

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Robert Draper

1 **KASOWITZ BENSON TORRES LLP**
JOHN V. BERLINSKI (SBN 208537)
2 jberlinski@kasowitz.com
DANIEL A. SAUNDERS (SBN 161051)
3 dsaunders@kasowitz.com
KIMBERLY A. MEYER (SBN 307655)
4 kmeyer@kasowitz.com
2029 Century Park East, Suite 2000
5 Los Angeles, CA 90067
Telephone: (424) 288-7900
6 Facsimile: (424) 288-7901

7 *Attorneys for Plaintiff*
PERIWINKLE ENTERTAINMENT, INC.,
8 F/S/O SCARLETT JOHANSSON

9
10 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
11 **COUNTY OF LOS ANGELES**

12 PERIWINKLE ENTERTAINMENT, INC.,
13 F/S/O SCARLETT JOHANSSON, a
California corporation,

14 Plaintiff,

15 v.

16 THE WALT DISNEY COMPANY, a
17 Delaware corporation,

18 Defendant.

CASE NO. 21STCV27831

**COMPLAINT FOR (1) INTENTIONAL
INTERFERENCE WITH
CONTRACTUAL RELATIONS; AND (2)
INDUCING BREACH OF CONTRACT**

DEMAND FOR JURY TRIAL

19
20
21
22
23
24
25
26
27
28

1 Plaintiff Periwinkle Entertainment, Inc. f/s/o Scarlett Johansson (“Ms. Johansson” or
2 “Plaintiff”) alleges against The Walt Disney Company (“Disney”) as follows:

3 **I. INTRODUCTION**

4 1. Over the past decade, Scarlett Johansson’s work has generated billions of dollars
5 for Marvel Studios, and, by extension, its parent company, Disney. In recognition of and reliance
6 on this impressive track record, Marvel¹ and Ms. Johansson agreed that her compensation for
7 starring in the latest motion picture addition to the Marvel Cinematic Universe (“MCU”), *Black*
8 *Widow* (the “Picture”), would be based largely on “box office” receipts generated by the Picture.
9 To maximize these receipts, and thereby protect her financial interests, Ms. Johansson extracted a
10 promise from Marvel that the release of the Picture would be a “*theatrical* release.” As Ms.
11 Johansson, Disney, Marvel, and most everyone else in Hollywood knows, a “theatrical release” is
12 a release that is exclusive to movie theatres. Disney was well aware of this promise, but
13 nonetheless directed Marvel to violate its pledge and instead release the Picture on the Disney+
14 streaming service the very same day it was released in movie theatres.

15 2. The reasons for this were twofold. First, Disney wanted to lure the Picture’s
16 audience away from movie theatres and towards its owned streaming service, where it could keep
17 the revenues for itself while simultaneously growing the Disney+ subscriber base, a proven way
18 to boost Disney’s stock price. Second, Disney wanted to substantially devalue Ms. Johansson’s
19 agreement and thereby enrich itself. In the months leading up to this lawsuit, Ms. Johansson gave
20 Disney and Marvel every opportunity to right their wrong and make good on Marvel’s promise.
21 Unlike numerous other movie studios, however – including Warner Brothers who, on information
22 and belief, settled with its talent on films such as *Wonder Woman* after it released those films
23 “day-and-date” to its streaming service HBO Max last year – Disney and Marvel largely ignored
24 Ms. Johansson, essentially forcing her to file this action.

25 3. Ms. Johansson is one of Hollywood’s most well-known and talented actresses,
26 with decades of acting experience and a lengthy filmography of critically acclaimed and

27 _____
28 ¹ The contracting entity named in Ms. Johansson’s Agreement is MVL East Coast Productions, LLC (“Marvel”).

1 financially successful performances. After making her feature film debut at just 10 years old, she
2 has appeared in both comedies and dramas, including numerous award-winning films such as
3 *Lost in Translation*, *Vicky Cristina Barcelona*, *Marriage Story*, and *Jojo Rabbit*.

4 4. In 2010, Ms. Johansson proved that she could also perform in an action-packed
5 blockbuster when she appeared in *Iron Man 2*, a superhero film based upon characters and stories
6 from Marvel Comics. In that film, Ms. Johansson played “Natasha Romanoff,” better known by
7 her superhero name: “Black Widow.” For her work, she garnered significant acclaim, including a
8 Best Supporting Actress nomination from the Academy of Science Fiction, Fantasy & Horror
9 Films. She went on to reprise the role of Black Widow in six more films, helping to build what
10 would eventually become the MCU, one of the biggest and most lucrative film franchises ever
11 created.

12 5. In 2019, Marvel Studios officially announced that Black Widow and Ms.
13 Johansson would have their own film. Prior to this announcement, representatives for Marvel and
14 Ms. Johansson had finalized a deal for her services in connection with the Picture. That deal is
15 set forth in an agreement dated as of May 9, 2017 and a series of amendments thereto
16 (collectively referred to herein as the “Agreement”). At issue in this lawsuit is the portion of this
17 Agreement that guaranteed her a share of “box office receipts,” meaning receipts from movie
18 theatre ticket sales. To protect her financial interests in these box office receipts, Ms. Johansson
19 obtained from Marvel a valuable contractual promise that the release of the Picture would be a
20 “wide theatrical release.” Both parties, as well as Disney, understood this meant that the Picture
21 would initially be released *exclusively in movie theatres*, and that it would remain *exclusively in*
22 *movie theatres* for a period of between approximately 90 and 120 days. This roughly 90-120 day
23 theatrical “window” was not only industry-standard at the time the Agreement was finalized but
24 also standard practice for prior Marvel movies distributed by Disney, including those starring Ms.
25 Johansson.

26 6. In November 2019, approximately six months after the Agreement was entered
27 into, Disney launched Disney+, its wholly owned flagship subscription video-on-demand
28 (“SVOD”) service. Leading up to this launch, the SVOD market was crowded, with established

1 players such as Netflix, Amazon, and Hulu and newcomers such as HBO Now and Apple TV+ all
2 competing for subscribers. In order to convince consumers that Disney+ was worth the \$7 (now
3 \$8) monthly access fee—and to convince investors that the service would be profitable—Disney
4 announced that the offerings on Disney+ would include Disney’s entire library of films, a number
5 of library television series, original content, and—crucially—that Disney+ would eventually be
6 the go-to source to stream the MCU.

7 7. In light of these announcements, Ms. Johansson’s representatives sought
8 assurances that Marvel would hold up its end of the bargain with respect to the theatrical release
9 of the Picture guaranteed in her contract. In response, Marvel’s Chief Counsel confirmed to Ms.
10 Johansson’s representatives in May 2019:

11 We totally understand that Scarlett’s willingness to do the film and
12 *her whole deal* is based on the premise that the film would be
13 widely theatrically released *like our other pictures*. We understand
14 that should the plan change, we would need to discuss this with you
15 and come to an understanding as *the deal is based on a series of*
16 *(very large) box office bonuses*.

17 (Emphases added.) Marvel thereby confirmed the parties’ understanding that (1) the box office
18 bonus component of Ms. Johansson’s Agreement represented the lion’s share of her expected
19 compensation, and (2) the wide theatrical release that Marvel had promised would be “like our
20 other pictures,” meaning the standard Marvel/MCU 90-120 days of theatrical exclusivity.

21 8. In late March 2021, however, in direct violation of these promises and her
22 Agreement, Disney announced that the Picture would be simultaneously released in theatres and
23 on Disney+ Premier Access, a service available only to Disney+ subscribers that provides
24 unlimited on-demand access to select films for an additional \$30-per-film fee beyond the monthly
25 subscription cost. On information and belief, this was the direct result of Disney directing Marvel
26 to ignore Ms. Johansson’s Agreement and/or overruling Marvel’s wishes to comply with it. In
27 the marketing campaign that followed, Disney frequently highlighted the Picture’s upcoming
28 availability on Disney+, usually side-by-side with Ms. Johansson’s image. Throughout this
process, Ms. Johansson, through her representatives, attempted to negotiate with Marvel to reach
the aforementioned alternative “understanding” that Marvel’s Chief Counsel had promised under

1 these circumstances. Ultimately, however, Marvel ignored this outreach, no resolution was
2 reached, and the Picture was simultaneously released in theatres and on Disney+ Premier Access
3 on July 9, 2021.

4 9. To no one's surprise, Disney's breach of the Agreement successfully pulled
5 millions of fans away from the theatres and toward its Disney+ streaming service. According to
6 Disney's own self-congratulatory press releases, the Picture grossed more than \$60 million on
7 Disney+ Premier Access in its first weekend alone.

8 10. As numerous publications noted, this strategy dramatically decreased box office
9 revenue for the Picture. According to an article from one well-known Hollywood trade journal
10 published three days after the Picture was released: "Veteran distribution executives say it's clear
11 that the availability of the movie on Disney+ cannibalized box office, noting that an entire
12 household might have gone to see the movie in the theatre but could instead pay just \$30 to watch
13 it together at home." Another article from a different, but equally well-known and established,
14 industry publication declared: "There's no question that the Disney+ Premier availability of
15 *Black Widow* ate into its domestic opening weekend box office." Notably, however, Disney's
16 stock price jumped 4% in the days following the Picture's release.

17 11. Of course, this was Disney's plan all along. Disney knew that a "day-and-date"
18 release on Disney+ would drive up the total number of Disney+ subscribers—a key metric
19 impacting Disney's stock price—both by luring new subscribers to Disney+ and by giving
20 existing ones reasons to keep paying their monthly fees, thus reducing subscriber "churn."
21 Disney also knew that having such a well-known film as the Picture debut on Disney+ would help
22 it justify future price increases to the Disney+ monthly subscription fees. Moreover, Disney
23 knew that its ability to deliver blockbuster content like *Black Widow* to its subscribers would
24 perpetuate the view of many investors—as reflected in Disney's share price—that Disney+ is the
25 only streaming platform that has a chance to one day compete with rival streaming giant Netflix,
26 providing another way to bolster Disney's market valuation. In short, Disney chose to placate
27 Wall Street investors and pad its bottom line, rather than allow its subsidiary Marvel to comply
28 with the Agreement.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.