical box office gross receipts
15 for the motion picture equaled or exceeded Ten Million Dollars.

16 25. In the October 22 Agreement the parties also agreed that Nu Image would pay Lutz
17 seven and one-half percent (7 ½%) of one hundred percent (100%) of the "contingent
18 compensation" of the first picture and seven and one-half percent (7 ½%) of the "merchandising
19 profits" from the first picture.

20 26. Nu Image subsequently assigned all of its rights in the Bartsu Amityville Horror Project
21 to Dimension Films, a division of Miramax Films Corporation ("Dimension"). Dimension then
22 entered into a written agreement with the Joint Venture Parties which amended the Nu Image
23 Assignment Agreement ("the Dimension Agreement").

24 27. In the Dimension Agreement, Dimension acknowledged and agreed that it had read and
25 understood and agreed to undertake all of the obligations, limitations and provisions contained in
26 the Nu Image Assignment, including, without limitation, all fees, bonus compensation and credit
27 obligations and agreed to abide by all of the terms, conditions and limitations contained in the
28 Assignment.

1 28. The Dimension Agreement also contained the following provision (Dimension is
2 referred to as "Distributor").

3 *"The parties hereto agree that in the event Distributor (or any of its licensees, successors*
4 *or assigns) makes any "Amityville" motion picture or television production, the limitations,*
5 *obligations and provisions of the [Nu Image] Assignment and this letter agreement shall apply to*
6 *Distributor, regardless of whether or not such motion pictures or television series are based on*
7 *the rights conveyed hereunder (i.e. If any "Amityville" movie(s) is/are produced by Distributor*
8 *or any of its licensees, successors and assigns, Barstu, EFF, IFM and Martien shall receive the*
9 *fees, bonuses, backend and credits on such movie(s) as set forth in the Assignment."*

10 Accordingly, if Dimension produced any "Amityville" motion picture it was
11 contractually obligated to pay Lutz the \$50,000 box office bonus if the picture grossed more than
12 \$10 million, as well as 7 ½% of the contingent compensation of the motion picture and 7 ½% of
13 the merchandising profits. Dimension was also contractually required to abide by the provision
14 in the Barstu Agreement not to intentionally defame or libel Lutz.

15 FIRST CAUSE OF ACTION – DEFAMATION BY LIBEL AND SLANDER

16 (Against all Defendants and Does 1-50)

17 29. Plaintiff realleges and incorporates by reference Paragraphs 1 through 28, inclusive, as
18 though fully set forth herein.

19 30. Within the past 12 months, Defendants Kosar and Turner wrote a screenplay for the
20 Remake ("the Screenplay"). The Screenplay is purportedly based upon the Book and the script
21 for the Original Amityville Picture. The Screenplay begins with a dramatized accounting of
22 Ronald DeFeo murdering his family. The Screenplay directs that the actual 911 calls, autopsy
23 photographs and newspaper headlines about the DeFeo murders be used in the movie in order to
24 emphasize that the events shown in the movie actually occurred.

25 31. The Screenplay purports to tell the "true story" of what happened when George and
26 Kathy Lutz and their three children moved into the former DeFeo house. In the Screenplay,
27 Lutz is referred to by name and it is understood by those who read the Screenplay that the
28 Screenplay was of and concerning Lutz.

1 32. In the Screenplay, Lutz is portrayed as a person who, while living in the DeFeo house,
2 changed into a homicidal maniac. In the Screenplay, the Lutz character is depicted doing the
3 following actions:

- 4 a) Intentionally attacking and killing his dog with an axe;
- 5 b) Building coffins for his wife and three children;
- 6 c) Forcing his son to hold onto a log while he attempts to split the log with an axe;
- 7 d) Choking his wife and repeatedly slamming her against the wall while holding
8 her by the throat.
- 9 e) Attempting to kill his wife by drowning her in the boat house.
- 10 f) Chasing his wife and children onto the steeply-pitched roof of the house at
11 night during a rainstorm;
- 12 g) Repeatedly shooting at his wife and children with a rifle;
- 13 h) Attacking his son with an axe with the intent to kill him.

14 33. All of these actions depicted in the Screenplay are false as they pertain to Lutz.

15 34. The material in the Screenplay is defamatory per se in that the Screenplay exposes Lutz
16 to hatred, contempt, ridicule and obloquy because it shows him committing various crimes
17 including, but not limited to, premeditated attempted murder, assault with a deadly weapon, child
18 endangerment, and animal cruelty.

19 35. Kosar and Turner acted with malice in writing the Screenplay in that they knew that the
20 statements made about Lutz were false or else were made with reckless disregard for whether or
21 not they were true.

22 36. The Screenplay was published to others in that it was given to the cast and crew
23 members working on the production of the Remake as well as other unknown parties.

24 37. On information and belief, after Kosar and Turner wrote the Screenplay, Defendants
25 MGM, Dimension, Radar, and Platinum Dunes produced a motion picture based on the
26 Screenplay titled *The Amityville Horror* starring Ryan Reynolds and Melissa George ("the
27 Remake").
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1 38. The Remake libels Lutz in that it depicts him committing those crimes set forth in the
2 Screenplay. The Remake is of and concerning Lutz and was so understood by those who saw the
3 Remake. Although the Remake is fiction, in advertising the Remake, including posters,
4 billboards, trailers and websites, Defendants state that the Remake is "Based on the True Story"
5 thus giving the impression that the Remake tells the "true story" of what happened to Lutz and
6 his family. At the beginning of the Remake a title card reads: "Based on the true story".

7 39. The Remake was released in approximately 3,323 theaters in the United States and
8 Canada. As of the date of this filing, the Remake has grossed in excess of \$64, 000,000, which
9 means that tens of millions of people have been exposed to the defamations contained in the
10 Remake.

11 40. The Remake was also released in Australia, Austria, Germany and the United Kingdom
12 and has grossed in excess of \$17,000,000 to date. The Remake is scheduled to be released in
13 France and New Zealand in June 2005, and subsequently in other parts of the world.

14 41. As a proximate result of the above-described publications, Lutz has suffered loss of his
15 reputation, shame, mortification, and hurt feelings all to his general damage in an amount to be
16 proved at trial but which is in excess of the minimum jurisdiction of this Court.

17 42. The above-described publications were published by the Defendants with malice in that
18 Defendants knew that the statements made about Lutz were false or else with reckless disregard
19 for whether or not it was true.

20 43. This cause of action for libel is not barred by Civil Code §48.7(a).

21 44. In doing the things herein alleged, defendants and each of them acted willfully, wantonly
22 oppressively, fraudulently, or maliciously and with a conscious disregard of the rights of plaintiff
23 and therefore Plaintiff is entitled to recover punitive damages in an amount to be determined by
24 the trier of fact

25 SECOND CAUSE OF ACTION – BREACH OF CONTRACT

26 (Against Defendant Dimension Films, and Does 51-100)

27 45. Plaintiff realleges and incorporates by reference Paragraphs 1 through 44, inclusive, as
28 though fully set forth herein.

1 46. Within the past four years, Dimension breached the Dimension Agreement in the
2 following ways:

3 A) Dimension produced an "Amityville" film which intentionally defamed or
4 libeled Lutz in violation of Paragraph 4 of the Barstu Agreement.

5 B) Dimension failed to pay Lutz \$50,000 when the theatrical box office gross for
6 the Remake exceeded \$10 million dollars as required by Paragraph 3.2 of the October 22
7 Agreement.

8 C) Dimension failed to pay Lutz 7 ½% of the contingent compensation earned on
9 the Remake as required by Paragraph 3.3.1 of the October 22 Agreement.

10 D) Dimension failed to pay Lutz 7 ½% of the merchandising profits earned on the
11 Remake as required by Paragraph 3.3.2 of the October 22 Agreement.

12 47. Plaintiff has performed all obligations to Dimension except those obligations
13 Plaintiff was prevented or excused from performing as a result of Dimension's breach.

14 48. As a result of Dimension's breach of the agreement, Plaintiff has suffered monetary
15 damages in an amount according to proof at trial, but in no event less than \$50,000.00.

16 WHEREFORE, Plaintiff prays for judgment against each Defendant and each Doe
17 defendant, as follows:

18 On the First Cause of Action:

19 1. For general damages in an amount to be proved at trial in excess of the minimum
20 jurisdiction of this Court.

21 2. For punitive damages in an amount to be proved at trial.

22 3. For an injunction against Defendants continuing to distribute the Remake.

23 On the Second Cause of Action:

24 1. For damages for breach of contract in an amount according to proof at trial, but in no
25 event less than \$50,000.00.

26 On all Causes of Action:

27 1. For interest on such amounts at the legal rate;

28 2. For costs herein, including reasonable attorneys' fees; and

1 3. For such other and further relief as the Court may deem
2 just and proper.

3 Dated: June 10, 2005

LAW OFFICE OF LARRY ZERNER

4
5 By: 
6 Larry Zerner

7 Attorneys for Plaintiff George Lutz
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