

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FORT LAUDERDALE DIVISION

PRESTON HENN

Plaintiff,

v.

FERRARI NORTH AMERICA, INC.

Defendant.

§
§
§
§
§
§
§
§
§
§
§

Case No.: _____

VERIFIED COMPLAINT FOR DAMAGES
(Jury Trial Demanded)

1) Preston Henn sues Ferrari North America, Inc., for damages based upon the published statements of its agents and employees that Preston Henn is not qualified to purchase a LaFerrari Spider Automobile; statements which injured Henn's reputation in his profession, trade, occupation, and in the world of high end automobile organizations, associations, and exhibitions and their individual participants. He seeks damages for reputational injury and the mortification caused by declaring him to be not qualified to purchase a LaFerrari Spider.

2) Preston Henn is a citizen of the State of Florida and resides in Hillsboro Beach (Broward County), Florida.

3) Ferrari North America Inc., (a subsidiary of Ferrari, N.V.) is a company incorporated in Delaware with its principal place of business in Englewood Cliffs, New Jersey.

4) The amount in controversy exceeds \$75,000 exclusive of interest and costs. Jurisdiction is based upon diversity of citizenship, pursuant to 28 U.S.C. Section 1332.

FACTS

5) Preston Henn is an 85 year old driver and collector of classic and modern racing automobiles. He owns the Swap Shop in Fort Lauderdale, Florida, where he maintains a Museum of Automobiles for the delight and education of the millions of visitors to the Swap Shop.

6) Henn has been a “Ferrarista” (a Ferrari owner) for approximately 50 years. He had a relationship with, and drove for Luigi Chinetti, who in the early 1950s, “made a deal with Enzo Ferrari to be a Ferrari factory agent in the United States [who] owned the first – and for a while – the only Ferrari dealership in the country [United States].” *See* Wikipedia: Luigi Chinetti. Thus Henn has been involved with Ferrari and its cars almost since its entry into the United States market.

7) Among the Ferraris presently owned by Henn and shown by him at the Swap Shop is the 275 GTB/C Speciale (chassis 06885), a car which Sergio Marchionne, the President of Fiat Chrysler Automobiles (which owns Ferrari North America) has told Henn is his “favorite Ferrari.” The 6885 has been said to possibly be the world’s first \$100 million dollar car.

8) Ferrari announced earlier this year that it would produce a convertible version of the LaFerrari which would be known as the LaFerrari Spider. Henn already owns a LaFerrari.

9) Preston Henn immediately informed the Ferrari dealer with whom he had an arrangement, that he wished him to place an order for the automobile on his behalf. The owner of the dealership seeking to place the order was told by Ferrari North America officials that a LaFerrari Spider would not be sold to Henn.

10) Henn, disappointed that Ferrari North America refused to sell him the LaFerrari Spider despite his long and loyal and beneficial-to-Ferrari relationship with the manufacturer, sought to determine the reason why his order was not going to be honored by Ferrari.

11) Henn enlisted friends in the Ferrari world, seeking Ferrari's rationale. They were informed by Ferrari officials that Henn was not qualified to purchase the LaFerrari Spider.

12) Hoping that such a comment was not accurate, and that Ferrari officials had somehow overlooked his credentials as a Ferrari owner and purchaser, Henn wrote to Edwin Fenech, President of Ferrari North America, to Enrico Galleria, Ferrari's Senior Vice President for Commercial and Marketing, and to Sergio Marchionne, the Chairman of Ferrari Chrysler Automobiles, recounting his long commitment to Ferrari, seeking approval for his order.

13) Henn's July 13, 2016 letter to Marchionne, who has told Henn that Henn's 275 GTB/C Speciale is his (Marchionne's) "favorite car," included a check for \$1,000,000 as a deposit on the LaFerrari Spider. On July 18, 2016, Enrico Galleria responded to Henn on behalf of Chairman Marchionne. Galleria wrote that "all units have been already sold" and "[A]s a consequence, I am sending you back herewith your deposit" and asked Henn "not to send any of those check [*sic*] directly to Ferrari or our managers. We cannot be responsible for checks or advances directly provided to us which bear the high risk of being lost." *See* Composite Exhibit: Henn's letter, his \$1,000,000 check, and Galleria's reply.

14) Thus, the decision to refuse to sell a LaFerrari Spider to Preston Henn because he was not qualified has become a *fait accompli*, because by deeming him to be not qualified, Ferrari deprived Henn of the opportunity to purchase the automobile, demeaning him in the process.

15) By deeming Henn not qualified and publishing to third parties that Preston Henn was not qualified, Ferrari, acting through its employees and agents, uttered to unrelated third parties a false and defamatory statement, harming Henn's reputation in the universe of Ferrari aficionados.

16) Preston Henn is the most qualified, or at least among the 10 most qualified persons in the United States with regard to the standards that Ferrari has historically used to determine who would have “the privilege” of purchasing unique Ferrari automobiles.

17) Since the 1960s, Preston Henn has owned multiple Ferraris, including the following:

- 275 GTB/C Speciale (chassis 06885)
- 365 GTB/4 ("Daytona spider")
- 365 GTB/4 (Competition Conversion, raced by P. Henn)
- 512 BB (spider conversion by NART)
- 512 BB/LM Testarossa (raced by P. Henn around the world)
- Testarossa (original “Miami Vice” television car)
- F40
- F50
- Enzo Ferrari
- FXX (raced by P. Henn around the world)
- LaFerrari
- 458 Italia
- 458 Speciale
- 488 GTB
- 550 Barchetta
- 599 GTB Fiorano
- 575M Superamerica
- F399 (ex-M. Schumacher Formula One)
- Maserati MC12

18) Preston Henn’s 275 GTB/C Speciale Ferrari is displayed at the Swap Shop, along with most of the cars listed above. In recent years Henn has, at Ferrari’s request, and at his own expense, transported the 275 GTB/C Speciale to Ferrari, including to “Casa Ferrari” during the 2015 Pebble Beach festivities event where the car was shown on a special pedestal created by Ferrari and in 2014 when Ferrari hosted its 60th Anniversary Gala in Beverly Hills, Henn’s 275 GTB was displayed on Rodeo Drive as one of the 60 the most “iconic Prancing Horses.”¹

¹ Available at: http://auto.ferrari.com/en_US/news-events/news/1000-ferrari-beverly-hills/

19) Additionally, the 275 GTB/C and other Ferrari supercars owned by Henn, including the FXX and Enzo have been shown by Henn for years at the annual Cavalino Classic at the Breakers in Palm Beach; a cavalcade of Ferraris attracting thousands of viewers and “considered by some to be the world’s premier event dedicated to honoring Ferraris.”²

20) Henn was one of 30 purchasers of the Ferrari FXX, cars that Ferrari transported to race tracks around the world within recent years allowing Henn, and the other 29 owners, to meet and to drive and race their cars on those tracks and where Ferrari engineers would monitor the cars’ performance in order to make set-up and engineering decisions for future Ferraris.

21) The combination of ownership, driving, racing, displaying and cooperating with Ferrari to enhance the Brand, and allowing the most valuable automobile in the world – the 6885 – to be used by Ferrari to promote the history and richness of the Ferrari Brand, makes the untrue statement “not qualified” to purchase the LaFerrari Spider a public insult to Henn, as well as the basis for this defamation action.

DEFAMATION

22) Plaintiff Henn repeats and realleges paragraphs 1-20 above.

23) The publication of the statement that Preston Henn is not qualified to purchase a LaFerrari Spider is an untrue statement which harms Henn’s reputation, and holds him up to ridicule, disrespect, and disrepute in his profession, trade, occupation, avocation, and among his friends and business and social associates.

24) Plaintiff seeks damages in excess of \$75,000 exclusive of interests and costs as compensation for the damage to his reputation.

² *2015 Cavallino Classic: The annual Palm Beach gathering that celebrates old and new Ferraris.* Available at: <https://blog.hemmings.com/index.php/2015/02/02/2015-cavallino-classic-the-annual-palm-beach-gathering-that-celebrates-old-and-new-ferraris/>.

25) Plaintiff requests that the Court take jurisdiction of this case and award damages for defamation.

26) Plaintiff demands a trial by jury.

Respectfully submitted,

By: /s/ Bruce S. Rogow
BRUCE S. ROGOW
Fla. Bar No. 067999
TARA A. CAMPION
Fla. Bar No. 90944
BRUCE S. ROGOW, P.A.
100 N.E. 3rd Avenue
Suite 1000
Ft. Lauderdale, FL 33301
Ph: (954) 767-8909
Fax: (954) 764-1530
brogow@rogowlaw.com
tcampion@rogowlaw.com

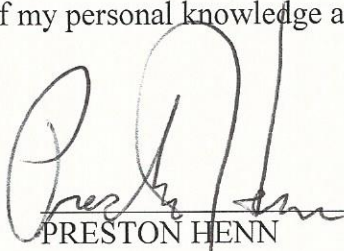
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 1, 2016, I electronically filed the foregoing Verified Complaint for Damages with the Clerk of Court using CM/ECF.

By: /s/ Bruce S. Rogow
BRUCE S. ROGOW

VERIFICATION BY PRESTON HENN

Under penalties of perjury, I declare that I have read the above Verified Complaint and state that the foregoing facts are true to the best of my personal knowledge and belief.


PRESTON HENN

7/28/16
DATE

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (See INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

MAG JUDGE

Signature of Clerk or Deputy Clerk

COMPOSITE EXHIBIT

BRUCE S. ROGOW, P.A
100 N.E. THIRD AVENUE, SUITE 1000
FORT LAUDERDALE, FLORIDA 33301

July 13, 2016

Bruce S. Rogow
Tara A. Campion

Phone (954) 767-8909
Fax (954) 764-1530
brogow@rogowlaw.com
tcampion@rogowlaw.com

Sergio Marchionne,
Abetone Inferiore N 4 1-41053
Maranello (MO) Italy
via International Federal Express – Tracking No.: X5BLQA

RE: LaFerrari Spyder

Dear Mr. Marchionne,

Enclosed please find Preston Henn's \$1,000,000 check as a deposit on the forthcoming LaFerrari Spyder. Upon delivery of the automobile he will pay the balance due.

I am also enclosing the recent correspondence relating to his efforts to order the automobile, including the letters and email sent to Enrico Galliera.

This million dollar deposit reflects Mr. Henn's lifelong commitment to Ferrari. You know his 06558 275 GTB/C Berlinetta Speciale. What a shame it would be to shun him now.

I look forward to your confirmation of receipt of the deposit and Mr. Henn's purchase of the LaFerrari Spyder.

Best,



Bruce Rogow

Encls.

cc: Preston Henn
Stuart Hayim, Ferrari of Fort Lauderdale (boss@ferrarili.com)
Enrico Galliera (enrico.galliera@ferrari.com)
Edwin Fenech, (Edwin.fenech@ferrari.com) (250 Sylvan Ave., Englewood Cliffs, NJ, 07632)

SWAP SHOP MANAGEMENT, LLC3291 W. SUNRISE BOULEVARD
FORT LAUDERDALE, FL 33311-5603
(954) 791-7927E22661™ Check Fraud
Protection for Business

7/9/2016

PAY TO THE
ORDER OF Sergio Marchionne CEO of Ferrari

\$ **1,000,000.00

One Million and 00/100*****

DOLLARS

Sergio Marchionne CEO of Ferrari

MEMO

depoit on La Ferarri Spyder

AUTHORIZED SIGNATURE

SWAP SHOP MANAGEMENT, LLC

Sergio Marchionne CEO of Ferrari

Date	Type	Reference	Original Amt.	Balance Due	7/9/2016 Discount	Payment
7/9/2016	Bill	Deposit on Spyder	1,000,000.00	1,000,000.00		1,000,000.00
					Check Amount	1,000,000.00

operating a depoit on La Ferarri Spyder

1,000,000.00

SWAP SHOP MANAGEMENT, LLC

Sergio Marchionne CEO of Ferrari

Date	Type	Reference	Original Amt.	Balance Due	7/9/2016 Discount	Payment
7/9/2016	Bill	Deposit on Spyder	1,000,000.00	1,000,000.00		1,000,000.00
					Check Amount	1,000,000.00

operating a depoit on La Ferarri Spyder

1,000,000.00

Ferrari

Mr. Preston B. Henn
3291 W. Sunrise Blvd
Ft. Lauderdale,
FL. 33311



Maranello, July 18th 2016

Dear Mr. Henn,

We have received your kind letter dated July 13th, addressed to our Chairman and I thank you on his behalf.

As anticipated in my last letter, unfortunately I shall confirm you that we are not able to secure you an allocation of a LaFerrari Spider as all units have been already sold.

As a consequence, I am sending you back herewith your deposit which in any case we are not allowed to accept.

In addition, please note for future reference that our cars are, as you know, sold through our dealers network therefore to avoid the risk to lose your check we kindly ask you not to send any of those check directly to Ferrari or our managers. We cannot be responsible for check or advances directly provided to us and which bear the high risk of being lost

I am sorry our reply is not as you were hoping. I thank you again for your continued and enthusiastic support to our Brand and I take the opportunity to send you my kind regards.

Enrico Galliera
Senior Vice President for Commercial and Marketing
Ferrari Spa

Ferrari S.p.A.
Direzione e stabilimento
Via Abetone Inf. n. 4
41053 Maranello (MO), Italia
tel +39 0536 949 111
www.ferrari.com

Sede legale
Via Emilia Est n. 1163
P.O. Box n. 589
41122 Modena, Italia
Capitale sociale
€ 20.260.000 i.v.

Reg. Imprese di Modena,
P. IVA e Codice Fiscale
n. 00159560366
R.E.A. di Modena n. 88683

Società a socio unico
Direzione e coordinamento
Ferrari N.V.