

THE TIMESHARE LAW FIRM

Plaintiffs Counsel, Ryan Price
Tennessee Bar No.: 039688
5800 Central Ave Pike, No. 2505
Knoxville Tn. 37912
8152589810
RyanPrice@thetimesharelawfirm.com

**IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE**

JUDITH RUSSELL,

vs.
Plaintiff,

TRAVEL + LEISURE CO. aka
WYNDHAM WORLDWIDE
OPERATIONS, INC.,
d/b/a WYNDHAM VACATION
OWNERSHIP, INC., aka
WYNDHAM DESTINATIONS and
JOSHUA DRIVER, individually;

Defendant.

Case No.:
Dept. No.:

COMPLAINT

**FOR STATUTORY ENFORCEMENT AND
RELIEF; AND FOR A SECONDARY TRIER
OF FACT TO ASSESS PUNITIVE DAMAGES.**

COMPLAINT

The Plaintiff, Judith Russell by and through her counsel of record, Ryan Price of THE TIMESHARE LAW FIRM, hereby alleges and complains against the Defendants TRAVEL + LEISURE CO. and JOSHUA DRIVER as follows:

PARTIES

1. The Plaintiff is a natural person who has very limited resources, but is forced by extraordinary circumstances to sue a billion-dollar timeshare conglomerate that would not release her in a no-money settlement, despite full disclosure from her attorney that the timeshare

contract was sold by unlawful methods detailed herein showing overt and willful violations of Tennessee law, *set forth infra*.

2. The Plaintiff in this matter is Ms. Judith Russell.
3. The Plaintiff claims violations of Tennessee law regarding timeshare sales, along with other statutory violations pertaining to these timeshare sales within Davidson County, Tennessee.
4. The Plaintiff sues in her individual capacity, and in capacity as a spouse to the extent that any principles of Community Property law or other laws may apply to the spouse's joint assets or debts.
5. Defendant, Travel + Leisure Co. ("Wyndham", herein) is a billion-dollar timeshare conglomerate with corporate headquarters located in Orlando, Florida at 6277 Sea Harbor Drive.
6. Defendant has timeshare resort/hotel and sales facilities in Davidson County, Tennessee named *Club Wyndham Nashville* located at 2415 McGavock Pk, Nashville, TN 37214.
7. Defendant has a Tennessee Business Identification No. 000511564, and a registered agent at 2908 Poston Ave, Nashville, TN 37203.
8. Travel + Leisure Co. includes all of its subsidiaries and brands which are under its control as the parent company.
9. The true names and capacities, whether individual, corporate, associate or otherwise of the Defendant are unknown to the Plaintiff at this time, who therefore sue said Defendant by fictitious names and will ask leave of the Court to amend this Complaint to show the true names and capacities of said Defendant when the same are ascertained.

10. The Defendant is sued as principals and/or agents, servants, attorneys, and employees of said principals, and all the acts performed by them were within the course and scope of their authority.

11. Plaintiff is informed and believe and thereupon allege that Defendant is legally responsible for the events and happenings referred to herein and has directly and proximately caused the damages and injuries to Plaintiff as hereinafter alleged.

12. Unless otherwise indicated, using Defendant's name in this Complaint includes its predecessor entities, d/b/a entities, affiliates, subsidiaries and agents, employees, officers, directors, principals, trustees, and representatives.

13. Travel + Leisure Co. is the parent company to all such entities and persons under its control, including all those listed in the preceding paragraphs.

14. Joshua Driver is an agent of Defendant Wyndham who facilitated the statutory violations and fraud against Plaintiff.

15. Mr. Driver is sued in his individual capacity for his participation in the fraud scheme and violations of statute.

JURISDICTION AND VENUE

16. The Davidson County Circuit Court, Davidson County, Tennessee, has original jurisdiction over this matter pursuant to Tenn. Code Ann. § 16-10-101.

17. Plaintiff received a Wyndham branded timeshare from Defendants.

18. Defendant sold a timeshare using contract documents that were formed and enforced within the State of Tennessee at the Defendant's sales facilities located in Davidson County.

19. Pursuant to Tenn. Code Ann. § 66-32-118, the Plaintiff seeks a determination that the contract is void for violations of the Tennessee Timeshare Act. The Plaintiff further seeks an adjudication that any of the contract's subparts (including any litigation rule or litigation restrictions, or any contract documents' provisions) are similarly void. Tenn. Code Ann. § 66-32-114.

20. Plaintiff avails herself of Tennessee law, under which there exists no lawful basis for the Defendant to execute or collect money upon an unlawful, thus *defective* contract instrument.

21. Plaintiff has complied with Tenn. Code Ann. § 66-32-119 by filing this Complaint for relief within four (4) years of the timeshare purchase.

22. Additionally, Plaintiff requests that the contract be held unenforceable for fraud, and because she never signed the contract.

23. Venue is proper in the Davidson County Circuit Court, located in Davidson County, Tennessee, pursuant to Tenn. Code Ann. § 20-4-104(1) because the Defendant is a non-natural person, and all of the events or actions giving rise to the cause of action occurred within Davidson County, Tennessee.

FACTS

24. The Plaintiff alleges the following facts.

25. In its Tennessee timeshare facility located in Nashville, Tennessee, the Defendant sells a points-based booking system for hotel rooms that are located within, and outside of Nashville, Tennessee.

26. Plaintiff previously purchased a timeshare in Myrtle Beach. This contract was later upgraded.

27. Plaintiff subsequently requested release from the contract, and Wyndham complied with this release. Plaintiff was refunded the down payment on her timeshare.

28. Defendant did not inform Plaintiff of her release, and instead sent her an offer for a 4 day 3 night stay in Nashville. This offer was only available for current timeshare owners.

29. Plaintiff accepted this offer and attended a timeshare owners meeting on Dec 11th, 2019.

30. Upon arriving at the meeting and presenting her owners card, she was told that she was no longer a timeshare owner. This was the first time she had learned of her release.

31. She was then directed to the office of Joshua Driver.

32. Mr. Driver stated that there was an issue but refused to elaborate on what that issue was.

33. Plaintiff spent the next two hours in Mr. Driver's office while he worked on his computer. Mr. Driver refused to inform the Plaintiff what was happening, what he was doing, or even what issue he was concerned with.

34. Any request for information that Plaintiff made was met with statements that Mr. Driver did not want to be there, and that he was supposed to have already left the building. He never answered her questions as to what problem he was fixing, or how he was fixing it.

35. Plaintiff was confused and stressed during these two hours because she had no idea what was going on.

36. At the end of the two hours, without any explanation as to what he had done, Mr. Driver handed Plaintiff a flash drive.

37. Plaintiff stated that she does not own a computer, has no access to a computer, and cannot possibly use the flash drive.

38. Mr. Driver's response was to tell her to throw away any other paperwork she had previously received as everything was now on the new flash drive.

39. Plaintiff did not sign any documents. Plaintiff did not receive any other documents or information.

40. Plaintiff was not allowed to read, see, or even sign any contract or public offering statement.

41. Mr. Driver never made any statements or gave any paper indicating that he was a licensed real estate agent.

Public Offering Statement Noncompliance

42. The Tennessee Public Offering Statement (“TNPOS” or “POS” herein) requirements under Tennessee law have been willfully violated by the Defendant as shown by the Plaintiff’s Affidavit.

43. The POS requirements under Tennessee law mandates that a timeshare entity selling a timeshare on Tennessee soil:

(1) Provide a TNPOS before the transfer of a timeshare; and,

(2) No later than the date of any sales contract.

44. The TNPOS contains advisories, warnings and disclosures that are all mandated by Tennessee law to be given to prospective timeshare purchasers.

45. Defendant failed to provide the Plaintiff with TNPOS that complies with the requirements of statute. Defendant’s POS was hidden from the Plaintiff and was not provided in a form that she could access.

46. Defendant hid the public offering statement on a flash drive containing hundreds of pages of documents. Further, the flash drive given was completely unusable by the Plaintiff because she does not own a computer and has no access to one. Defendant was explicitly told that the

flash drive was unusable, and the Defendant still did not give the Plaintiff an accessible version of the POS.

47. Defendant's surreptitious behavior prevented the Plaintiff from ever finding the public offering statement.

48. Defendant conducted this business within Davidson County, Tennessee directly with the Plaintiff herein.

49. Defendants are subject to real estate regulations and statutory claims of the State of Tennessee ("Tennessee law" herein) that apply to all timeshare sales conducted within the State of Tennessee.

50. Wyndham sold the Plaintiff a timeshare through its Sales Agents [all references to Sales Agents herein, shall automatically incorporate all persons under the Defendant parent company that had direct contact with the Plaintiff in the offering and sales transaction, including any subsidiary of Defendant.

51. Defendant used Mr. Driver as a Sales Agent, as defined by Tenn. Code Ann. §66-32-102 (17), in the Plaintiff's case.

52. The Defendant was noncompliant with Tennessee law in the failure to comply with the Tennessee Public Offering Statement requirements (in particular the POS provision *before* the transfer of the timeshare) as set forth in Tenn. Code Ann. §66-32-114. *See, FIRST CLAIM FOR RELIEF.*

53. The TNPOS consumer advisories, warnings, and disclosures, required by Tennessee law, would have also alerted the Plaintiff to a ***Right to Cancel*** a timeshare sales contract within 10 calendar days pursuant to §66-32-114.

54. Pursuant to Tenn. Code Ann. §66-32-112(9), the Right to Cancel is required to be disclosed in the TNPOS.

55. Furthermore, TREC rules requires that the 10-day cancellation provision is shown in bold and conspicuous type. TREC Rules 1260-06-.04.

56. Defendant's failure to provide a POS is designed to prevent the consumer from receiving the consumer advisories, warnings, and disclosures of the TNPOS before the timeshare transfer.

See, FIRST CLAIM FOR RELIEF.

57. The TNPOS would have exposed certain consumer warnings mandated in Tenn. Code Ann. §66-32-112. *See, Plaintiff Affidavit at ¶ 17.*

58. Specifically, Tenn. Code Ann. §66-32-112 requires the timeshare seller disclose: (9) that there is a 10-day cancellation period; (11) any restraints on alienation; and, (13) any fee or expected fee associated with use of the timeshare facility. *See, Plaintiff Affidavit at ¶ 7, 19.*

59. Defendant's willful and consistent noncompliance with the TNPOS requirement is driven by the knowledge that compliance with the statute will undoubtedly result in a massive reductions in sales.

Multi-Hour Physical/Mental Wear-Down

60. The Plaintiff's Affidavit shows at ¶ 11 that the wear-down process lasted **2 Hours**.

61. Plaintiff anticipated a short conversation but was met with a multi-hour procedure that was designed to physically wear her down, stress her out, and confuse her. *See, Plaintiff Affidavit at ¶ 12.*

62. Defendant wore down, stressed, and confused the Plaintiff in order to make her more compliant with the contract that was assigned to her.

63. Defendant had complete control of all the documents and did not let the Plaintiff see any of them. *See, Plaintiff Affidavit at ¶ 12-14, 17, 19.*

64. Plaintiff did not sign any contract.

Specified Disclosures Under Tennessee Law

65. Provision and Review of the POS would have given substantial disclosure information.

66. The Tennessee statute requires the POS be given before closing so that buyers like the Plaintiff have more to rely on than mere oral representations.

67. However, Plaintiff was denied these consumer advisories, warnings, and disclosures. Joshua Driver, Wyndham's sales agent had *professional duties of conduct* as a real estate licensee, and thus is subject to:

Regulation by the Tenn. Real Estate Commission for Deceptive Sales Practices, and is subject to regulatory enforcement for its sales practices.

68. If the Plaintiff had received the TNPOS, she could have discovered such TNPOS consumer advisories, warnings, and disclosures.

69. And even afterwards, the Plaintiff could have availed herself of a statutory right to cancel, had she known it existed within the documents.

70. *If the Tennessee Real Estate Commission had told the Plaintiff through the TNPOS's written documents, different information, and disclosures concerning the timeshare, she may not have been subjected to Wyndham's contract.*

71. Plaintiff never received, let alone reviewed, the POS and thus was denied the protection of the TNPOS statutes.

72. Defendant has deliberately, consistently, and systematically withheld provision of the TNPOS. *See, Tenn. Code Ann. § 66-32-114.*

73. Wyndham's refusal to lawfully provide the Plaintiff the Tennessee Public Offering Statement did thereby violate the unequivocal mandates of Tenn. Code Ann. § 66-32-112, 114. *also see, Tennessee law cited herein under the FIRST CLAIM FOR RELIEF.*

74. These actions are punishable under Tenn. Code Ann. §66-32-118.

75. Wyndham has been defiant and openly hostile to Tennessee law. *Thus appropriate for Punitive Damages. See, THIRD CLAIM FOR RELIEF.*

76. Because of the Defendant's violations of Tennessee law cited in this Complaint, Defendant has harmed the Plaintiff by failure to provide the TNPOS.

Failures of Compliance with Tennessee Law

77. The presence of a TNPOS, would cause many consumers to seek legal advisement.

78. Every reasonable lawyer, when presented with the contract documents, would inevitably advise clients against such a timeshare purchase with terms such as those imposed by the Defendant upon the Plaintiff.

79. Such contract terms include substantial limitations imposed on hotel room bookings and substantially higher costs as compared to simply booking online.

80. Here, the Plaintiff's costs were estimated at six times the online cost or an estimate of **660%** higher cost.

81. The Plaintiff received six nights for a week's vacation annually. But after paying the monthly amount of loans and fees, Plaintiff's costs are estimated at over six times the amount of an online booking. Plaintiff's nightly cost is readily reached by calculating the monthly payment amount and then dividing that by the actual use-nights.

82. A quick comparison of that mathematical figure of the timeshare's cost to book, versus booking online, would reveal that Wyndham timeshare "owners" (as the Sales Agents refer to them) end up paying far more money to book than the public (and the public does not have the same imposed booking restrictions).

83. In most cases in the past litigation with this Defendant this costs 5 to 10 times the amount it cost to book online.

84. Here, the Plaintiff paid, as a Wyndham "owner", an estimate of:

660% higher costs than the cost to book online.

85. As a result, this timeshare purchase cost the Plaintiff about six times more money than what the same accommodations would cost a member of the public to book online.

86. And the online booking consumer, unlike the Plaintiff who was a Wyndham "owner", would have been booking without obtuse booking restrictions.

87. Timeshare owners like the Plaintiff must book eleven (11) months in advance by using a resort-industry created booking company. There is no alternative booking method.

88. There is highly limited availability for the bookings.

89. Discrepancies such as costs, use rights, false or deceptive promises, and other inducements could have been uncovered after reading the TNPOS *if* the TNPOS and its cancellation law disclosures had been presented to the Plaintiff.

90. Potential purchasers reading the TNPOS would be alerted to the financial dangers of timeshare ownership, and then could easily do an Internet search for more information. Many consumer reporting sites contain such information, including: ***Various consumer ratings and***

BBB sites, ComplaintsBoard.com, RippOffReport.com, PissedConsumer.com, and social media websites, such as Wyndham owner/victim groups posting on *Facebook*.

91. These consumer posting resources contain huge volumes (numbering in the tens of thousands) of dissatisfied owners of Defendant Wyndham's timeshares that have alleged they were victims of misrepresentations.

92. An inquisitive purchaser researching *eBay.com* and archives of its webpages for Wyndham sales offerings would have discovered a long history of undeniable data: Defendant Wyndham's timeshares are not selling for even \$1.00.

TNPOS Provision Compliance

93. If the TNPOS advisories, warnings, and disclosures had been disclosed in an open light, Plaintiff would not have been subjected to Defendant's contracts.

94. The salient facts raised herein are seen in the following Plaintiff Affidavit.

PLAINTIFF'S AFFIDAVIT

Judith Russell Affidavit

1. My name is Judith Russell and I declare under penalty of perjury that the foregoing is true and correct.
2. I purchased a Wyndham timeshare in Myrtle Beach on August 2, 2019, and later my account was upgraded.
3. I was dissatisfied with the upgrade and requested to be released from my contract.
4. Wyndham accepted my release, and I received a credit to my timeshare account for the remainder of the balance. This refund is reflected in my bank statements.
5. However, they did not inform me of this release, and I did not know that my contract had been terminated.
6. In August, I received a letter from Wyndham offering a free 4 day 3 night stay at a Nashville location.
7. The offer was for current timeshare owners, which I believed I still was.
8. I arrived for my stay on December 11th, 2019.
9. When I arrived, I was told that I was no longer a member and that I would need to speak with someone about my status.
10. I was directed to the office of Josh Driver. He stated that something was incorrect, but did not tell me what was incorrect.
11. I spent the next two hours in his office while he worked on his computer. He did not inform me what was happening, what he was doing, or what issue he was concerned with.
12. During the time I was in Mr. Driver's office, I was confused and stressed because I did not know what was going on.
13. He repeatedly made statements that he did not want to be there, and that he was rushing through whatever he was doing because he was supposed to have already left the building.
14. At the end of the two hours, he handed me a flash drive and told me the problem was resolved. He offered no further explanation as to what the problem was or how he had solved it.

15. I informed him that I do not own a computer, that I have no access to a computer, and that I cannot possibly use the flash drive.
16. His response was to tell me to throw away anything else I had received because it was all on the new flash drive.
17. While I was in his office, I do not recall signing any documents, and I did not receive any paper documents. The only thing I received that day was a flash drive that I cannot possibly use.
18. I left that room \$74,000 in debt for an upgrade that I did not agree to, on a contract that I had already been released from.
19. I was not given or permitted to read any contract documents, public offering statement, or public offering statement receipt.
20. Mr. Driver never stated that he was a licensed real estate agent, and he never gave me any paperwork stating that he was a licensed real estate agent.
21. It is my impression that he reopened my closed account and “upgraded” it.
22. I have asked again to be released, and Wyndham has refused to release me from this contract.
23. Wyndham refused to let me out, and I had to seek representation from a law firm to assert my claims for deceit in the sale of this timeshare. The law firm also made requests for no-money relief, however, Wyndham has consistently rejected my attempts to free me from this contract built on false promises, even though I was willing to give up all of our losses to just get good faith relief.

Signature: 

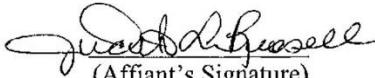
Date: 08 / 09 /2022

Notarization:

Location: Lewis County

____ makes her statement and affidavit upon oath and affirmation of belief and personal knowledge that the matters, facts, and statements aforementioned are true and correct to the best of her knowledge:

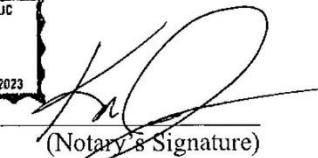
Dated this 9 day of Aug, 2022.


(Affiant's Signature)

Sworn to and subscribed before me this 9 day of Aug, 2022.

(Seal)




(Notary's Signature)

My commission expires: June 19, 2023

Expected Fabricated Defense

95. The Defendant has fabricated a facade in an attempt to outmaneuver POS requirements.
96. Defendant relies upon a TNPOS Receipt document signed by Timeshare Purchasers stating that they were provided the Tennessee Public Offering Statement documents before the contract signing and transaction consummation. *See*, Plaintiff Affidavit at ¶ 17, 19.
97. However, the Plaintiff did not receive a TNPOS before being subjected to the Defendant's contract documents and high-interest liens and rising annual fees. *See*, Plaintiff Affidavit at ¶ 17, 19.
98. Defendant attempts to use the TNPOS "Receipt" requirement of TREC Rule 1260-06-02 to circumvent the requirements of Tenn. Code Ann. § 66-32-114, making a buyer sign the POS receipt without ever showing the buyer the POS as required under Tenn. Code Ann. § 66-32-114.

99. Plaintiff never received such receipt, and certainly never signed one.

FIRST CLAIM FOR RELIEF
(Public Offering Statement Mandate)

100. Plaintiff incorporates by reference all the preceding paragraphs, as though fully set forth herein.

101. Defendant failed to provide the Plaintiff with a POS that complies with statute.

102. Tenn. Code Ann. § 66-32-114 requires timeshare sellers to provide a POS on the day of the transfer.

103. However, the Defendant hid the POS given to the Plaintiff to prevent her from ever discovering it. Defendant was successful as the Plaintiff did not ever find her POS.

104. Further, Defendant gave her a POS that it knew would be inaccessible to her.

The Contracting Process

105. The entire process was controlled by Mr. Driver who prevented the Plaintiff from reading the contract by refusing to answer any of her questions regarding what was going on.

106. Mr. Driver refused to provide Plaintiff a copy of the contract and POS, even though he was the only one with access to either document. He intentionally provided Plaintiff with inaccessible documents after the fact to prevent her from learning what had happened in his office that day.

REMEDIES

107. Plaintiff's claim for relief would seek an ending to the contract obtained by unlawful means, and for monetary relief to reimburse monies paid on a contract adjudged to be unlawful, and further for punitive relief, as justice so requires:

Recission and Restitution

(a) to put the parties in their pre-contract position as if the contract never occurred;

- (b) rescission ends the contract, and thereby the subparts, including its venue clause, any limitations or waivers to a jury trial or punitive damages, and any TNPOS Receipt;

Termination and Unjust Enrichment

- (a) under the Unjust Enrichment standard, the Plaintiff is entitled to all monies paid on a defective contract, upon which the Plaintiff did justifiably rely to her detriment;
- (b) return of monies paid is easy to calculate by simply adding all of the monies paid by the Plaintiff: down payment(s), loan payments and fees paid;

Further Relief

- (a) component to these matters, the Court may have a second trier of fact phase for assessing Punitive Damages applicable under Tennessee law. *See, THIRD CLAIM;*
- (b) The second trier of fact shall assess the amount of damages needed in order to deter Defendant's future actions in violation of Tennessee law. *See, THIRD CLAIM.*

**SECOND CLAIM FOR RELIEF
(FRAUD)**

108. Plaintiff incorporates by reference all the preceding paragraphs, as though fully set forth herein.

109. All elements of fraud are met, and the Plaintiff is entitled to relief as a result.

110. Fraudulent misrepresentation has six elements. Those elements are: 1) the Defendant made a representation of an existing or past fact; 2) the representation was false when made; 3) the representation was in regard to a material fact; 4) the false representation was made either knowingly or without belief in its truth or recklessly; 5) Plaintiff reasonably relied on the misrepresented material fact; 6) Plaintiff suffered damage as a result of the misrepresentation.

Two Misrepresentations

111. Here, the Defendants made at least two representations that were false when made.

112. Firstly, Mr. Driver and Wyndham made misrepresentations when Mr. Driver stated that there was a problem with the Plaintiff's account that he would "fix"

113. Mr. Driver and Wyndham made another misrepresentation by telling the Plaintiff she was bound under a contract that no longer existed, or did not exist in the first place, and charging her under that contract.

114. The first representation is false because there was no problem with Plaintiff's account. It was closed as she requested it to be. Wyndham even agreed to close the account as evidenced by the refund it gave Plaintiff.

115. Further, the first representation is false because Mr. Driver was not fixing anything. There was no problem. There was nothing for him to fix. Yet he repeatedly stated that there was a problem that he needed to fix.

116. The second representation, that the Plaintiff was bound under a contract and owed money on it, is similarly false.

117. Plaintiff was not bound under any contract with Wyndham because she had been released from her old contract and never agreed to a new contract.

118. Because the Defendants made statements that were false, the first element is met.

The Misrepresentations are Material

119. Both misrepresented facts were material.

120. The first misrepresentation is material because Plaintiff would not have stayed in Mr. Driver's office had she known that there was no issue, and that he was not actually fixing anything.

121. Had Plaintiff left Mr. Driver's office, she likely would not have been subjected to this new contract that has been forced upon her.

122. The second misrepresentation is material because the Plaintiff would not have made any payments to the Defendant if she had known that she was not bound under any contract.

123. Plaintiff only made payments to the Defendant because she was under the impression that she owed them money.

124. Because both misrepresentations were made to force a contract on the Plaintiff, both misrepresentations are material.

Both Representations were Knowingly False when Made

125. The Defendants knew that each misrepresentation was false when made.

126. Mr. Driver knew that there was no issue with the Plaintiff's timeshare account. Plaintiff had requested her account to be closed, and Wyndham agreed to close it. Plaintiff's account was exactly in the position it was supposed to be in, even if the Plaintiff had only just been told about it.

127. Mr. Driver also knew that he was not fixing any problem. He knew there was no problem with her account, and that there was nothing for him to fix.

128. Because Mr. Driver knew that there was no problem, and nothing for him to fix, he knew his statements were false.

129. Defendants further knew that there was no contract binding on the Plaintiff.

130. Defendants' records would reflect that Plaintiff had been released and refunded on her previous contract.

131. Defendants would also know that Plaintiff never signed a new contract, and therefore is not bound under any new contract.

132. Because Defendants knew that Plaintiff was released from her old contract, and never signed a new contract, they knew that there was no basis to continue charging the Plaintiff.

133. Defendant knew that any statement that Plaintiff was bound on a contract and owed money was false.

Plaintiff's Reliance was Reasonable

134. Plaintiff's reliance on the misrepresentations was reasonable under the circumstances given that she had just been subjected to a two hour procedure designed to induce a state of compliance. Defendants purposefully made her stressed, tired, and confused in order to make her more likely to accept the contract they assigned her.

135. Further, the Defendants actively refused to provide Plaintiff with any additional information. The only statements the Defendants made to the Plaintiff were the above misrepresentations.

136. Because Defendant only gave the Plaintiff oral misrepresentations to rely on, and because the Defendant intentionally put her in a vulnerable mindset, the Plaintiff's reliance was reasonable.

Damages

137. Plaintiff has suffered damages in the form of a down payment, mortgage payments, and maintenance fees. Further, the Plaintiff has suffered damages in the form of attorney's fees.

Fraudulent Inducement

138. Fraudulent inducement has one additional element to those listed above: that the Defendant's misrepresentations were intended to induce reliance on the statement.

139. Here, that additional element is met because the misrepresentations were designed to get the Plaintiff to make payments on a nonexistent contract.

140. Further, the Defendant induced reliance on the statements by preventing the Plaintiff from reading the contract. The only information available to the Plaintiff was the Defendant's oral misrepresentations.

141. Defendants' statements were made to convince Plaintiff that she owed them money. And they prevented the Plaintiff from learning that she had no contract by keeping any other information from her.

142. Therefore, the Defendants attempted to induce reliance on its misrepresentations and did so by receiving payments from the Plaintiff. Thus the additional element is met.

Fraudulent Concealment

143. Fraudulent concealment has three elements. 1) the Defendant had knowledge of a material fact; 2) the Defendant had a duty to disclose that fact, but did not, and; 3) the plaintiff suffered harm as a result.

Defendant Concealed its Contract

144. Here, the Defendant had knowledge that there was no contract, but intentionally failed to inform the Plaintiff.

145. As the Defendant was the only one who knew there was no contract, it had a duty to disclose that fact.

146. Plaintiff believed there was a contract because Defendants intentionally hid the fact that there was no contract in order to extract more payments from the Plaintiff.

147. The Plaintiff has been harmed because the Defendant's contract was significantly different than she had been led to believe. The Plaintiff has suffered harm in the amount of her down payment on the contract, loan payments, and maintenance fees.

Defendant Concealed its Public Offering Statement

148. Similarly, the Defendant had knowledge of its public offering statement.

149. As set out previously in paragraphs 45-47 herein, the Defendant failed to properly provide a public offering statement.

150. Defendant has a duty to disclose its public offering statement under Tenn. Code Ann. § 66-32-114.

151. The Plaintiff was harmed by this failure as she was not given the disclosures mandated by the Tennessee Legislature. This has led to economic harm in the form of a down payment, loan payments, and maintenance fees.

Defendant Withheld Licensed Real Estate Agency Disclosures

152. Wyndham had knowledge that Mr. Driver failed to make necessary disclosures.

153. Mr. Driver had knowledge of the disclosures he was required to make.

154. Defendants were required to make these disclosures under Tenn. Code Ann. § 62-13-312, 403, and 405.

155. Specifically, Mr. Driver was required to give written disclosures that there were misrepresentations made to the Plaintiff, that there were terms in the contract that were adverse to her, and that he is a licensed real estate agent.

156. The Tennessee Legislature implemented these requirements to ensure that purchasers received disclosures from those with duties to provide them.

157. Defendants failed to provide even an oral statement that Mr. Driver was a licensed real estate agent, let alone the mandatory written disclosures.

158. Further, Defendants failed to inform Plaintiff of any misrepresentations, and failed to inform Plaintiff that she did not even have a contract with them.

159. Defendant has acted in a manner to prevent the Plaintiff from receiving the disclosures intended to be received.

160. Without the benefit of those disclosures, Plaintiff did not know that Defendants had made numerous misrepresentations.

161. Plaintiff suffered financial harm in the amount of her down payment, loan payments, and maintenance fees.\

THIRD CLAIM FOR RELIEF
(Bifurcated Trial - Second Trier of Fact)

162. Plaintiff incorporates by reference all the preceding paragraphs, as though fully set forth herein.

163. There is a second phase for a second trier of fact on the matter of punitive damages.

164. The second trier of fact shall assess the amount of damages needed in order to deter Defendant's future actions in violation of Tennessee law. Plaintiff requests the maximum amount of punitive damages allowable pursuant to Tenn. Code Ann. § 29-39-104(a)(5).

165. Plaintiff is entitled to relief because Defendant's unlawful acts have conferred a benefit upon itself.

166. Defendant has and is appreciating the benefit.

167. Defendant accepted and retained the benefit of monies paid by the Plaintiff under circumstances where it would be inequitable for Defendant to retain the benefit without the payment of value for the same.

168. Defendant willfully violated several sections of the Tennessee Timeshare Act of 1981, specifically Tenn. Code Ann. § 66-32-102(17) and 114.

169. As a direct and proximate cause of the Defendant's actions, Plaintiff has been damaged in an amount to be proved at trial and is entitled to relief under Tenn. Code Ann. § 66-32-118.

170. Defendant's conduct was malicious, oppressive, and committed with a reckless disregard to the rights of the Plaintiff, and in direct opposition to the laws of Tennessee. This warrants punitive damages under Tenn. Code Ann. § 66-32-118.

171. After such a ruling, with no substantive questions of law to apply as to whether there is liability, the second trier of fact phase, either by Judge or Jury, would have one task: to assess the punitive damages needed in order to deter future unlawful conduct.

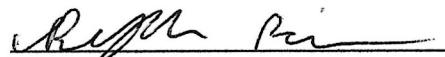
PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief against Defendant as follows:

1. For judgment in favor of the Plaintiff. and against Defendant,
2. For rescission of the agreements and restitution,
3. Alternatively, for contract termination returning all monies (Unjust Enrichment),
4. For punitive damages,
5. For prejudgment interest,
6. For attorney's fees and costs incurred herein,
7. For credit disparagement removal by trade line removal,
8. And for such other and further relief as the Court deems just and proper.

DATED this 16th day of August 2022.

Respectfully Submitted,



THE TIMESHARE LAW FIRM
Plaintiffs Counsel, Ryan Price
Tennessee Bar No.: 039688
5800 Central Ave Pike, No. 2505
Knoxville Tn. 37912
8152589810
RyanPrice@thetimesharelawfirm.com