

ORIGINAL

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

FILED IN CLERK'S OFFICE
U.S. DISTRICT COURT
ATLANTA

JAN 27 2010

JAMES N. HATTEN, Clerk
By: *[Signature]*
Deputy Clerk

ATLANTA NATIONAL LEAGUE)
BASEBALL CLUB, INC.)

Plaintiff,)

Civil Action

File No. _____

v.)

1 : 10 - CV - 0238

EZ-MEDIA, INC., AND)
ATLAS CARRIERS, INC.)

Defendants.)

-ODE

COMPLAINT

COMES NOW Plaintiff the Atlanta National League Baseball Club, Inc. (Plaintiff or "Atlanta Braves") and files this Complaint against Defendants EZ-Media, Inc. ("EZ-Media") and Atlas Carriers, Inc. ("Atlas") (collectively "Defendants"), showing the Court as follows:

PARTIES

1. Plaintiff the Atlanta Braves is a Major League Baseball Club with its principal place of business in the state of Georgia.

2. Defendant EZ-Media is a Nevada corporation conducting business in the State of Georgia and having its principal place of business in the state of New York.

3. Defendant Atlas Carriers is a corporation and upon information and belief, its principal place of business is the state of New York.

JURISDICTION AND VENUE

4. Pursuant to 28 U.S.C. § 1332(a), this Court has diversity jurisdiction over this action because there is complete diversity of citizenship between the Plaintiff and Defendants and the amount in controversy exceeds \$75,000.00.

5. Pursuant to 28 U.S.C. § 1391 venue is proper in this Court as to all Defendants based on the fact that a substantial part of the events giving rise to Plaintiff's claims occurred in the Atlanta Division of the Northern District of Georgia and Defendants agreed that the federal courts in the State of Georgia shall have personal jurisdiction.

FACTUAL BACKGROUND

6. On or about March 13, 2006, Defendant EZ Media, Inc., on behalf of its client Atlas Carrier, Inc., entered into a License and Sponsorship Agreement (the "Agreement") with the Atlanta Braves. A true and complete copy of the License and Sponsorship Agreement is attached hereto as Exhibit "A".

7. Pursuant to the Agreement, Defendants were afforded the opportunity to sell advertisements on their disposable food and beverage carriers for the 2006 baseball

seasons and ending in 2008 at the close of the Major League Baseball regular season.

8. In consideration of the benefits provided to Defendants, Defendants agreed to pay the Atlanta Braves an annual sponsorship fee in the following amounts: (1) Year One \$40,000.00; (2) Year Two \$45,000.00; and (3) Year Three \$50,000.00.

9. As mandated by Major League Baseball's revenue sharing agreement, the Atlanta Braves reported the full amount of the anticipated sponsorship dollars from the Agreement and owed by Defendants.

10. Pursuant to the Agreement, Defendants made the first payment of \$45,000.00 for the 2006 Major League Baseball season.

11. The Atlanta Braves provided invoices to Defendants for the 2007 and 2008 Major League Baseball seasons. True and complete copies of Invoices for the 2007 and 2008 Major League Baseball seasons are attached hereto as Exhibit "B".

12. Defendants failed to make payments for the 2007 and 2008 Major League Baseball seasons as mandated by the Agreement and invoices.

13. On or about April 15, 2009, the Atlanta Braves provided Defendants with a "Final Notice of Overdue Sponsorship Fees for 2007 and 2008. A true and complete copy of the Final Notice is attached hereto as Exhibit "C".

14. Defendants did not respond to the Final Notice.

15. On or about October 21, 2009, counsel for the Atlanta Braves sent Defendants a Demand Letter that outlined Defendants failures under the Agreement, including a demand for attorney's fees if the Atlanta Braves were forced to sue to collect on the Agreement. A true and complete copy of the Demand Letter is attached hereto as Exhibit "D".

16. Defendants did not respond to the October 21, 2009 Demand Letter and the outstanding balance of \$95,000.00 principal remains delinquent; per the Agreement, interest accrues at 1.5% per month on the balance of any sponsorship fees not made within five days after the due date – Defendants owe interest along with principal on the outstanding balance.

17. Defendants' failure to meet their obligations for payment under the Agreement constitutes breach under the License and Sponsorship Agreement.

18. Defendants have breached the terms of Agreement and are liable to the Atlanta Braves in the principal amount of \$95,000.00, plus accrued and unpaid interest.

19. Defendants are jointly and severally liable to the Atlanta Braves for the amounts set forth above as a result of their conduct.

COUNT I
BREACH OF LICENSE AND SPONSORSHIP AGREEMENT

20. Plaintiff incorporates by reference, as if fully restated herein, the averments contained in paragraphs 1 through 19 of this Complaint.

21. Through their default and by failing to pay the amounts due under the terms of Agreement, Defendants have breached their contractual obligations.

22. Plaintiff has been damaged by Defendants' breach in the principal amount of \$95,000.00, plus accrued and unpaid interest, until the balance is paid in full.

23. Defendants are liable to Plaintiff for these amounts as a result of its breach and due to the fact that the Atlanta Braves reported the anticipated sponsorship funds under the Major League Baseball Revenue Sharing agreement.

COUNT II
ATTORNEYS' FEES AND EXPENSES PURSUANT TO O.C.G.A. § 13-6-11

24. Plaintiff incorporates by reference, as if fully restated herein, the averments contained in paragraphs 1 through 23 of this Complaint.

25. Pursuant to O.C.G.A. §13-6-11, Plaintiff is seeking to recover its attorneys' fees as Defendants' actions amount to being stubbornly litigious under Georgia Law.

26. On or about October 21, 2009, counsel for the Atlanta Braves notified Defendants that the Atlanta Braves would seek attorney's fees if Defendants failed

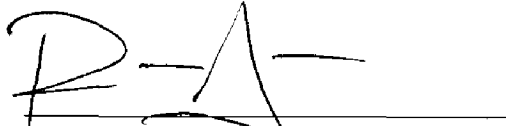
to pay pursuant to the Agreement and the Atlanta Braves were forced to bring suit for Defendants' failure to pay under the Agreement.

27. The Atlanta Braves are entitled to attorney's fees based on Defendants' stubbornly litigious behavior and causing the Atlanta Braves unnecessary trouble and expense to collect under the Agreement.

WHEREFORE, Plaintiff prays:

- a. That the Court enter judgment against the Defendants on each count of this Complaint;
- b. That the Court award compensatory and actual damages as a result of the respective Defendants' conduct;
- c. That the Court award Plaintiff its attorneys' fees and costs pursuant to O.C.G.A. § 13-6-11; and
- d. That the Court award Plaintiff such other and further relief as is just and proper.

Respectfully submitted this 27th day of January, 2010.



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