

IN THE CIRCUIT COURT OF COOK COUNTY  
COUNTY DEPARTMENT, LAW DIVISION

CLERK OF THE CIRCUIT COURT OF COOK COUNTY  
COUNTY DEPARTMENT, LAW DIVISION  
JAN 11 2005

JANE DOE, )  
)  
Plaintiff, )  
)  
v. )  
)  
"CHICAGO," RADOSLAW DUNASZEWSKI, )  
MAGDALENA PIEKORZ, TVN NETWORK, )  
TVN SP. Z.O.O. (a/k/a TVN SPOLKA Z.O.O.), )  
TV WISLA SP. Z.O.O., )  
POLISH ITI TELEVISION HOLDING, )  
ITI TV HOLDINGS SP. Z.O.O., ITI HOLDINGS SA, )  
STRATEUROP INTERNATIONAL B.V., )  
SBS BROADCASTING SA, and SBS SA, )  
)  
Defendants. )

CLAIMS OVER \$75,000

Civil Cause No. 03L 009597  
CALENDAR B  
P.I. MISC ACTION

JURY TRIAL DEMANDED

COMPLAINT

NOW COMES the Plaintiff, JANE DOE ("MS. DOE"), a citizen of the State of Illinois, by and through her attorney, Charles Lee Mudd Jr., and complains of the defendants, "CHICAGO," RADOSLAW DUNASZEWSKI, MAGDALENA PIEKORZ, TVN NETWORK, TVN SP. Z.O.O., TV WISLA SP. Z.O.O., POLISH ITI TELEVISION HOLDING, ITI TV HOLDINGS SP. Z.O.O., ITI HOLDINGS SA, STRATEUROP INTERNATIONAL B.V., SBS BROADCASTING SA, and SBS SA (collectively, the "DEFENDANTS"), and states as follows:

NATURE OF SUIT

1. This is a diversity action for violation of the Illinois Right to Publicity Act and of several state common law claims seeking recovery for compensatory damages, punitive damages, attorney's fees, and costs.



## PARTIES

2. JANE DOE is a natural person and a permanent resident residing in Chicago, Cook County, Illinois.

3. "CHICAGO" is a documentary film and television program directed, produced and broadcast by the Defendants.

4. RADOSLAW DUNASZEWSKI ("Defendant Dunaszewski") is a Director of "Chicago" and, upon information and belief, a citizen of Poland.

5. MAGDALENA PIEKORZ ("Defendant Piekorz") is a Director of "Chicago" and, upon information and belief, a citizen of Poland.

6. TVN NETWORK ("TVN") is a private national television station out of Warsaw, Poland.

7. TVN SP. Z.O.O. (a/k/a TVN SPOLKA Z.O.O.) ("TVN SP") is a Polish company and the corporate entity of TVN.

8. TV WISLA SP. Z.O.O. is a Polish company.

9. POLISH ITI TELEVISION HOLDING ("POLISH ITI") is a Polish company.

10. ITI TV HOLDINGS SP. Z.O.O. ("ITI TV") is a Polish company with approximately 67% ownership in TVN through POLISH ITI. ITI TV is a subsidiary of ITI HOLDINGS SA.

11. ITI HOLDINGS SA (a/k/a International Trading and Investment Holdings SA a/k/a ITI GROUP) ("ITI GROUP") is a "Polish media and entertainment group, active in television broadcasting, television production, new media, multiplex cinema operations and home-video and theatrical distribution."<sup>1</sup>

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<sup>1</sup> <http://www.itiholdings.com/home.htm>

12. STRATEUROP INTERNATIONAL B.V. ("STRATEUROP") is a Netherlands corporation and an SBS Broadcasting SA company. Strateurop owns approximately 33% of TVN.

13. SBS BROADCASTING SA, (a/k/a SBS BROADCASTING BV) ("SBS Broadcasting") is a Netherlands corporation with an address at Quintet Office Park, Rietlandpark 333, 1019 DW Amsterdam, Netherlands. Upon information and belief, SBS Broadcasting is a subsidiary of SBS SA.

14. SBS SA is the holding company that owns SBS Broadcasting.

### JURISDICTION AND VENUE

15. Jurisdiction of this court arises under, among other provisions, 765 ILCS 1075/1, et seq. Venue is proper pursuant to 735 ILCS 5/2-101.

### FACTUAL BACKGROUND

#### TVN

16. In 1997, Central European Media Enterprise Ltd. ("CME") and Polish ITI started TVN.

17. In 1999, ITI bought out CME's 33% interest in TVN.

18. In 2000, SBS Broadcasting purchased a 33% stake in TVN from ITI through its subsidiary Strateurop.

#### Private Disclosure

19. Some time in 2001, Ms. Doe walked along a street in Chicago, Illinois.

20. At some point during Ms. Doe's walk, a woman of middle age ("Stranger")

approached Ms. Doe and began asking her questions.

21. Ms. Doe and the Stranger began a conversation. The Stranger explained to Ms. Doe that she had only recently arrived in Chicago. She further explained that she was looking for a job, but did not know where to begin her search.

22. Ms. Doe informed the Stranger that she could purchase the Polish newspaper "Dziennik Zwiazkowy" that contained a number of job openings or could go to the employment agency.

23. Then, the Stranger asked Ms. Doe if Ms. Doe currently worked. Ms. Doe replied affirmatively and, upon inquiry, informed the Stranger where she had worked and where she currently worked.

24. Ms. Doe then informed the Stranger that she cleaned offices.

25. Ms. Doe then informed the Stranger that people more fluent in English can obtain better jobs. However, Ms. Doe explained that she did not speak English, thus explaining her job as a "cleaning lady."

26. Soon thereafter, the Stranger ended her conversation with Ms. Doe and departed.

#### UNBEKNOWNST TO MS. DOE

27. Unbeknownst to Ms. Doe, the Stranger was, upon information and belief, Defendant Piekorz. Rather than seek helpful information for herself as represented to Ms. Doe, Defendant Piekorz sought to engage Ms. Doe in a conversation for purposes of filming Ms. Doe for inclusion in a Polish documentary television and film series entitled "Chicago." In fact, Defendant Piekorz and Defendant Dunaszewski were and are directors of "Chicago."

28. While Defendant Piekorz engaged Ms. Doe in conversation, Defendants Piekorz

and Dunaszewski surreptitiously filmed the conversation, recording both the audio and video content ("Footage") of the conversation and Ms. Doe.

29. Ms. Doe is clearly identifiable in the Footage.

30. Upon information and belief, Defendants Piekorz and Dunaszewski direct "Chicago" for TVN.

31. Upon information and belief, Defendants Piekorz and Dunaszewski returned to Poland where they included the Footage in a production of "Chicago."

32. The production of "Chicago" that included the Footage aired on TVN in Poland.

### DISCOVERY

33. In September 2002, Ms. Doe learned that she had appeared several times on television in Poland in a movie or documentary program entitled, "Chicago." Ms. Doe also learned that she appeared several times in trailers promoting "Chicago." She learned that the nature of her appearance involved participating in a conversation with a woman regarding employment in Chicago.

34. Upon learning of her appearance on television, Ms. Doe recalled the conversation with the Stranger and remembered what she had said.

35. Ms. Doe became embarrassed and humiliated that family and friends in Poland had learned of her employment in Chicago, Illinois as a "cleaning lady." Further, Ms. Doe became distraught that other friends and family in Poland would see the program and learn of her employment status. Ms. Doe did not want to be known and remembered as a "cleaning lady."

36. Ms. Doe also became distressed that the Defendants had filmed, produced and broadcast her image without obtaining her consent.

37. Ms. Doe would not have provided her consent to film her image. Moreover, Ms. Doe would not have engaged in the conversation with the Stranger had she known she was being filmed.

38. Ms. Doe continues to be embarrassed and upset, as well as suffer humiliation.

39. In addition to being broadcast on TVN in Poland, the Polish Film Festival in Chicago exhibited the documentary "Chicago" containing the Footage with Ms. Doe. Moreover, the Defendants have distributed the documentary "Chicago" on video in the United States, particularly Chicago. This has worsened Ms. Doe's situation and caused her situation to become more embarrassing.

40. In addition to her friends and family in Poland, Ms. Doe's friends and colleagues in Chicago have now observed Ms. Doe in "Chicago." Because of this, Ms. Doe's situation with her employment has become uncomfortable as her co-workers and colleagues gossip, laugh, and make jokes about her appearance in "Chicago."

41. Numerous individuals in Poland and in Chicago have recognized Ms. Doe. Eventually, Ms. Doe observed the Footage in "Chicago" and recognized herself.

42. Ms. Doe remains distraught, embarrassed, and humiliated because of the Defendants' unauthorized use of her image and conversation, the Defendants' invasion of her privacy, and the Defendants' misrepresentation and concealment.

43. Ms. Doe remains concerned that the Defendants will continue to use her image and conversation without Ms. Doe's authorization and humiliate her further.

**COUNT ONE**  
**AS AND FOR A FIRST CAUSE OF ACTION**  
**AGAINST ALL DEFENDANTS**  
**FRAUDULENT MISREPRESENTATION**

44. The allegations in Paragraphs 1 through 43 above are incorporated by reference in this Count One as if fully restated herein.

45. Defendant Piekorz made a false statement of material fact knowing or believing the statement to be false when she informed Ms. Doe that she had just arrived in Chicago and was looking for a job.

46. By inference, Defendant Piekorz made a false statement of material fact knowing or believing the statement to be false when she represented to Ms. Doe that Defendant Piekorz needed help in finding a job and made it appear that the conversation between Ms. Doe and Piekorz was private.

47. Defendant Piekorz made the statements with an intention to induce Ms. Doe to engage in conversation and provide content for the film "Chicago."

48. Based upon the Defendant Piekorz's representations, Ms. Doe engaged in the conversation with Defendant Piekorz thereby unknowingly providing the Defendants with the film footage they desired.

49. Defendant Piekorz did not in fact seek the information for purposes of finding a job, but rather to obtain material to be used in the film "Chicago." Moreover, the conversation between Ms. Doe and Defendant Piekorz was not, in fact, private.

50. When making the representations to Ms. Doe, upon information and belief, Defendant Piekorz worked for TVN and the Defendants.

51. Defendants' representations have proximately caused Ms. Doe injuries and damages resulting from their surreptitious filming of Ms. Doe and the audio and video recording of her voice and person, including but not limited to, the violation of her right to privacy, her harmed reputation, loss of commercial gain, commercial loss, emotional distress, and out-of-pocket expenses to cover this action and other means of enforcing and/or demanding Ms. Doe's rights.

52. Ms. Doe seeks recovery of compensatory damages for injuries caused by Defendants' fraudulent misrepresentations, an award of punitive damages for Defendants' fraudulent misrepresentations, and attorneys' fees.

**COUNT TWO**  
**AS AND FOR A SECOND CAUSE OF ACTION**  
**AGAINST ALL DEFENDANTS**  
**NEGLIGENT MISREPRESENTATION**

53. The allegations in Paragraphs 1 through 52 above are incorporated by reference in this Count Two as if fully restated herein.

54. As a photojournalist and filmmaker intending to photograph a subject whose permission she would need to do so, Defendant Piekorz, and through her the Defendants, owed a duty to accurately and truthfully convey her intent to the subject, including Ms. Doe. At the very minimum, Defendant Piekorz and the Defendants owed a duty to obtain a subject's consent, including Ms. Doe's, before using footage of the subject.

55. As a photojournalist and filmmaker intending to photograph a subject whose permission she would need to do so, Defendant Piekorz, and through her the Defendants, owed a



duty to her subjects, including Ms. Doe, to refrain from communicating inaccurate and/or misleading information.

56. Defendant Piekorz was careless and/or negligent in ascertaining the truth and/or falsity of her statements to Ms. Doe. In so stating, Defendant Piekorz made false statements of material fact and, through her, so did the Defendants.

57. Defendant Piekorz's false statements of material fact violated the duties owed to Ms. Doe by Defendant Piekorz and the Defendants.

58. Defendant Piekorz made the statements with an intention to induce Ms. Doe to engage in conversation and provide content for the film "Chicago."

59. Based upon the Defendant Piekorz's representations, Ms. Doe engaged in the conversation with Defendant Piekorz thereby providing the Defendants with the film footage they desired.

60. Defendant Piekorz did not in fact seek the information for purposes of finding a job, but rather to obtain material to be used in the film "Chicago." Moreover, the conversation between Ms. Doe and Defendant Piekorz was not, in fact, private.

61. When making the representations to Ms. Doe, upon information and belief, Defendant Piekorz worked for TVN and the Defendants.

62. Defendants' representations have proximately caused Ms. Doe injuries and damages resulting from Ms. Doe's permitting Defendant Piekorz to remain in the closed class and take photographs, including but not limited to, the violation of her right to privacy, her harmed reputation, loss of commercial gain, commercial loss, emotional distress, and out-of-pocket expenses to cover this action and other means of enforcing and/or demanding Ms. Doe's rights.

63. Ms. Doe seeks recovery of compensatory damages for injuries caused by Defendants' negligent misrepresentations, an award of punitive damages for Defendants' negligent misrepresentations, and attorneys' fees.

**COUNT THREE**  
**AS AND FOR A THIRD CAUSE OF ACTION**  
**AGAINST ALL DEFENDANTS**  
**COMMERCIAL MISAPPROPRIATION**

64. The allegations in Paragraphs 1 through 63 above are incorporated by reference in this Count Three as if fully restated herein.

65. Defendants appropriated Ms. Doe's likeness in the form of the Footage from which she can be readily identified.

66. Defendants used and employed Ms. Doe's likeness in the form of the Footage.

67. Defendants used Ms. Doe's likeness, in the form of the Footage, to their commercial and promotional advantage without Ms. Doe's consent. In fact, Defendants used Ms. Doe's likeness, in the form of the Footage, in explicit disregard for Ms. Doe's understanding that the conversation with Defendant Piekorz would be private.

68. Defendants' use of Ms. Doe's likeness, in the form of the Footage, resulted in Ms. Doe suffering injuries including, but not limited to, the violation of her right to privacy, her harmed reputation, loss of commercial gain, commercial loss, emotional distress, and out-of-pocket expenses to cover this action and other means of enforcing and/or demanding Ms. Doe's rights.

69. Ms. Doe seeks recovery of compensatory damages, punitive damages, and attorney's fees resulting from Defendants' commercial misappropriation.

**COUNT FOUR**  
**AS AND FOR A FOURTH CAUSE OF ACTION**  
**AGAINST ALL DEFENDANTS**  
**RIGHT OF PUBLICITY (765 ILCS 1075/1, et seq)**

70. The allegations in Paragraphs 1 through 69 above are incorporated by reference in this Count Four as if fully restated herein.

71. Defendants willfully used Ms. Doe's identity in the form of the Footage for commercial purposes during Ms. Doe's lifetime without having obtained Ms. Doe's previous written consent.

72. Defendants violated the Illinois Right of Publicity Act.

73. Ms. Doe seeks recovery of compensatory damages or statutory damages pursuant to 765 ILCS 1075/40, whichever is greater.

74. As Defendants willfully used Ms. Doe's identity in the form of the Footage for commercial purposes during her lifetime without having obtained Ms. Doe's previous written consent, Ms. Doe seeks punitive damages.

75. Ms. Doe seeks attorney's fees, costs, and expenses pursuant to 765 ILCS 1075/55.

**COUNT FIVE**  
**AS AND FOR A FIFTH CAUSE OF ACTION**  
**AGAINST ALL DEFENDANTS**  
**MISAPPROPRIATION**

76. The allegations in Paragraphs 1 through 75 above are incorporated by reference in this Count Five as if fully restated herein.

77. Defendants appropriated Ms. Doe's likeness in the form of the Footage, from

which she can be readily identified.

78. Defendants used and employed Ms. Doe's likeness in the form of the Footage.

79. Defendants used Ms. Doe's likeness, in the form of the Footage, without Ms. Doe's consent. In fact, Defendants used Ms. Doe's likeness, in the form of the Footage, in explicit disregard for Ms. Doe's understanding that the conversation with Defendant Piekorz would be private.

80. Defendants' use of Ms. Doe's likeness, in the form of the Footage, resulted in Ms. Doe suffering injuries including, but not limited to, the violation of her right to privacy, her harmed reputation, loss of commercial gain, commercial loss, emotional distress, and out-of-pocket expenses to cover this action and other means of enforcing and/or demanding Ms. Doe's rights.

81. Ms. Doe seeks recovery of compensatory damages, punitive damages, and attorney's fees resulting from Defendants' commercial misappropriation.

**COUNT SIX**  
**AS AND FOR A SIXTH CAUSE OF ACTION**  
**AGAINST ALL DEFENDANTS**  
**PUBLIC DISCLOSURE OF PRIVATE FACTS**

82. The allegations in Paragraphs 1 through 81 above are incorporated by reference in this Count Six as if fully restated herein.

83. Through the filming, production, and broadcast of the Footage, the Defendants made public disclosures of private facts regarding Ms. Doe.

84. The disclosures were made publicly broadcast in Poland, made available on videotape in the United States, and presented at the Polish Film Festival in Chicago. Moreover, the disclosures were made to the Polish community in Chicago with whom Ms. Doe has a special relationship.

85. The disclosures made by the Defendants would be and are highly offensive to a reasonable person.

86. The disclosures made by the Defendants do not represent facts that have any legitimate public concern.

87. In making such public disclosures of private facts, the Defendants acted with actual malice knowing that they had obtained the information surreptitiously and that the information was of a private nature

88. Ms. Doe has suffered and continues to suffer damages as a result of the public disclosures of private facts including, but not limited to, a violation of her right to privacy, embarrassment, harmed reputation, and emotional distress.

89. Ms. Doe seeks recovery of compensatory damages, punitive damages, and attorney's fees resulting from Defendants' public disclosures of private facts.

**COUNT SEVEN**

**AS AND FOR A SEVENTH CAUSE OF ACTION**

**AGAINST ALL DEFENDANTS**

**INTRUSION UPON SECLUSION**

90. The allegations in Paragraphs 1 through 89 above are incorporated by reference in this Count Seven as if fully restated herein.

91. The Defendant made unauthorized intrusions upon Plaintiff's privacy and seclusion when he distributed the Photographs and when he distributed the Photographs to her personal friends and business associates.

92. The intrusions in which the Defendant engaged would be and are highly offensive and/or highly objectionable to a reasonable person.

93. The Photographs, the nature of the Photographs, the fact that the Photographs were taken, the fact that Plaintiff permitted the Photographs to be taken, and the content of the Photographs all constituted and still constitute private matters upon which the Defendant intruded, particularly by distributing the Photographs to her friends and business associates.

94. The Defendant's intrusions caused and continue to cause Plaintiff a great deal of anguish and suffering. Moreover, the uncertainty of the intrusions' extent continues to cause Plaintiff a great deal of anguish and suffering.

95. In making such intrusions upon Plaintiff's seclusion, the Defendant acted with actual malice.

96. Plaintiff has suffered and continues to suffer damages as a result of the Defendant's intrusions upon her seclusion including, but not limited to, a violation of her right to privacy, embarrassment, harmed reputation, and emotional distress.

97. Plaintiff seeks recovery of compensatory damages, punitive damages, and attorney's fees resulting from Defendant's intrusions upon Plaintiff's seclusion.

**COUNT EIGHT**  
**AS AND FOR A EIGHTH CAUSE OF ACTION**  
**AGAINST ALL DEFENDANTS**  
**INJUNCTIVE RELIEF**

98. The allegations in Paragraphs 1 through 97 above are incorporated by reference in this Count Seven as if fully restated herein.

99. Ms. Doe has a clear right or interest in need of protection, particularly her privacy and publicity.

100. Absent temporary and permanent injunctive relief, Ms. Doe will suffer irreparable harm.

101. Absent temporary and permanent injunctive relief, there will not be an adequate remedy at law with respect to the ongoing violations of her privacy and publicity, among other offenses.

102. Ms. Doe has a substantial likelihood of success on the merits.

103. Thus, Ms. Doe seeks temporary and permanent injunctive relief restraining Defendants from broadcasting, distributing, selling or any way performing the Footage.

**ATTORNEY'S FEES**

104. If Ms. Doe prevails in this action on her right of publicity claim, by settlement or otherwise, Ms. Doe may receive and hereby demands attorney's fees, costs and expenses pursuant to 765 ILCS 1075/55.

**GENERAL**

105. Where conditions precedent are alleged, Ms. Doe avers that all conditions precedent have been performed or have occurred.

106. Ms. Doe demands a jury trial.

107. Ms. Doe demands and seeks punitive damages.

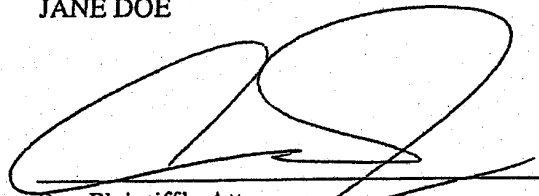


WHEREFORE, PLAINTIFF prays for judgment against DEFENDANTS as follows:

1. That PLAINTIFF be awarded damages for her injuries in an amount to be determined at trial;
2. That PLAINTIFF be awarded statutory damages;
3. That PLAINTIFF be awarded punitive and/or exemplary damages;
4. That PLAINTIFF be awarded attorneys' fees and costs and expenses of this action;
5. That PLAINTIFF be awarded prejudgment interest;
6. That PLAINTIFF be awarded injunctive relief; and,
7. That PLAINTIFF be awarded any such other and further relief as this Court may deem just and proper.

Dated: Chicago, IL  
August 8, 2003

PLAINTIFF,  
JANE DOE



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