

F. MICHAEL DAILY, JR., LLC  
ATTORNEY AT LAW  
216 Haddon Avenue • Sentry Office Plaza  
Suite 106  
Westmont, New Jersey 08108  
Telephone No. (856) 833-0006  
Fax No. (856) 833-1083  
Our File #F-2383-12

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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P.R.B.A. CORP., t/a, BARE : CIVIL ACTION NO.  
EXPOSURE

Plaintiff,

v.

HMS HOST TOLL ROADS, INC., THE  
SOUTH JERSEY TRANSPORTATION :  
AUTHORITY, THE NEW JERSEY  
TURNPIKE AUTHORITY, and JOHN  
DOES # 1-15,

COMPLAINT

Defendants

\_\_\_\_\_Plaintiff, by way of complaint against defendants, hereby  
avers:

**PARTIES, JURISDICTION AND VENUE**

1. The plaintiff, P.R.B.A. Corp., t/a, Bare Exposure, is a corporation created under the laws of the State of New Jersey and an entity which maintains a principal place of business at 2303 Pacific Avenue, Atlantic City, Atlantic County, New Jersey.

2. The defendant HMS Host Toll Roads, Inc., is a corporation

created under the laws of the State of Delaware and an entity which maintains a principal place of business at 6905 Rockledge Drive, Bethesda, Maryland.

3. The defendant, South Jersey Transportation Authority, is a governmental entity created under the laws of the State of New Jersey and maintains a principal place of business at Administration Building, Frank S. Farley Service Plaza, Hammonton, Atlantic County, New Jersey.

4. The defendant, New Jersey Turnpike Authority, is a governmental entity created under the laws of the State of New Jersey and maintains a principal place of business at 581 Main Street, Woodbridge, Middlesex County, New Jersey.

5. Defendants, John Does #1 to 15, are individual employees and officials of the defendant corporate and governmental entities who made and implemented the actions hereafter complained of by the plaintiff and they are sued in both their individual and official capacities.

6. This suit arises under the United States Constitution and the laws of the United States and is brought pursuant to 42 U.S.C. §1983, together with pendent state constitutional claims.

7. The Court has jurisdiction over plaintiff's federal claims pursuant to 38 U.S.C. §1331, as an action arising under the Constitution of the United States, and 28 U.S.C. §1343(A)(3), to redress the deprivation, under color of state law, of rights

secured by the Constitution of the United States; and over plaintiffs pendent state law claims pursuant to 28 U.S.C. §1367.

8. The Court has authority to grant declaratory and injunctive relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §2201 et seq.

9. Venue is properly laid pursuant to 28 U.S.C. §1391(b) in the District of New Jersey, because the plaintiff and the governmental defendants are located in this district, and the events giving rise to the claim occurred in this district.

#### **FACTUAL ALLEGATIONS**

10. The plaintiff is the operator of a gentleman's club in Atlantic City, New Jersey which offers totally nude entertainment.

11. The majority of patrons to the plaintiff's club are tourists who travel to Atlantic City via the Atlantic City Expressway or the Garden State Parkway.

12. The defendant South Jersey Transportation Authority is the owner and operator of the Atlantic City Expressway.

13. The defendant New Jersey Turnpike Authority is the owner and operator of the Garden State Parkway.

14. The Atlantic City Expressway and the Garden State Parkway are limited access, high speed, toll roads.

15. The aforesaid defendant governmental entities have constructed along the Expressway and the Parkway a number of service and rest areas for the exclusive benefit of travelers on

their roadways.

16. In turn the defendant HMS Host Toll Roads, Inc., has entered into contracts with the aforesaid governmental entity defendants to operate the aforesaid service and rest plazas owned by them.

17. At the plazas, HMS operates restaurants and other food service facilities and maintains restroom rooms and other facilities for travelers on the aforesaid toll roads owned by the governmental entity defendants.

18. The aforesaid facilities at the plazas are for the use of all travelers on the toll roads and it is not necessary for them to be customers of HMS in order to enjoy the benefit of the public areas such as the lobbies, the public telephones or the restrooms.

19. Each of the aforesaid said plazas operated by HMS contain informational displays such as maps and racks containing information in regard to attractions and lodgings that might be of interest to travelers.

20. For over a year the plaintiff has contracted with a vendor, CTM Media, to provide advertising services for its business.

21. The aforesaid vendor places racks, which it owns, in various public locations including the lobbies of the aforesaid plazas on the Expressway and Parkway and fills them with informational brochures advertising the services of its clients.

22. On behalf of the plaintiff, CTM has placed brochures advertising plaintiff's club along with those of its other clients in its racks at the defendants' plazas.

23. Attached hereto as Exhibit A is a copy of the brochure displayed at the Expressway and Parkway plazas by CTM and such print media, advertising the plaintiff's business, is not of an obscene or lewd nature.

24. Notwithstanding the foregoing HMS has ordered CTM to remove all material advertising the plaintiff's business from its racks at the Expressway and Parkway plazas.

25. The aforesaid request has been limited to only the materials advertising the plaintiff's business and no others.

26. The only rational explanation for the aforesaid order is that the defendants disagree with the nature and content of the entertainment that the plaintiff provides to the public.

27. This content based discrimination was conceived, implemented, authorized and ratified by defendants, John Does #1 to 15.

28. By virtue of its intertwined relationship with the governmental defendants and its joint participation with them in the operation of the service plazas, HMS and its employees are state actors.

29. As a result of the aforesaid removal and censorship of all materials advertising the plaintiff's business, the plaintiff

has sustained pecuniary losses in the form of lost revenue from prospective patrons and advertising costs associated with an advertising campaign that has been diminished in value.

30. The aforesaid actions of HMS through its officers and employees were intentional and wilfully and motivated by a purpose to deprive the plaintiff on its civil rights.

**FIRST COUNT  
(First Amendment Violation)**

31. The aforesaid actions of the defendants, along with such others as maybe revealed in discovery, have deprived the plaintiff of its rights to expression as guaranteed by the First Amendment.

32. As a proximate result of the aforesaid acts, the plaintiff has suffered, and will continue to suffer, irreparable injury, in that it has been and will continue to be, deprived of its right of free expression as guaranteed by the First Amendment to the Constitution, and has been, and will continue to be, "chilled" or discouraged in the exercise of those rights.

33. As a proximate result of the aforesaid acts, the plaintiff has sustained the pecuniary damages previously set forth.

34. Pursuant to 42 U.S.C. §1988 plaintiff is entitled to attorney's fees and expert fees in connection with the bringing of the claims alleged in this count.

Wherefore, plaintiff, demands judgement against the defendants for:

a. Compensatory damages;

- b. Punitive damages against HMS and the individual defendants;
- c. Nominal damages in the event no compensatory damages are allowed;
- d. Injunctive permanently enjoining the defendants from censoring the plaintiff's advertisements;
- e. Costs of the action;
- f. Reasonable attorney's fees and costs; and,
- g. Such other and further relief as this Court may deem appropriate and just.

**SECOND COUNT**  
**(Due Process and Equal Protection Violation)**

35. The aforesaid actions of the defendants, along with such others as maybe revealed in discovery, have deprived the plaintiff of its rights to equal protection under the law in violation of the Fourteenth Amendment.

36. As a proximate result of the aforesaid acts, the plaintiff has suffered, and will continue to suffer, irreparable injury, in that it has been and will continue to be, deprived of its rights to equal protection under the law.

37. As a proximate result of the aforesaid acts, the plaintiff has sustained the pecuniary damages previously set forth.

38. Pursuant to 42 U.S.C. §1988 plaintiff is entitled to attorney's fees and expert fees in connection with the bringing of

the claims alleged in this count.

Wherefore, plaintiff, demands judgement against the defendants for:

- a. Compensatory damages;
- b. Punitive damages against HMS and the individual defendants;
- c. Nominal damages in the event no compensatory damages are allowed;
- d. Injunctive permanently enjoining the defendants from censoring the plaintiff's advertisements;
- e. Reasonable attorney's fees and costs; and,
- f. Such other and further relief as this Court may deem appropriate and just.

**THIRD COUNT  
(State Constitution Violations)**

39. The aforesaid actions of the defendants, along with such others as maybe revealed in discovery, have deprived the plaintiff of its rights of speech and association, due process and equal protection as guaranteed by Article 1, of the New Jersey Constitution.

40. As a proximate result of the aforesaid acts, the plaintiff has suffered, and will continue to suffer, irreparable injury, in that it has been and will continue to be, deprived of its rights to deprived of his right of freedom of expression and equal protection as guaranteed by constitution of New Jersey, and



has been, and will continue to be, "chilled" or discouraged in the exercise of those rights.

41. As a proximate result of the aforesaid acts, the plaintiff has sustained the pecuniary damages previously set forth.

Wherefore, plaintiffs, demand judgement against the defendants for:

- a. Compensatory damages;
- b. Punitive damages against HMS and the individual defendants;
- c. Nominal damages in the event no compensatory damages are allowed;
- d. Injunctive permanently enjoining the defendants from censoring the plaintiff's advertisements;
- e. Reasonable attorney's fees and costs; and,
- f. Such other and further relief as this Court may deem appropriate and just.

F. MICHAEL DAILY, JR., LLC  
Attorney for the Plaintiff

BY: /s/ F. Michael Daily, Jr.  
F. Michael Daily, Jr.

## Jury Demand

Plaintiff herewith demands a jury trial as to all issues which are triable by jury.

F. MICHAEL DAILY, JR., LLC  
Attorney for the Plaintiff

BY: /s/ F. Michael Daily, Jr.  
F. Michael Daily, Jr.

Dated: December 28, 2012.

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PRBA CORP ANTHONY ARIEMM

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# BARE EXPOSURE

"ATLANTIC CITY'S ONLY ALL NUDE ENTERTAINMENT"

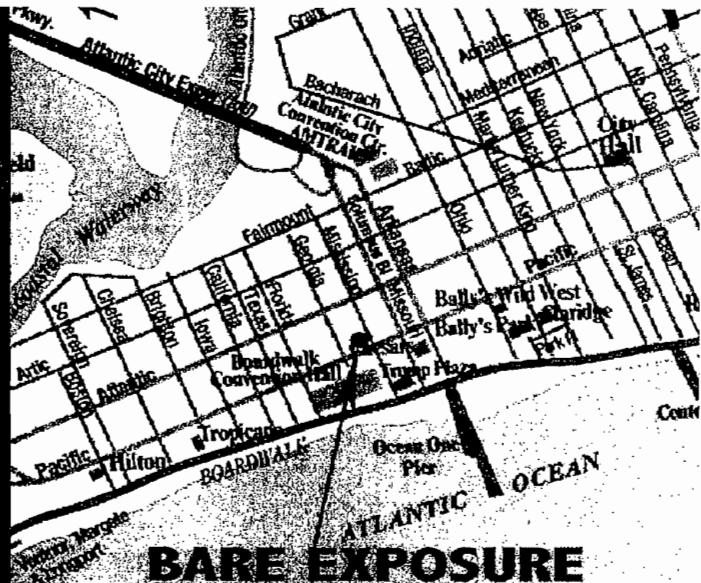


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