

Actress Sues IMDb for Revealing Her Age; Seeks \$1 Million in Damages

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Yesterday the New York Post ran an interesting article about a trial now under way in Seattle in which actress Junie Hoang is suing popular film Web site IMDb for publicizing her true age. According to the article, Hoang says she has been struggling for years to make it in Hollywood, but after nearly two decades in the business she has yet to break through. According to the Post, Hoang claims that all hope of joining the A-list ended when IMDb violated her privacy by posting her real age (41) on its site, and she's suing IMDb for \$1 million to prove it. Though IMDb alleges that it double-checked the birth date info with a publicly available database, Hoang claims the publication of her age was a violation of her privacy and that IMDb owes her damages for the harm the revelation did to her chances of getting choice roles. (According to the Post, Hoang evidently has the support of her actors union, which has also criticized IMDb for posting accurate ages.) The Post rightly notes that the result in the case may have an impact on how companies collect information for commercial purposes.

The case is also interesting for another reason. Hoang is suing IMDb for \$1 million in damages. Web sites such as IMDb, however, commonly strictly limit the amount of damages that users can sue for in their terms of use. Indeed, the subscription agreement for the pro version of IMDb's service (to which Hoang subscribed) includes such limitations, which read as follows:

11. Limitation of Damages

IN NO EVENT WILL IMDB OR ANY OF ITS AFFILIATES BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, OR SPECIAL DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF OR UNAUTHORIZED ACCESS TO INFORMATION, AND THE LIKE, EVEN IN THE EVENT OF FAULT, TORT, BREACH OF CONTRACT, OR BREACH OF WARRANTY, AND EVEN IF IMDB HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. Limitation of Liability; Exclusive Remedy

ALSO, IN NO EVENT WILL IMDB OR ANY OF ITS AFFILIATES BE LIABLE TO YOU AND/OR ANY AGENCY FOR ANY AMOUNT IN EXCESS OF THE TOTAL DOLLAR AMOUNT ACTUALLY RECEIVED FROM IMDB FOR ACCESS TO THE SITE AND ANY OF THE SERVICES AVAILABLE AT THE SITE DURING THE YEAR PRIOR TO YOUR CLAIM.

IMDb asserted that these provisions explicitly allowed Hoang to seek injunctive relief and recover the amount she paid to IMDb, but no more. The court held that under Washington law, these provisions are unconscionable because they impose a unilateral restriction that severely impairs a consumer's ability to recover damages. The court cited a Washington Supreme Court case that held that a class action waiver in a consumer contract was unconscionable because, in cases brought by a consumer where a contract capped damages at a very small amount, the agreement effectively, if not explicitly, exculpated the defendant for potentially widespread misconduct. The Hoang court acknowledged that the cited precedent involved a class action waiver, not a cap damages, but noted that the Washington Supreme Court's logic is equally applicable to the Hoang matter. The court noted that if IMDb were permitted to bar Hoang from recovering more than the amount she paid IMDb for her subscription, it would essentially create a situation where no attorney would be willing to undertake individual cases to recover the trivial amounts of money at stake. Whether other courts will follow suit on damages caps remains to be seen.

CHECK OUT THE LATEST UPDATE ON THIS CASE: [Jury Rules in Favor of IMDb](#)