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Plaintiff

FILED

2009 JUL -6 A 8:05

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

C09 03007

Chiller

ERIK ESTAVILLO,

Plaintiff,

vs.

SONY COMPUTER
ENTERTAINMENT AMERICA,

Defendant.

Case No. _____

HRL

COMPLAINT

DEMAND FOR
JURY TRIAL

1. **Jurisdiction.** At least one of the plaintiffs' claims arises under the Constitution, laws, or treaties of the United States (28 U.S.C. § 1331). This case involves the plaintiff's First Amendment Right to Freedom of Speech in a public forum.
2. **Venue.** Venue is appropriate in this court because the defendant resides in Foster City, California. While the disabled plaintiff resides in San Jose, unable to travel to Foster City.
3. **Intradistrict Assignment.** This lawsuit should be assigned to the San Jose Division of this Court because it was in San Jose that these events and violations to the plaintiff occurred.

1. At least one of the plaintiffs' claims arises under the Constitution, laws, or treaties of the United States (28 U.S.C. § 1331) or federal question jurisdiction. This case involves the plaintiff's First Amendment Right to Freedom of Speech in a public forum.
2. The Northern District of California has jurisdiction to decide this case because the plaintiff resides in San Jose, California, where the events occurred; also, the plaintiff is disabled and unable to travel to Foster City, California, where the defendant resides.
3. The plaintiff in this case is Erik Estavillo, an alumnus of UCLA. As the defendant in this case is Sony Computer Entertainment America.
4. Sony Computer Entertainment America has caused pain and suffering to an already disabled plaintiff, whom suffers from Obsessive-Compulsive Disorder, Panic Disorder, Major Depression, and Crohn's Disease. The pain and suffering was caused by the defendant, Sony, banning the plaintiff's account on the PlayStation 3 Network, in which the plaintiff relies on to socialize with other people, since it's the only way the plaintiff can truly socialize since he also suffers from Agoraphobia. The plaintiff has convincing medical documents to prove all of his diseased conditions.
5. The ban is supposedly due to the behavior of the plaintiff when he plays the video game "Resistance: Fall of Man," which Sony owns and employs moderators for its online play. These moderators kick and ban players that they feel are deserving; though their biases to a player seems to be what determines the kick or ban from the Resistance game server. The need for moderators on Resistance is unnecessary since other players can both mute and/or ignore any player they wish.
6. In this first count, the plaintiff was exercising his First Amendment Right to Freedom of Speech in the game's public forum when he was banned from, not only the Resistance video game, but also banned from playing all other games online via the PlayStation Network. Sony's PlayStation 3 is the only gaming system that incorporates this type of wide-ranged ban. As where Nintendo does not ban customers at all. And Microsoft Xbox rarely bans, and only for repeated illegal offenses.

7. In the second count, the plaintiff had also had just purchased the PlayStation 3 and Resistance video game in the year 2009, and has already been quickly and unjustly banned from playing any games online, even though he has also purchased many PlayStation Network Redeem Cards in the amounts of \$20. The plaintiff would then redeem a card using the redeem code, which would add money to his PlayStation Network Wallet Fund, which is where money is saved for future use. The plaintiff and many other players who are unfairly banned cannot access their money when a moderator from Resistance and Sony gives a player an arbitrary wide-range ban from the PlayStation 3 Online Network, which in essence, is stealing money from the player.
8. In the last count, the defendant Sony is using Resistance's Online User Agreement as its reason for banning players for as long as Sony wishes the ban to last. The problem, however, is with the Online User Agreement itself in the sense that it is intended for players aged 17+; being that the game is rated for only mature audiences. However, children often play this game, and some are even as young as 13 years old (age verification can be proven via subpoena). Yet, the Resistance Online User Agreement is easily bypassed by these young teenagers by simply pressing the "agree" button. Resistance does not filter who gets online and plays their video game. So in essence, their whole Online User Agreement is ineffective and in breach of the 17+ year old rating.
9. **Prayer for Relief:** The plaintiff hopes the federal court will impose an injunction on Sony and its video game "Resistance: Fall of Man" from banning any players in any form since their bans are harmful in the sense that they do not allow players from accessing their money which is located in their online PlayStation Network Wallet Fund via the PlayStation Network; moreover, moderators are not truly needed since a mute and ignore feature already exist for the game, allowing players to mute or ignore any player they do not want to hear or interact with.
10. The plaintiff hopes for pain and suffering damages along with punitive damages in the amount of 55,000 dollars. The plaintiff also

wishes for all additional relief to which the plaintiff is entitled. The plaintiff has video evidence to help prove his case.

11. The plaintiff demands a jury on all issues.