

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

07 OCT 19 PM 2: 34

Cindy Streit; Sarah Moseley; Ben K. )  
McKinnon; Michael M. Jared; and Lynn )  
S. Jared, )  
 )  
Plaintiffs, )

v. )

Twentieth Century Fox Film )  
Corporation; One America Productions, )  
Inc.; Springland Films; Todd Lewis )  
Schulman; Monica Levenson; Julie Lynn )  
Chouard; Sacha Baron Cohen; )  
Everyman Pictures; Gold/Miller; )  
Productions; Major Studio Partners, Inc.; )  
Dune Entertainment, LLC; Four by )  
Two Production Company; Peter )  
Baynham; Jan Mazer; and Anthony )  
Hines, )  
 )  
Defendants. )

CIVIL ACTION NO. \_\_\_\_\_

CV-07-J-1918-S

COMPLAINT AND JURY DEMAND

COME NOW Plaintiffs Cindy Streit, Sarah Moseley, Ben K. McKinnon, Michael M. Jared and Lynn S. Jared, by and through counsel, and bring this Complaint against Defendants Twentieth Century Fox Film Corporation, One America Productions, Inc., Springland Films, Todd Lewis Schulman, Monica Levenson, Julie Lynn Chouard, Sacha Baron Cohen, Everyman Pictures, Gold/Miller Productions, Major Studio Partners, Inc., Dune Entertainment, LLC, Four by Two Production Company, Peter Baynham, Jan Mazer, and Anthony Hines (referred to collectively as "Defendants").

## Introduction

Plaintiffs come before the Court as victims of an unlawful and fraudulent scheme committed by the Defendants. Sarah Moseley, Ben McKinnon, Michael Jared, Lynn Jared and Cindy Streit, the latter of whom owns the etiquette training business, Etiquette Training Services, Inc., were unknowingly and unwillingly made subjects of the recent movie "*Borat: Cultural Learnings of America for Make Benefit Glorious Nation of Kazakhstan*" (the "*Borat* movie"), an R-rated film containing depictions of racism, child pornography, sexism, nudity, anti-Semitism and vulgarity. Defendants fraudulently represented that they were filming an "educational documentary for Belarus Television" and requested that Cindy Streit provide etiquette and dining skills training to a "foreign dignitary" from the Republic of Belarus. Defendants also requested that Streit and Etiquette Training Services, Inc. arrange a dinner to be attended by the "foreign dignitary," Streit and other attendees of Streit's choosing, which included Plaintiffs Sarah Moseley, Ben McKinnon, Michael Jared and Lynn Jared, among others. Defendants filmed both the etiquette training and dinner.

Unbeknownst to Plaintiffs, the "educational documentary" was actually the highly offensive *Borat* movie and the "foreign dignitary" was actually the actor/Defendant Sacha Baron Cohen who, along with all other Defendants, had conspired to subject the Plaintiffs to Cohen's lewd, insulting and offensive conduct, all while casting Plaintiffs as racially intolerant. Unlike actors and actresses who are paid for their services and perform according to an agreed-upon role and script, Defendants defrauded Plaintiffs for their part in the film. Had Plaintiffs not been the subjects of Defendants' scheme, they would have never agreed to play any role in the *Borat* movie.

## Parties

1. Plaintiff Cindy Streit (“Streit”) is an individual over the age of 19 years and a resident of Jefferson County, Alabama.

2. Plaintiff Sarah Moseley (“Moseley”) is an individual over the age of 19 years and a resident of Shelby County, Alabama.

3. Plaintiff Ben K. McKinnon (“McKinnon”) is an individual over the age of 19 years and a resident of Jefferson County, Alabama.

4. Plaintiff Michael M. Jared (“Michael Jared”) is an individual over the age of 19 years and a resident of Shelby County, Alabama.

5. Lynn S. Jared (“Lynn Jared”) is an individual over the age of 19 years and a resident of Shelby County, Alabama. Unless designated individually, Plaintiffs Streit, Moseley, McKinnon, Michael Jared and Lynn Jared are collectively referred to herein as “Plaintiffs.”

6. Defendant Twentieth Century Fox Film Corporation, a Delaware corporation with its principal place of business in Los Angeles County, California, filmed, produced and distributed the *Borat* movie and, for all allegations relevant hereto, committed torts within the State of Alabama.

7. Defendant One America Productions, Inc. (“One America”), a California corporation with its principal place of business in Los Angeles County, California, participated in the filming, production and/or distribution of the *Borat* movie and, for all allegations relevant hereto, committed torts within the State of Alabama.

8. Defendant Springland Films (“Springland”), a California corporation with its principal place of business in Los Angeles County, California, participated in the filming, production and/or distribution of the *Borat* movie and, for all allegations relevant hereto,

committed torts within the State of Alabama. Upon information and belief, Springland Films is a registered d/b/a of One America.

9. Defendant Todd Lewis Schulman (“Schulman”), upon information and belief, resides in Los Angeles County, California and was at all times relevant hereto employed by One America as the Field Coordinator for the *Borat* movie, participated in its filming, production and/or distribution and, for the allegations relevant hereto, committed torts within the State of Alabama. At all times relevant, Schulman communicated and interacted with Plaintiffs under the alias “Todd Lewis.”

10. Upon information and belief, Defendant Monica Levenson is a resident of a state other than Alabama and participated in the filming, production and/or distribution of the *Borat* movie and, for all allegations relevant hereto, committed torts within the State of Alabama.

11. Upon information and belief, Defendant Julie Lynn Chounard is a resident of a state other than Alabama and participated in the filming, production and/or distribution of the *Borat* movie and, for all allegations relevant hereto, committed torts within the State of Alabama.

12. Defendant Sacha Baron Cohen (“Cohen”) is a resident of a state other than Alabama and, at all times relevant hereto, was employed by One America as the feature actor in the *Borat* movie, as well as a writer and producer of the film. Cohen is alleged herein to have committed torts within the State of Alabama arising from his participation in the alleged scheme against the Plaintiffs.

13. Defendant Everyman Pictures, a California corporation with its principal place of business in Los Angeles County, California, participated in the filming, production and/or distribution of the *Borat* movie and, for all allegations relevant hereto, committed torts within the State of Alabama.

14. Defendant Gold/Miller Productions, a California corporation with its principal place of business in Los Angeles County, California, participated in the filming, production and/or distribution of the *Borat* movie and, for all allegations relevant hereto, committed torts within the State of Alabama.

15. Defendant Major Studio Partners, Inc., a Delaware corporation with its principal place of business in Suffolk County, New York, participated in the filming, production and/or distribution of the *Borat* movie and, for all allegations relevant hereto, committed torts within the State of Alabama.

16. Defendant Dune Entertainment, LLC, a Delaware corporation with its principal place of business in Suffolk County, New York, participated in the filming, production and/or distribution of the *Borat* movie and, for all allegations relevant hereto, committed torts within the State of Alabama.

17. Defendant Four by Two Production Company is a California corporation that participated in the filming, production and/or distribution of the *Borat* Movie and, for all allegations relevant hereto, committed torts within the State of Alabama.

18. Upon information and belief, Defendant Peter Baynham is a resident of a state other than Alabama and was a writer for and participated in the filming, production, and distribution of the *Borat* movie and, for all allegations relevant hereto, committed torts within the State of Alabama.

19. Upon information and belief, Defendant Dan Mazer is a resident of a state other than Alabama and was a writer for and participated in the filming, production, and distribution of the *Borat* movie and, for all allegations relevant hereto, committed torts within the State of Alabama.

20. Upon information and belief, Defendant Anthony Hines is a resident of a state other than Alabama and was a writer for and participated in the filming, production, and distribution of the *Borat* movie and, for all allegations relevant hereto, committed torts within the State of Alabama.

#### **Amount in Controversy**

21. Plaintiffs, each and individually, seek relief in the form of monetary damages exceeding \$75,000, exclusive of interest and costs.

#### **Jurisdiction**

22. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1332 on the basis that there is complete diversity of citizenship between the parties and the amount in controversy exceeds the jurisdictional minimum of \$75,000, exclusive of interest and costs.

#### **Factual Allegations**

23. Plaintiff Streit is the owner of ETS, an etiquette training business. On or about October 21, 2005, Defendant Schulman, operating under the alias “Todd Lewis” of Springland Films, contacted Streit to request the services of Streit and ETS.

24. Schulman represented that he was assisting Springland in filming an educational documentary for Belarus Television about a foreign dignitary’s tour of the United States. Schulman stated that the dignitary needed etiquette and dining skills training and inquired whether Streit and ETS could provide such services. Schulman also explained that this portion of the documentary was designed to portray a Southern, in-home style dining experience and requested that Streit arrange for such a dinner. During all times relevant hereto, Schulman was acting as an agent for and in conspiracy with the other Defendants

25. Streit agreed to perform the requested etiquette and dining skills training and to arrange a catered dinner complete with appropriate guests.

26. On the evening of October 21<sup>st</sup>, Schulman requested to meet with Streit in order to finalize the arrangements and for Schulman to examine a potential training location. Schulman also requested to meet one of the guests that would be present at the dinner party.

27. The following day, October 22<sup>nd</sup>, Schulman and Plaintiffs Streit and McKinnon met at a Birmingham, Alabama, restaurant to discuss the arrangements for the training and dinner. During that meeting, Schulman provided further details about the “foreign dignitary,” discussing the dignitary’s home country of The Republic of Belarus, which he described as a small country in the former Soviet Union. Schulman also stated that the dignitary worked with Belarus Television and this “educational documentary” was for the cultural enrichment of that country. Schulman further represented that the documentary was to be in the nature of those shown by National Geographic and was being made to help build relations between the United States and Belarus. Streit asked Schulman whether Belarus Television was similar to Alabama Public Television and he replied that it was very similar. Schulman represented that Plaintiffs’ role in the documentary was mainly for school children to learn cultural diversity and to learn about Southern traditional values and Southern-style living. Plaintiff McKinnon asked whether Schulman knew the dignitary’s name. Schulman responded that he did, but was unsure how to pronounce it. Schulman further stated that the dignitary spoke English so there would not be problems with communication. Schulman repeatedly referred to the visiting guest (now known to be Defendant Cohen) as a “dignitary.”

28. During the same meeting, Schulman performed a short, filmed interview of Streit and filmed the training site.

29. That evening, Schulman notified Streit that Springland had authorized Streit to perform the requested training and dinner services. At that time, Schulman stated that the restaurant at which they met would not be appropriate for filming and, as such, requested that the dinner and training take place in a Southern home "with columns." Schulman stated that he would pay \$600 extra for an in-home setting. Both the training and dinner were to take place on October 24, 2005.

30. On the evening of October 22<sup>nd</sup> and on October 23<sup>rd</sup>, Streit arranged for the attendance of dinner guests, including Plaintiffs Moseley, McKinnon, Michael Jared and Lynn Jared, among others. Streit also arranged for catering services and reserved a dining facility -- a home with columns.

31. In the hours prior to the training and dinner on October 24, 2005, Streit and Springland Films, by way of Springland Films representatives, Julie Lynn Chounard and Monica Levenson, negotiated a written contract for Streit's services. At all times relevant hereto, Chounard and Levenson were acting as agents for and in conspiracy with the other Defendants. Consistent with the representations of Defendants Schulman, Levenson, Chounard and Springland, the contract contains the following provisions:

**ETS will customize its "Business Etiquette and Leadership Programs" and Dining Tutorial Program and present a two-hour training session for an international guest from Belarus Television for Springland Films. Additionally, ETS will plan, design, facilitate, coordinate and implement an in-home style atmosphere dining experience for the dignitary.**

**\*\*\***

**These sessions will be filmed as part of a documentary for Belarus Television and for those purposes only.**

**\*\*\***



The purpose of this film session is to enable the dignitary to interact in a home-like setting of southern hospitality and comfort to learn about southern traditional values and southern-style living as part of the entire cultural experience in his travels throughout America. The portrayal of participants will be filmed and used for purposes only of the utmost dignity and class. There will not be any embarrassment to the participants or ETS.

32. During the dinner later that evening, Defendant Cohen performed numerous offensive and outrageous acts, several of which, identified below, became part of the final, edited version of the *Borat* movie, its trailers and other promotional material.

33. The scenes in the *Borat* movie leading up to the dinner include Cohen driving to the house where the dinner is scheduled to take place. At this point, the *Borat* movie flashes to the following road name: "Secession, Private Drive." The road on which the dinner facility was located does not bear this name, nor do any of the Plaintiffs live on or know of such a road. Upon information belief, Defendants scripted the "Secession Drive" scene to set the stage for Cohen's portrayal of Plaintiffs as being racially intolerant.

34. During the dinner, Cohen referred to Plaintiff Michael Jared as "retarded" and then complimented the other guests on their willingness to let "retarded" persons dine with them.

35. He asked the dinner guests whether they owned slaves.

36. He made several derogatory and sexist comments to the women who were present.

37. At one point, Cohen excused himself to the bathroom only to come back to the dinner table holding a plastic bag purportedly containing his own feces. Upon information and belief, a member of Springland films had defecated in the plastic bag prior to filming the dinner scenes.

38. Plaintiff Streit was shocked at the site of the plastic bag, but assisted Cohen to the restroom, only to have Cohen falsely describe his own culture's bathroom etiquette. During this scene in the film, Cohen tells Streit that his understanding is that the host of the dinner is responsible for "wiping" him.

39. Believing that Cohen was, as represented, a foreign dignitary unaccustomed to American ideals, Plaintiffs acted with benevolence toward Cohen and made all attempts to be tolerant of his conduct.

40. After returning from the restroom, there was a knock at the door and Cohen presented an African-American female to the dinner guests as a prostitute he had asked to dine with them. Plaintiffs have since learned that this was professional actress Luenell Campbell (a.k.a. Jane Sanguinetti Luenell). The *Borat* movie depicts that, at this point in the dinner, certain of the guests chose to leave.

41. Defendants purposely edited the scenes in which Ms. Campbell appeared to give the impression that Plaintiffs and others present at the dinner were intolerant of dining with members of another race and left as a result of her presence. What was filmed, but not shown in the *Borat* movie, however, was that Streit apologized to Ms. Campbell for what Streit believed was Campbell's involuntary participation in the Defendants' scheme. Plaintiffs at all times acted in goodwill towards Ms. Campbell.

42. The scripting, filming and showing of the "Secession Drive" scene leading up to the dinner was designed to set the stage for this false portrayal.

43. At the end of the dinner scenes, the film shows Cohen leaving and asking whether the cause of the commotion was that the "retard had gotten out of his cage."

44. The scenes of the *Borat* movie following those in which Plaintiffs appeared show Cohen at an “antique” store that sells various civil war and Confederate items, including signage associating the Confederate, or “Rebel” flag, with “Secession.” Upon information and belief, Defendants’ scripting, filming and showing of this portion of the *Borat* movie was made for the purpose of linking the scenes of the dinner with “Secession,” its association with the Confederate flag and racial intolerance.

45. Indeed, this is exactly how it has been interpreted by the viewing public. One movie review describes the “dinner scenes” as follows: “You hear about people so racist they can’t stand to be in the same room as one of ‘them.’” Another says it this way: “The other guests try to excuse it all away up until Borat’s dinner guest arrives, an overweight black prostitute. Not something that someone living on Secession Drive ... can handle.”

46. Without Plaintiffs’ consent, the Defendants revised, edited, formatted and distributed scenes from the Plaintiffs’ dinner with Cohen into a segment for the *Borat* movie and have used these scenes in advertising and promotion for the movie in multiple media, including print, television and the Internet. The dinner scenes are frequently depicted in trailers for the *Borat* movie and are among the most critical components to the popularity and financial success of the movie.

47. The *Borat* movie was released in the United States on or about November 3, 2006.

48. The movie carries an R-rating “for pervasive strong crude and sexual content including graphic nudity, and language” according to the Motion Pictures Association of America and the National Association of Theatre Owners.

49. In its first ten days in the box office, the *Borat* movie grossed approximately \$68,000,000.00. Upon information and belief, as of December 21, 2006, ticket sales for the *Borat* movie had grossed more than \$227,613,553.00 worldwide. Upon information and belief, DVD sales and the sale of other movie-related items have dramatically increased the amount of total revenue generated by the film.

50. Upon information and belief, the total production cost for the *Borat* movie was only \$18 million. Defendants were able to keep such costs to a minimum by defrauding Plaintiffs and others into playing the roles that would otherwise be occupied by paid actors and actresses.

51. Plaintiffs have been made the subjects of numerous newspaper and magazine articles, internet postings and television programs as a result of their involvement with the movie and their names, likenesses and images have been repeatedly associated with the acts performed by Defendant Cohen at the October 24, 2005, dinner.

52. Contrary to Defendants' oral and written representations to the Plaintiffs, Defendants were not filming an educational documentary for a foreign dignitary to be shown on Belarus Television. There was no "foreign dignitary," but only Cohen, a paid actor who carried out this previously-scripted, outrageous conduct. There was no "educational documentary," but only a film memorializing the mockery, humiliation and degradation of unsuspecting participants.

53. Not everyone involved in the filming of the *Borat* movie were victims of fraud. Defendants selectively disclosed the purpose and intent of the *Borat* movie to professional actors and actresses, including Defendant Cohen, Pamela Anderson and Luenell Campbell (aka Jane Sanguinetti Luenell).

54. These individuals were given an opportunity to review and agree to the movie script and knowingly participate in the *Borat* movie. Unlike the Plaintiffs, they had the option to decide whether or not to have their names, likenesses and images associated with a movie containing racism, child pornography, sexism, nudity, anti-Semitism and vulgarity. And, unlike the Plaintiffs, they had the option to determine how their participation in the *Borat* movie would affect their personal, social and business lives.

55. Plaintiffs did not authorize or consent to Defendants' use of their names, likenesses and images for a commercial purpose.

56. Plaintiffs did not authorize or consent to Defendants' portrayal of Plaintiffs in a false light.

57. Plaintiffs did not authorize or consent to be made involuntary participants in a film celebrating racism, child pornography, sexism, nudity, anti-Semitism and vulgarity.

58. Plaintiffs have suffered extreme humiliation, embarrassment and ridicule as a result of Defendants' portrayal of them and their association with the *Borat* movie.

59. To the extent the Defendants contend that the Plaintiffs are bound by a Standard Consent Agreement and/or Release of Liability, all terms therein are unenforceable against Plaintiffs under Alabama law. They were fraudulently induced, made under duress, there was no consideration, there was no "meeting of the minds," one or more of their terms impose serious inconvenience, undue burden and duress upon Plaintiffs, Defendant Springland was not licensed or authorized to do business in the State of Alabama on October 24, 2005, and the persons who presented the Consent Agreement and/or Release of Liability were acting under fraudulent names and false pretenses.

60. The Standard Consent Agreement and/or Release of Liability, and all terms therein, pose serious inconvenience on Plaintiffs because, among others, Plaintiff Moseley is a surviving cancer patient and Plaintiff McKinnon is eighty-five years old and under a doctor's orders not to travel due to his physical condition.

61. All of the fraud and other misconduct, as described herein, towards the Plaintiffs occurred in the State of Alabama. Moreover, the witnesses to the Defendants' misconduct towards the Plaintiffs reside within the State of Alabama.

62. As a remedy for each cause of action plead herein, Plaintiffs seek an injunction against Defendants (1) barring the use of Plaintiffs' names, likenesses or images or any of the *Borat* movie's "dinner scenes" in any promotional material for the *Borat* movie, any future movie or in any book or financial endeavor; (2) barring the use of any and all filmed footage of Plaintiffs during the "dinner scenes" that did not appear in the final, edited version of the *Borat* movie; (3) barring the Defendants' use of any filming or depiction of Plaintiffs' names, likenesses and images; and (4) barring Defendants from selling, distributing or disseminating the *Borat* movie to the extent it contains scenes depicting Plaintiffs' names, likenesses or images.

#### **COUNT I: UNJUST ENRICHMENT**

63. Plaintiffs adopt and incorporate the foregoing paragraphs, and those that follow below, as though set forth herein.

64. Defendants defrauded Plaintiffs into becoming unwilling participants in the *Borat* movie, a film celebrating racism, child pornography, sexism, nudity, anti-Semitism and vulgarity.

65. Because of Defendants' misconduct, Plaintiffs became unwilling participants in the *Borat* movie by mistake.

66. Upon information and belief, the total production cost for the *Borat* movie was only \$18 million. Defendants were able to keep such costs to a minimum by defrauding Plaintiffs and others into playing the roles that would otherwise be occupied by paid actors and actresses.

67. Defendants unjustly received the benefit of avoiding the costs of hiring a cast of professional actors and actresses by committing fraud upon the Plaintiffs.

68. Defendants unjustly received the benefit of the Plaintiffs' participation in the *Borat* movie which resulted in the movie being an extremely profitable venture.

69. Defendants, by exploiting the Plaintiffs, unjustly retained all benefits and profits of the *Borat* movie. Defendants must disgorge their ill-gotten gains.

70. The Defendants, therefore, have been unjustly enriched and, in equity and good conscience, should be required to disgorge their ill-gotten gain.

WHEREFORE, Plaintiffs seek relief against Defendants in the form of disgorgement, compensatory and punitive damages, interest, attorneys' fees and costs in an amount determined by the trier of fact and injunctive relief.

#### **COUNT II: FRAUD; FRAUDULENT INDUCEMENT**

71. Plaintiffs adopt and incorporate the foregoing paragraphs, and those that follow below, as though set forth herein.

72. On October 21, 22, 23 and 24, 2005, Defendants, through their authorized agents, Defendants Schulman, Chounard and Levenson made the following misrepresentations, both orally and in writing, as described above, to Plaintiffs with the intent to defraud:

- (A) Defendant Cohen was a "foreign dignitary" from The Republic of Belarus;

- (B) Defendant Springland was filming the dignitary's travels in the United States;
- (C) Defendants Springland was filming for a documentary to be shown on Belarus Television;
- (D) Defendants' filming of the Plaintiffs would be solely for the purpose of the purported documentary;
- (E) The documentary would only be shown on Belarus Television;
- (F) Defendants' filming for the documentary would not be for the purpose of embarrassment to the Plaintiffs;
- (G) The portrayal of the Plaintiffs would be with the utmost dignity and class;
- (H) Those misrepresentations more fully described in Paragraph 24, above.

73. Each of these representations was a false representation of material fact made with the intent to defraud Plaintiffs into unknowingly participating in the *Borat* movie.

74. Defendants knew these material misrepresentations were false when made and, in fact, planned, collaborated and scripted such misrepresentations with the intent to deceive the Plaintiffs.

75. Plaintiff Streit reasonably relied on the foregoing fraudulent misrepresentations in agreeing to provide etiquette and dining skills training and to be filmed during the dinner made the subject of the *Borat* movie.



76. Plaintiffs Moseley, McKinnon, Michael Jared and Lynn Jared reasonably relied on the foregoing fraudulent misrepresentations in agreeing to be filmed at the dinner made the subject of the *Borat* movie.

77. The Standard Consent Agreement and/or Release of Liability were procured by the foregoing fraudulent representations and are void as a matter of law.

78. As a result of Defendants' material and fraudulent misrepresentations and Plaintiffs' reasonable reliance, Plaintiffs have suffered extreme emotional distress, anxiety, embarrassment, ridicule and humiliation due to their involvement and portrayal in the *Borat* movie.

WHEREFORE, Plaintiffs seek relief against Defendants in the form of disgorgement, compensatory and punitive damages, interest, attorneys' fees and costs in an amount determined by the trier of fact and injunctive relief.

**COUNT III: COMMERCIAL APPROPRIATION;  
INVASION OF PRIVACY; FALSE LIGHT**

79. Plaintiffs adopt and incorporate the foregoing paragraphs, and those that follow below, as though set forth herein.

80. Unbeknownst to Plaintiffs and without their permission or approval, Defendants misappropriated Plaintiffs' names, likenesses and images for their commercial benefit by fraudulently inducing Plaintiffs to play roles in the *Borat* movie, a commercial enterprise.

81. Defendants used Plaintiffs' names, likenesses and images in advertising and promotional material for the *Borat* movie.

82. Plaintiffs were not made aware that their names, likenesses, images and involvement in the purported "documentary" was actually for the *Borat* movie until they saw certain promotional material for the film.

83. Certain dinner scenes depicted in the *Borat* movie are the result of Defendants' "creative" editing with the intent to portray Plaintiffs as racially intolerant. Such scenes do not accurately depict the events at the dinner party, falsely associate Plaintiffs with "Secession," are improperly taken out of their original context and were designed to create a false portrayal of Plaintiffs' character.

84. Defendants knew such portrayal was false, inaccurate and offensive at the time they scripted the storyline of the movie, filmed the various scenes, edited the film and distributed the *Borat* movie.

85. Defendants have experienced substantial gains from their fraud by avoiding the need to pay professional actors and actresses for their roles in the *Borat* movie.

86. Plaintiffs have suffered emotional distress, extreme anxiety, embarrassment, ridicule, invasion of their private, personal lives, and humiliation due to their involvement and portrayal in the *Borat* movie.

WHEREFORE, Plaintiffs seek relief against Defendants in the form of disgorgement, compensatory and punitive damages, interest, attorneys' fees and costs in an amount determined by the trier of fact and injunctive relief.

#### **COUNT IV: WANTONNESS**

87. Plaintiffs adopt and incorporate the foregoing paragraphs, and those that follow below, as though set forth herein.

88. Defendants' conduct, as described herein, constitutes wantonness.

89. Plaintiffs have suffered emotional distress, anxiety, embarrassment, ridicule, invasion of their private, personal lives, and humiliation due to their involvement and portrayal in the *Borat* movie.

WHEREFORE. Plaintiffs seek relief against Defendants in the form of disgorgement, compensatory and punitive damages, interest, attorneys' fees and costs in an amount determined by the trier of fact and injunctive relief.

#### **COUNT V: SUPPRESSION / CONCEALMENT**

90. Plaintiffs adopt and incorporate the foregoing paragraphs, and those that follow below, as though set forth herein.

91. Defendants, both voluntarily and in response to inquiry by Plaintiffs, undertook to make various representations, as described herein, regarding the purpose for which they were filming, to what use such filming would be put, the nature of the film, and the identity of the "foreign dignitary."

92. By making these representations to the Plaintiffs and because of the particular circumstances, the Defendants had a duty to not only to state the truth but also to disclose all material facts within their knowledge that related to the film and its use.

93. Defendants breached their duty of full and fair disclosure by suppressing and concealing from the Plaintiffs, among other facts, that the film would be a highly offensive motion picture and would be released in theatres throughout the United States for the purpose of generating monetary profits.

94. As a result of Defendants' suppression and concealment, Plaintiffs acted to their detriment by agreeing to be filmed and have suffered severe and irreparable damage.

WHEREFORE, Plaintiffs seek relief against Defendants in the form of disgorgement, compensatory and punitive damages, interest, attorneys' fees and costs in an amount determined by the trier of fact and injunctive relief.

**COUNT VI: INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS**

95. Plaintiffs adopt and incorporate the foregoing paragraphs, and those that follow below, as though set forth herein.

96. Defendants scripted and perpetrated a scheme to defraud Plaintiffs into appearing in the *Borat* movie, which is now the subject of fervent public debate due to its celebration of racism, sexism, vulgarity, child pornography, nudity and anti-Semitism.

97. Defendants' actions in their dealings with Plaintiffs have been reckless, intentionally conducted in bad faith, extreme and outrageous, and cannot be justified in any respect in a civilized society.

98. As a result of Defendants' fraud, exploitation and outrageous conduct, Plaintiffs have suffered emotional distress which Defendants knew or should have known would result from their intentional and outrageous conduct.

99. The Defendants disregarded any and all concern for privacy, reputation and public image at the expense of Plaintiffs and have subjected Plaintiffs to extraordinary and extreme embarrassment, humiliation and emotional distress.

100. Defendants were certain, or substantially certain, and intended that such distress would result from their conduct.

101. Defendants' conduct was so extreme, repulsive and outrageous as to exceed all possible bounds of decency.

102. Plaintiffs have suffered extreme emotional distress as a result of Defendants' conduct.

WHEREFORE, Plaintiffs seek relief against Defendants in the form of disgorgement, compensatory and punitive damages, interest, attorneys' fees and costs in an amount determined by the trier of fact and injunctive relief.

#### **COUNT VII: CIVIL CONSPIRACY**

103. Plaintiffs adopt and incorporate the foregoing paragraphs, and those that follow below, as though set forth herein.

104. Defendants engaged in a civil conspiracy designed to exploit and defraud Plaintiffs into appearing in the *Borat* movie. The Defendants knowingly combined, conspired and collaborated amongst and between themselves to defraud Plaintiffs into appearing in an R-rated movie celebrating anti-Semitism, sexism, racism, vulgarity, nudity and child pornography.

105. Such conspiracy took the form of, among others, movie scripting, writing, collaboration, plotting, production, filming and editing with the intent to defraud unsuspecting members of the public, including Plaintiffs, into appearing in the *Borat* movie.

106. Defendants further knowingly combined, conspired and collaborated amongst and between themselves to produce and distribute the *Borat* movie to the general public.

WHEREFORE, Plaintiffs seek relief against Defendants in the form of disgorgement, compensatory and punitive damages, interest, attorneys' fees and costs in an amount determined by the trier of fact and injunctive relief.

#### **COUNT VIII: DECLARATORY, INJUNCTIVE AND EQUITABLE RELIEF (28 U.S.C. § 2201, et seq.)**

107. Plaintiffs adopt and incorporate the foregoing paragraphs, and those that follow below, as though set forth herein.

108. Plaintiffs seek a declaration that Defendants knowingly made false representations regarding the purpose and use of their filming of the dinner scenes.

109. Plaintiffs seek a declaration that the Standard Consent Agreement and or Release of Liability were procured by fraud and/or fraudulently induced and are, therefore, void as a matter of law.

110. Plaintiffs seek a declaration that it was inequitable, unconscionable, unlawful and illegal for Defendants to defraud Plaintiffs into becoming unwilling participants in the *Borat* movie.

111. Plaintiffs seek a declaration that Defendants have been unjustly enriched by (1) accepting and retaining profits made through sales related to the *Borat* movie and (2) avoiding having to pay professional actors and actresses for roles in the *Borat* movie.

112. Plaintiffs seek a declaration that Defendants are obligated to disgorge to Plaintiffs such ill-gotten gains and/or unjust enrichment.

113. Plaintiffs seek a declaration that Defendants, having made voluntary, false representations to Plaintiffs regarding the purpose and use of the filming, were under a duty to speak truthfully and disclose all material information regarding the true purpose and use of the filming.

114. Plaintiffs seek a declaration that Defendants engaged in a civil conspiracy to defraud Plaintiffs by, among others, scripting, discussing, preparing and rehearsing their scheme.

115. Plaintiffs seek a declaration that Defendants intentionally inflicted extreme emotional distress upon Plaintiffs and that such emotional distress was an intended result of Defendants' fraud and/or was likely to result from Defendants' fraud.

116. Plaintiffs seek a declaration that Defendants acted through fraud in procuring Plaintiffs' names, likenesses and images for a commercial purpose.


117. Plaintiffs seek an injunction against Defendants (1) barring the use of Plaintiffs' names, likenesses or images or any of the *Borat* movie's "dinner scenes" in any promotional material for the *Borat* movie, any future movie or in any book or financial endeavor; (2) barring the use of any and all filmed footage of Plaintiffs that did not appear in the final, edited version of the *Borat* movie; (3) barring the Defendants' use of any filming or depiction of Plaintiffs' names, likenesses and images; and (4) barring Defendants from selling, distributing or disseminating the *Borat* movie to the extent it contains scenes depicting Plaintiffs' names, likenesses or images.

WHEREFORE, Plaintiffs request further and appropriate relief against Defendants in the form of disgorgement, compensatory and punitive damages, interest, attorneys' fees and costs in an amount determined by the trier of fact and injunctive relief.

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**JURY DEMAND**  
**PLAINTIFFS DEMAND A TRIAL BY STRUCK JURY ON ALL CLAIMS ASSERTED HEREIN**

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One of the Attorneys for Plaintiffs

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**PLEASE SERVE THE DEFENDANTS VIA CERTIFIED MAIL  
AT THE FOLLOWING:**

**Twentieth Century Fox Film Corporation  
Agent: Gary D. Roberts  
10201 West Pico Blvd.  
Los Angeles, CA 90035**

**Major Studio Partners, Inc.  
Attn: Howard Schuster  
P.O. Box 2034  
East Hampton, NY 11939**

**One America Productions  
Agent: Benjamin R. Reder  
421 S. Beverly Drive  
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Beverly Hills, CA 90212**

**Dune Entertainment, LLC  
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111 Eighth Avenue  
New York, NY 10011**

**Everyman Pictures  
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**Sacha Baron Cohen  
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