

12-Person Jury

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

FILED
5/10/2019 2:17 PM
DOROTHY BROWN
CIRCUIT CLERK
COOK COUNTY, IL
2019L005132

ROBERT M. GARBER and)
RMG SPORTS GROUP, LLC)
d/b/a RMG BASEBALL, LLC)
)
Plaintiffs,)
)
vs.)
)
MERRILL LYNCH, PIERCE, FENNER)
& SMITH INC.)
and)
BRUCE LEE, individually)
)
Defendants.)

5011663

Case No.: 2019L005132

JURY DEMANDED

COMPLAINT

Plaintiffs ROBERT M. GARBER and RMG SPORTS GROUP, LLC d/b/a RMG
BASEBALL, LLC, by and through their attorneys, KONICEK & DILLON, P.C., for their
Complaint against Defendants MERRILL LYNCH, PIERCE, FENNER & SMITH INC. and
BRUCE LEE, an individual, state as follows:

PARTIES

1. Plaintiff RMG Sports Group, LLC d/b/a RMG Baseball, LLC ("RMG") is a Florida limited liability company.
2. Plaintiff Robert M. Garber ("Garber") is the President of RMG, a certified Player-Agent with the Major League Baseball Players Association ("MLBPA") and a member of the Illinois State Bar.

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3. Defendant Merrill Lynch, Pierce, Fenner & Smith Incorporated (“Merrill Lynch”) is a Delaware Corporation with its principle place of business in Charlotte, North Carolina. Merrill Lynch does business and has an office located in Cook County, Illinois.

4. At all relevant times, Defendant Bruce Lee was an Illinois resident working in Cook County, Illinois.

5. At all relevant times, Defendant Bruce Lee was employed by Merrill Lynch to provide financial advising and wealth management services at Merrill Lynch’s Chicago office.

JURISDICTION AND VENUE

6. This Court has jurisdiction over Defendants pursuant to 735 ILCS 5/2-209.¹

7. Venue is proper in this Court pursuant to 735 ILCS 5/2-101(1).²

FACTS COMMON TO ALL COUNTS

A. RMG and Garber’s Contract with JD Martinez

8. At the end of the 2017 Major League Baseball (“MLB”) season, star outfielder JD Martinez was one of the premier baseball players set to become a free agent during the impending offseason.

9. Throughout 2017, Plaintiffs Garber and RMG provided agent representation for Martinez, just as Plaintiffs had provided to Martinez since 2010.

10. In October 2017, Martinez and Plaintiffs were contractually bound by a Representation Agreement for one (1) year that Martinez signed on April 13, 2017.

¹ Defendants actions submitted them to this court’s jurisdiction under 2-209(a)(1)-(3). This Court is also allowed to exercise jurisdiction against Defendants via 2-209(b)(4).

² As a foreign corporation authorized to transact business in Illinois, defendant Merrill Lynch is a resident of Cook County, Illinois under 2-102(a).

11. The 2017 Representation Agreement was for a period of one year, from April 13, 2017 to April 13, 2018, and named RMG as Martinez's "exclusive single representative for all baseball related matters including, but not limited to, contract negotiations... [and] free agency[.]" (Representation Agreement, EXHIBIT A, at ¶ II).

12. Under the 2017 Representation Agreement, Martinez also agreed "to pay RMG, as compensation for contract negotiations, five percent (5%) of the Player's gross baseball related income." (Ex. A, at ¶ III).

13. Gross income under the 2017 Representation Agreement was defined "as income before payroll deductions, e.g. income tax and social security." (Ex. A, at ¶ III).

14. Thus, the benefit of the bargain for RMG and Garber under the 2017 Representation Agreement was 5% of the Martinez's 2017 salary, as well as the privilege to negotiate Martinez's free agency contract following the 2017 season, for which RMG and Garber would receive 5% of the amount of Martinez's new contract.

15. During the 2017 season, JD Martinez flourished for the Detroit Tigers and Arizona Diamondbacks, with 45 home runs in less than 120 games played and leading the Major Leagues in slugging percentage.

16. Accordingly, Martinez was projected to enter into a contract worth between \$100 million and \$200 million during the 2017 offseason. Under the Representation Agreement, Plaintiffs would benefit from their bargain with Martinez by earning 5% of that new contract's amount through their representative services.

B. Bruce Lee and Merrill Lynch's Relationship with JD Martinez through Garber

17. In or around March 2016, Garber introduced Martinez and several other clients to Merrill Lynch employee Bruce Lee. Lee was not only a family friend of Garber, but Garber had also personally invested with Lee. Garber believed Lee was a loyal friend and business man.

18. Garber, believing Lee was loyal, introduced Martinez and other clients to Lee so that they could benefit from Lee and Merrill Lynch's wealth management services and expertise.

19. Lee and Merrill Lynch were subsequently hired by Martinez.

20. At all times relevant, Lee and Merrill Lynch were still providing wealth management services for Martinez and other Plaintiffs' clients.

C. Bruce Lee Interferes with the 2017 Representation Agreement

21. As the 2017 MLB free agency period approached, agent Scott Boras began to make efforts to lure Martinez into breaking his contract with RMG.

23. At the same point in time, Lee learned that Scott Boras was attempting to lure Martinez from RMG.

24. Lee asked his staff to research Scott Boras.

25. Lee learned from his staff's research that Boras represented many professional baseball players who earned over \$100 million.

26. Upon learning of Boras' impressive book of clients, Lee decided to grab an opportunity to get a foothold into the lucrative list of baseball clients represented by Scott Boras by using Martinez as his bait.

26. In order to gain access to Boras' book of clients and thereby obtain a host of new, wealthy clients for himself and his employer, Merrill Lynch, Lee began a secret scheme to influence Martinez to drop RMG and sign with Scott Boras.

27. In late October 2017, mere days before MLB free agency began, Lee had several phone conversations with Martinez.

28. In those phone conversations, Lee told Martinez to terminate his contractual relationship with RMG and Garber, telling Martinez, among other fabrications, that Bob [Garber] is done, Bob [Garber] is a hack and that Bob [Garber] will sell him short.

29. Lee told Martinez that he should sign with Scott Boras instead.

30. When Lee made these statements to Martinez, he knew Martinez would be influenced by his advice and comments, as Martinez trusted Lee.

31. Lee advised Martinez to terminate his contract with RMG and Garber for his and his employer Merrill Lynch's pecuniary gain through potential referrals from Scott Boras and access to Boras' book of clients.

32. Shortly thereafter, on October 31, 2017, Martinez terminated the 2017 Representation Agreement and terminated his relationship with RMG and Garber. Martinez then signed with Scott Boras, and Boras negotiated Martinez's free agent contract during the 2017 offseason.

33. Shortly after Martinez signed with Boras, Lee's plan worked and he secured a meeting with the Boras Corporation in Newport Beach, California in November 2017 to discuss possible referrals for Lee's financial advisor services.

34. On or about February 19, 2018, Martinez signed a contract with the Boston Red Sox that will earn him \$110 million total from 2018 through 2022. Rather than receiving 5% of that contract, Plaintiffs received nothing.

COUNT I – TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS

35. Plaintiffs incorporate and allege Paragraphs 1 through 34 as though set forth more fully herein.

36. A valid contract existed between Plaintiffs and JD Martinez in October 2017.

37. Plaintiffs had a contractual expectation to represent Martinez in his free agency negotiations and earn 5% of the contract that Martinez earned in free agency.

38. Lee knew that Plaintiffs and Martinez had a contract for Plaintiffs to provide sports agent services to Martinez in exchange for a portion of Martinez’s earnings.

39. Lee intentionally and unjustifiably induced Martinez to terminate his contract with Plaintiffs.

40. As a direct and proximate result of Lee’s tortious interference, Martinez terminated his contract with Plaintiffs.

41. As a result, RMG and Garber lost significant amounts of money and will continue to suffer future economic damages, lost future clients, will continue to suffer damage to their reputation, and lost profits.

WHEREFORE, for all of the foregoing reasons, Plaintiffs RMG SPORTS, INC. and ROBERT M. GARBER request that this Honorable Court enter a judgment in their favor and against Defendants in a compensatory amount to exceed \$50,000, and punitive damages, and for such other and further relief as this Court shall deem just and proper.

COUNT II – TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS

42. Plaintiffs incorporate and allege Paragraphs 1 through 41 as though set forth more fully herein.

43. A valid contract existed between Plaintiffs and JD Martinez in October 2017.

44. Plaintiffs had a contractual expectation to represent Martinez in his free agency negotiations and earn 5% of the contract that Martinez earned in free agency.

45. Merrill Lynch, through their employees, Lee and his staff, knew that Plaintiffs and Martinez had a contract for Plaintiffs to provide sports agent services to Martinez in exchange for a portion of Martinez's earnings.

46. Merrill Lynch, through its employee, intentionally and unjustifiably induced Martinez to terminate his contract with Plaintiffs.

47. As a direct and proximate result of Merrill Lynch's employee's tortious interference, Martinez terminated his contract with Plaintiffs.

48. As a result, RMG and Garber lost significant amounts of money and will continue to suffer future economic damages, lost future clients, will continue to suffer damage to their reputation, and lost profits.

WHEREFORE, for all of the foregoing reasons, Plaintiffs RMG SPORTS, INC. and ROBERT M. GARBER request that this Honorable Court enter a judgment in their favor and against Defendants in a compensatory amount to exceed \$50,000, and punitive damages, and for such other and further relief as this Court shall deem just and proper.

Respectfully submitted,



Attorneys for Plaintiffs

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RMG BASEBALL, LLC
445 West Erie Street, Ste. 205
Chicago, IL 60654

PLAYER/AGENT REPRESENTATION AGREEMENT

RMG Baseball, LLC. ("RMG") and J.D. Martinez ("Player") have entered into this Agreement on this 13th day of April 2017. Player freely enters into this Agreement with RMG, and each shall be bound by the following:

I. TERM:

The term of this Agreement will be for a period of one (1) year. Player further agrees that during the term of this Agreement he will not enter into any other agreement with any other person, firm or entity for the performance of any services described in the paragraphs below unless Player has terminated this Agreement and their obligations hereunder in writing. In the event of termination of this Agreement, Player agrees to pay RMG for all services already rendered by RMG for successfully negotiating a contract signed by Player.

II. SERVICES:

Player retains RMG as his exclusive single representative for all baseball related matters including, but not limited to, contract negotiations, salary arbitration, trades, free agency, grievances, suspensions, injuries, etc. In addition, RMG shall handle all dealings with the Major League Baseball Clubs, Major League Baseball, Commissioner, etc. (hereinafter referred to as "baseball representation"). If outside counsel is obtained for Player for special purposes, it is the Player's responsibility to pay all fees and expenses for outside legal counsel upon prior agreement and discussion with RMG.

III. COMPENSATION:

A) GROSS BASEBALL INCOME - Player agrees to pay RMG, as compensation for contract negotiations, five percent (5%) of the Player's gross baseball related income. Gross income shall be defined as income before payroll deductions, e.g. income tax and social security. (Bonuses shall be included in the salary only if earned and the fee restrictions set forth in section 6 (I) of the MLBPA Regulations governing Player Agents shall not apply to free agents). Baseball related compensation shall include: base salary, deferred compensation, bonuses, assignment and option termination payments, and other compensation included in any professional baseball team contract entered into by Player during term of this Agreement. No fees shall be charged for star bonuses or other award bonuses, or for any Spring Training, Postseason or World Series bonuses.

Said fees when deducted from a Major League base salary shall not result in a net amount below the Major League minimum salary.

B) FOREIGN BASEBALL - Player agrees to pay RMG, as compensation for representation and contract negotiations in Japan, Korea, or any other foreign country, ten (10%) percent of Player's gross baseball related income.

C) MINOR LEAGUE FREE AGENCY - Players signing a National Association contract, as a free agent, shall pay the greater of two thousand five hundred (\$2,500) dollars or five (5%) percent of their combined Minor League and Major League gross earnings. The fee restrictions set forth in the aforementioned section 6 (I) of the MLBPA Regulations governing Player Agents shall not apply.

D) MARKETING - Player agrees to pay RMG, as compensation for marketing services, twenty (20%) percent of the Player's gross marketing related cash income. This includes, but is not limited to, licensing revenue (specifically and expressly excluding MLBPA royalty money), fees for personal appearances, merchandising, and business enterprises.

EXHIBIT
A

IV. PAYMENT:

Payment to RMG shall be made in the same manner as Player is being paid by Employer. Player's obligation to pay accrued fees survives the expiration or termination of the Player/Agent Representation Agreement. In the event that this Agreement is terminated, Player shall still be obligated for the full fee negotiated by RMG and be invoiced monthly through the remainder of the term of the Player's Uniform Player Contract. All past due fees shall accrue interest at one percent (1%) per month. A balance becomes past due thirty (30) days after the date of invoice.

V. PAYMENT FOR SERVICES RENDERED:

Should Player, for any reason, terminate RMG during the term of this Agreement, fees will be due to RMG as follows: If, at Player's request, RMG engages Player's current team in contract extension negotiations (while Player is under a current contract), or in the case of free-agent negotiations with any other team on a new contract and such negotiations culminate in a contract offer to Player, prior to the time of termination, RMG may receive any amount determined just and fair by an MLBPA appointed Arbitrator based on the principles of equity. Player agrees to remit to RMG any payments awarded by the Arbitrator in accordance with any award.

VI. PUBLIC RELATIONS:

RMG shall have the right to use, publish, print and reproduce Player's name, likeness and biography in order to obtain for Player publicity and to increase Player's desirability as a product and service endorser. Player shall provide RMG with all necessary biographical information, photographs and video tapes to market Player pursuant to this paragraph.

VII. EXPENSES:

RMG will pay all of their own travel, telephone and other expenses with respect to his obligation to the Player under Paragraph II. With respect to salary arbitration cases that go to trial or are settled in the trial city, Player shall pay his own expenses for all travel and other related expenses incurred upon settlement in the trial city or upon trial.

VIII. DISPUTES:


All disputes between Player and RMG, except for any dispute that arose at a time when the relationship between the parties was not that of agent and player, shall be resolved exclusively in accordance with the final and binding arbitration procedures set forth in Section 7(A) of the MLBPA's Regulations Governing Player Agents. This paragraph supersedes any provision in this or any other agreement between these parties that is or may appear to be in conflict with this paragraph.

IX. MISCELLANEOUS:


If any paragraph of this Agreement shall be declared void or otherwise without effect, said paragraph shall not affect the remaining paragraphs of the Agreement which shall then constitute the entire Agreement between the parties and which shall continue in full force and effect. RMG has explained to Player the substance of the provisions of this Agreement and Player understands the content hereof. This contract shall be subject to the rules and regulations of the MLBPA and shall be interpreted pursuant to the provisions established thereby.

RMG agrees that it will comply with all provisions of the MLBPA's Regulations Governing Player Agents and any subsequent amendments to those Regulations adopted by the MLBPA's Executive Board.

IN WITNESS WHEREOF:



Robert M. Garber, President
RMG Baseball, LLC.



J.D. Martinez, Player
Detroit Tigers

