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CASE NUMBER: 17-2-05206-0 SEA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KINGMARY L. JOHNSON, individually and on  
behalf of all others similarly situated,

Plaintiff,

vs.

MGM HOLDINGS, INC.; METRO-  
GOLDWYN-MAYER STUDIOS INC.;  
TWENTIETH CENTURY FOX HOME  
ENTERTAINMENT, LLC; and TWENTY  
FIRST CENTURY FOX, INC., DOES 1 – 10,  
inclusive,

Defendants.

NO.

## CLASS ACTION COMPLAINT FOR:

1. VIOLATION OF WASHINGTON'S  
CONSUMER PROTECTION ACT;
2. BREACH OF EXPRESS WARRANTIES;  
AND
3. BREACH OF THE IMPLIED  
WARRANTY OF MERCHANTABILITY

## DEMAND FOR JURY TRIAL

Plaintiff Mary L. Johnson ("**Plaintiff**"), on behalf of herself and all others similarly situated, by and through her undersigned counsel, hereby files her class action complaint against Defendants MGM Holdings, Inc. ("**MGM Holdings**"), Metro-Goldwyn-Mayer Studios Inc. ("**MGM**"), Twenty First Century Fox, Inc. ("**21<sup>st</sup> Century Fox**"), and Twentieth Century Fox Home Entertainment LLC ("**20<sup>th</sup> Century Fox**"). MGM Holdings, MGM, 21<sup>st</sup> Century Fox, and 20<sup>th</sup> Century Fox are each individually a "**Defendant**" and may be collectively referred to hereinafter as the "**Defendants**".

INTRODUCTION

"Bond, James Bond." It is one of the iconic and universally known fictional secret agent's very first lines in *Dr. No*, the first James Bond film. When Bond creator Ian Fleming published his first James Bond novel, *Casino Royale*, in 1953, little did he know that the

1 astounding stunts, twisty plots, improbable villains, sexy girls, and his magnetically attractive yet  
 2 detached hero, British secret agent James Bond, would become one of the most successful movie  
 3 franchises in the world. It has been reported that the James Bond 007 brand is worth close to \$20  
 4 billion (\$20,000,000,000). Of the \$20 billion generated by the brand, close to \$3 billion  
 5 (\$3,000,000,000) has come from the sales of DVDs and the equivalent.

6 In order to capitalize on the success of the James Bond franchise, beginning in 2012, the  
 7 Defendants released a series of boxed sets of James Bond films on DVD and represented on the  
 8 packaging of these sets that each set contains “[a]ll the Bond films gathered together for the first  
 9 time in this one-of-a kind boxed set – every gorgeous girl, nefarious villain and charismatic star  
 10 from Sean Connery, the legendary actor who started it all, to Daniel Craig.” However, none of  
 11 these sets contains “all” of the James Bond films or “every” gorgeous girl, nefarious villain, and  
 12 charismatic star featured therein. The sets only contain the films produced by Eon Productions, a  
 13 British-based production company that ultimately sold its video rights to the James Bond movies  
 14 it produced to MGM. Two additional James Bond films that were not produced by Eon  
 15 Productions, *Casino Royale* (1967) (in which actor David Niven, Ian Fleming’s first choice to  
 16 play the role of James Bond, plays Bond) and *Never Say Never Again* (1983) (the last of seven  
 17 (7) James Bond films in which the actor Sean Connery plays James Bond), are not included in  
 18 the sets — even though MGM acquired the rights to these two films in 1997, some twenty (20)  
 19 years ago.

20 Plaintiff Mary Johnson has enjoyed James Bond films since the release of *Dr. No* in  
 21 1962. Plaintiff purchased one of the James Bond box sets and relied to her detriment on the  
 22 Defendants’ representations regarding the contents of the set. As a result, Plaintiff did not  
 23 receive the product she was led to believe she purchased. The representations that Defendants  
 24 make on the James Bond sets are false, mislead consumers (and Plaintiff in particular), and  
 25 constitute unfair and deceptive business practices in violation of applicable law.

26 This class action seeks redress on behalf of a nationwide class of consumers, or,

1 alternatively, a class of consumers from a variety of states, who were misled into purchasing  
 2 what was represented to be the complete collection of James Bond movies when in fact, it was an  
 3 incomplete collection.

#### 4 JURISDICTION AND VENUE

5 1. This Court has subject matter jurisdiction over Plaintiff's claims and venue in  
 6 King County, Washington is proper because the amount in controversy exceeds this Court's  
 7 jurisdictional minimum, the Defendants do business in King County, Washington, and Plaintiff's  
 8 claims arise from Washington law.

#### 9 PARTIES

10 2. Plaintiff Mary L. Johnson is a citizen of the state of Washington and a resident of  
 11 Pierce County, Washington.

12 3. Defendant MGM Holdings is a Delaware corporation with its principal place of  
 13 business located at 245 N. Beverly Drive, Beverly Hills CA 90210.

14 4. Defendant MGM Holdings is the parent company of Defendant MGM.

15 5. Defendant MGM is a Delaware corporation with its principal place of business  
 16 located at 245 N. Beverly Drive, Beverly Hills CA 90210.

17 6. Defendant MGM is a media company, involved primarily in the production and  
 18 global distribution of feature films and television content across all platforms.

19 7. Defendant MGM produces and distributes the MGM James Bond DVD box sets.

20 8. Defendant 21<sup>st</sup> Century Fox is a Delaware corporation headquartered at 1211  
 21 Avenue of the Americas, New York, NY 10036, with a principal place of business located at  
 22 10201 W. Pico Blvd., Los Angeles, CA 90064.

23 9. Defendant 21<sup>st</sup> Century Fox is a diversified global media and entertainment  
 24 company, whose numerous activities include the production and acquisition of live-action and  
 25 animated motion pictures for distribution and licensing in all formats in all entertainment media  
 26 worldwide.

10. Defendant 20<sup>th</sup> Century Fox is a Delaware limited liability company with its principal place of business located at 10201 West Pico Blvd. Bldg. 100, Suite 3220. Los Angeles, CA 90035.

11. Defendant 20<sup>th</sup> Century Fox distributes motion pictures and other programming in the United States, Canada, and international markets in all home media formats, including the sale and rental of DVDs and Blu-rays.

### **FACTUAL ALLEGATIONS**

12. MGM Holdings is a leading entertainment company focused on the global production and distribution of film and television content. It has one of the most well-known brands in the industry, with globally recognized film franchises and television content, a broad collection of valuable intellectual property, and commercially successful and critically acclaimed content. Its operations include the development, production, and financing of feature films and television content and the worldwide distribution of entertainment content primarily through television and digital distribution.<sup>1</sup>

13. MGM Holdings is the parent corporation of MGM. According to MGM Holdings, it controls one of the deepest libraries of premium films and television content. Its film content library includes the James Bond franchises.<sup>2</sup>

14. MGM owns the distribution rights to the James Bond movies.

15. 21<sup>st</sup> Century Fox is the parent corporation of 20<sup>th</sup> Century Fox. According to 21<sup>st</sup> Century Fox, a Delaware corporation, it is a diversified global media and entertainment company with operations in the various segments including cable network programming, television, and filmed entertainment. The activities of Twenty-First Century Fox, Inc. are conducted principally in the United States, the United Kingdom, Continental Europe, Asia, and Latin America.

16. 20<sup>th</sup> Century Fox distributes motion pictures and other programming in the United States, Canada, and other international markets in all home media formats, including the sale and

<sup>1</sup> See <https://www.linkedin.com/company/mgm> (last visited Nov. 10, 2016).

<sup>2</sup> *Id.*

1 rental of DVDs and Blu-rays.

2 17. Upon information and belief, since 1999, MGM and 20<sup>th</sup> Century Fox have had a  
3 worldwide home video distribution arrangement pursuant to which 20<sup>th</sup> Century Fox handles  
4 marketing and distribution services for all or certain of MGM's Blu-ray and DVD products and  
5 manages the operation and marketing of Digital JD and transactional VOPD for MGM's film  
6 library. The James Bond movies are included in this agreement.

7 18. Upon information and belief, in 2013, 20<sup>th</sup> Century Fox continued its worldwide  
8 home video distribution arrangement with MGM, releasing approximately 583 MGM home  
9 entertainment theatrical, catalog, and television programs domestically and 611 internationally.

10 19. EON Productions is a United Kingdom based production company which  
11 produces James Bond films.

12 20. Upon information and belief, the James Bond franchise is the longest running  
13 franchise in film history with twenty-six films produced and released in the theaters from 1962 to  
14 date. The first James Bond movie released in the theaters, *Dr. No*, was released in 1962, and the  
15 last James Bond movie released in the theaters was *Spectre*, which was released in 2015.

16 21. Upon information and belief, MGM is the sole distributor of the James Bond films  
17 series produced by EON Productions.

18 22. Even though MGM later acquired the rights to distribute them, two James Bond  
19 movies, *Casino Royale* (1967) and *Never Say Never Again* (1983) were not produced by EON  
20 Productions.

21 23. On or about September 2012, to mark the fiftieth (50<sup>th</sup>) anniversary of the  
22 beginning of the James Bond film franchise, Defendants released their first DVD box set called  
23 *Bond 50, Celebrating Five Decades of Bond 007*, which set features and includes 22 original  
24 Bond adventures, from *Dr. No* – the movie that started it all – to 2008's *Quantum of Solace* (the  
25 "**Bond 50 Set**").

26 24. The back side of the box of the Bond 50 Set contains the following



1 representations: “All the Bond films are gathered together for the first time in this one-of-a kind  
 2 boxed set – every gorgeous girl, nefarious villain and charismatic star from Sean Connery, the  
 3 legendary actor who started it all, to Daniel Craig.” The back side of the box of the Bond 50 Set  
 4 also contains the following representations: “A fitting tribute to the most iconic and enduring  
 5 secret agent in movie history, BOND 50 is the greatest collection ever assembled.”

6 “BOXED SET CONTENTS: 22 films on DVD from *Dr. No* to *Quantum of Solace*[.]”

7 25. A true, correct, and unaltered photograph of the back side of the Bond 50 Set is as  
 8 follows:



23 26. On or about July 15, 2015, Defendants released *The Ultimate James Bond*  
 24 *Collection* (the “**Ultimate James Bond Collection**”).

25 27. The back side of the box of the Ultimate James Bond Collection contains the  
 26 following representations: “All the Bond films are gathered together in this one-of-a kind boxed

1 set – every gorgeous girl, nefarious villain and charismatic star from Sean Connery to Daniel  
 2 Craig.” The back side of the box of the Ultimate James Bond Collection also contains the  
 3 following representations: “BOXED SET CONTENTS: 23 films on Blu-ray, from *Dr. No* to  
 4 *Skyfall*[.]”

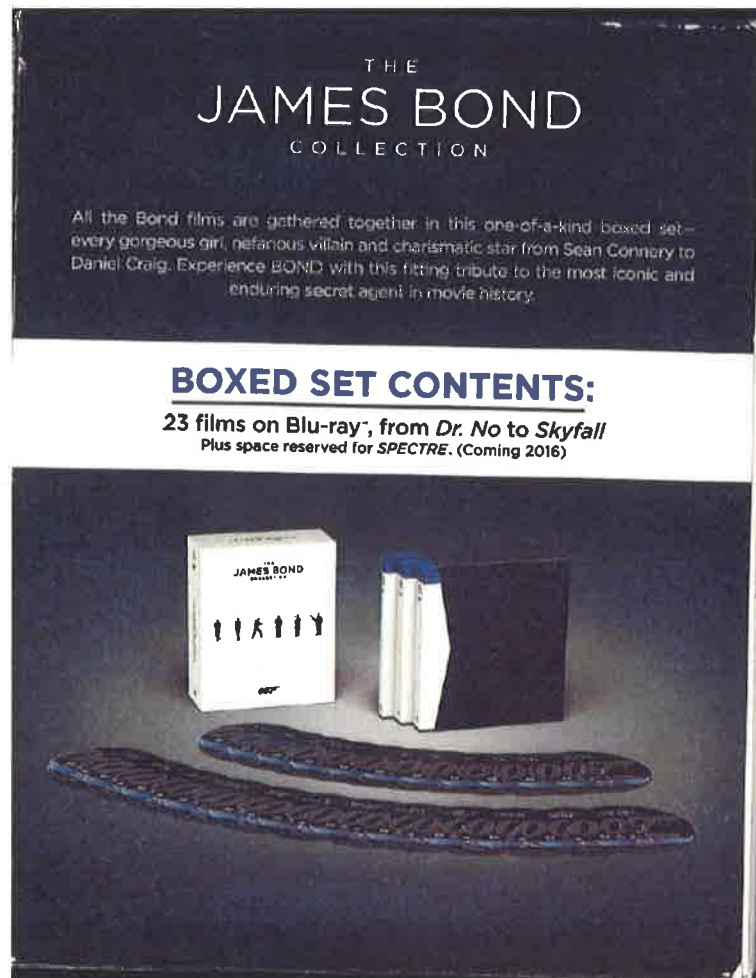
5 28. A true, correct, and unaltered photograph of the back side of the box of the  
 6 Ultimate James Bond Collection set is as follows:



21  
 22  
 23  
 24  
 25  
 26 29. On or about January 1, 2016, Defendants released *The James Bond Collection* [Blu-ray] (the “James Bond Collection”).

30. The back side of the box of the James Bond Collection contains the following representations: “All the Bond films are gathered together in this one-of-a kind boxed set – every gorgeous girl, nefarious villain and charismatic star from Sean Connery to Daniel Craig.” The back side of the box of the James Bond Collection also contains the following representations: “BOXED SET CONTENTS: 23 films on Blu-ray, from *Dr. No* to *Skyfall*[.]”

31. A true, correct, and unaltered photograph of the back side of the box of the James Bond Collection is as follows:



32. The Bond 50 Set, the James Bond Collection, and the Ultimate James Bond Collection are collectively referred to hereinafter from time to time as the “Sets.” The list of the movies contained in each of the Sets is printed at the bottom of each of the Sets’ boxes in very



small print.

33. A true, correct, and unaltered photograph of the bottom of each of the Sets' boxes is as follows:



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18016-1/ASK/754516

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34. The list of the movies that appear on the bottom of the Sets is in very small print. On information and belief, it is very difficult if not impossible for a person with ordinary, normal vision to read and fully understand this very small print.

35. Despite representing that the Sets contain **ALL** the James Bond films, all of the Sets are missing the two James Bond movies not produced by Eon Productions, namely *Casino Royale* (1967) and *Never Say Never Again* (1983).

36. Despite representing that the Sets contain **EVERY** gorgeous girl and nefarious villain, Orson Welles, the villain in *Casino Royale* (1967), Joanna Pettet, a “gorgeous girl” in *Casino Royale* (1967), Kim Bassinger, a “gorgeous girl” in *Never Say Never Again*, Barbara Carrera, another “gorgeous girl” in *Never Say Never Again*, and Klaus Maria Brandauer, the villain in *Never Say Never Again*, are not included in the Sets.

37. Despite representing that the Sets contain **EVERY** charismatic star, David Niven, the “charismatic star” of *Casino Royale* (1967) is missing from the Sets. David Niven was James Bond creator Ian Fleming’s first choice to play James Bond in the James Bond movies. Moreover, the Sets also do not contain **EVERY** charismatic star because Sean Connery, who was the actor and “charismatic star” who played James Bond in the movies entitled *Dr. No*, *From Russia With Love*, *Goldfinger*, *Thunderball*, *You Only Live Twice*, *Diamonds are Forever*, and *Never Say Never Again* is missing from the Sets given that Mr. Connery’s starring role as James Bond in *Never Say Never Again* is not a part of the Sets.

38. The distribution rights to the James Bond movies that MGM owns includes the distribution rights to *Casino Royale* (1967) and *Never Say Never Again*.

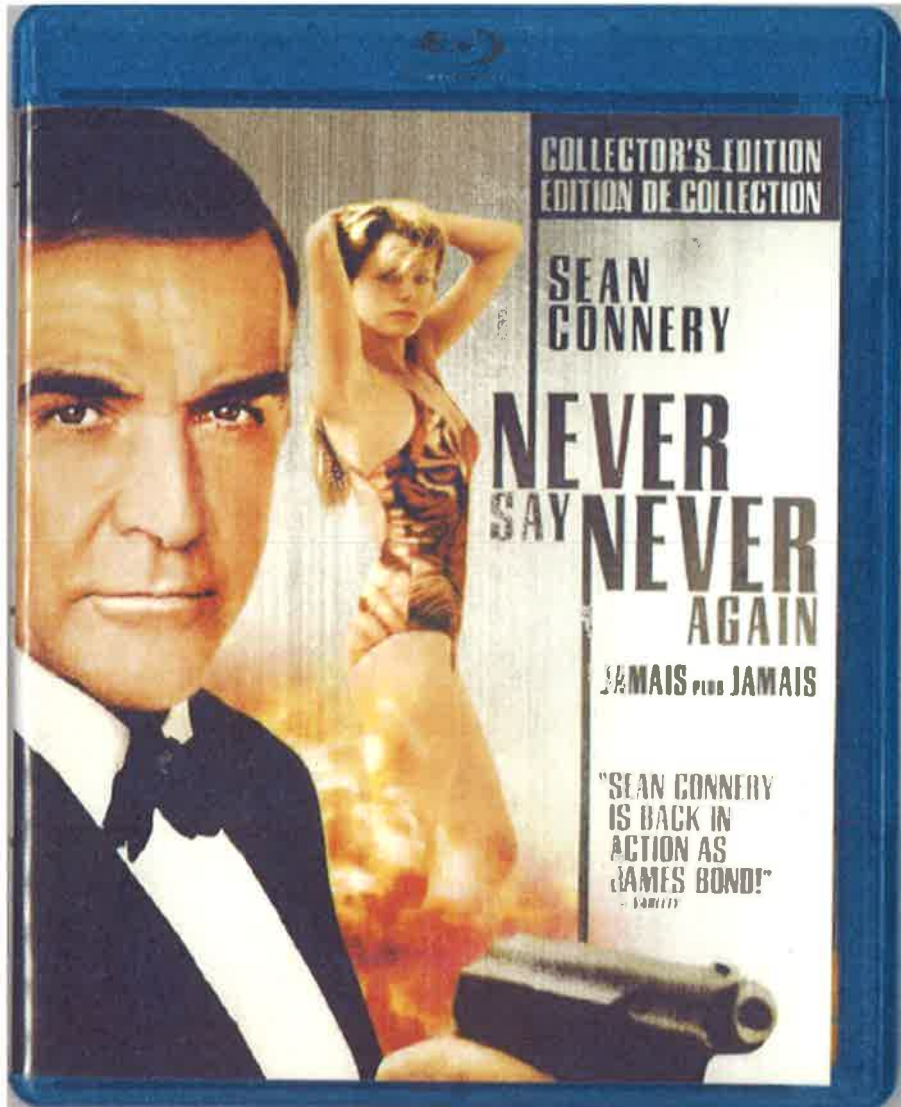
39. The Defendants produce, promote, and sell *Casino Royale* (1967) and *Never Say Never Again* as individual DVDs and Blu-ray movies.

40. Thus, despite MGM owning the distribution rights of *Casino Royale* and *Never say Never Again*, and despite Defendants producing, promoting and selling *Casino Royale* and *Never say Never Again*, Defendants distribute, produce, promote and sell the Sets without

1 including those two films.

2 41. The front side of the *Never Say Never Again* Blu-ray Collector's Edition features  
3 a photograph of the actor Sean Connery in a tuxedo and bow tie holding a pistol and contains the  
4 statement "SEAN CONNERY IS BACK IN ACTION AS JAMES BOND!"

5 42. A true, correct, and unaltered photograph of the front side and back side of the  
6 *Never Say Never Again* Blu-ray Collector's Edition is as follows:





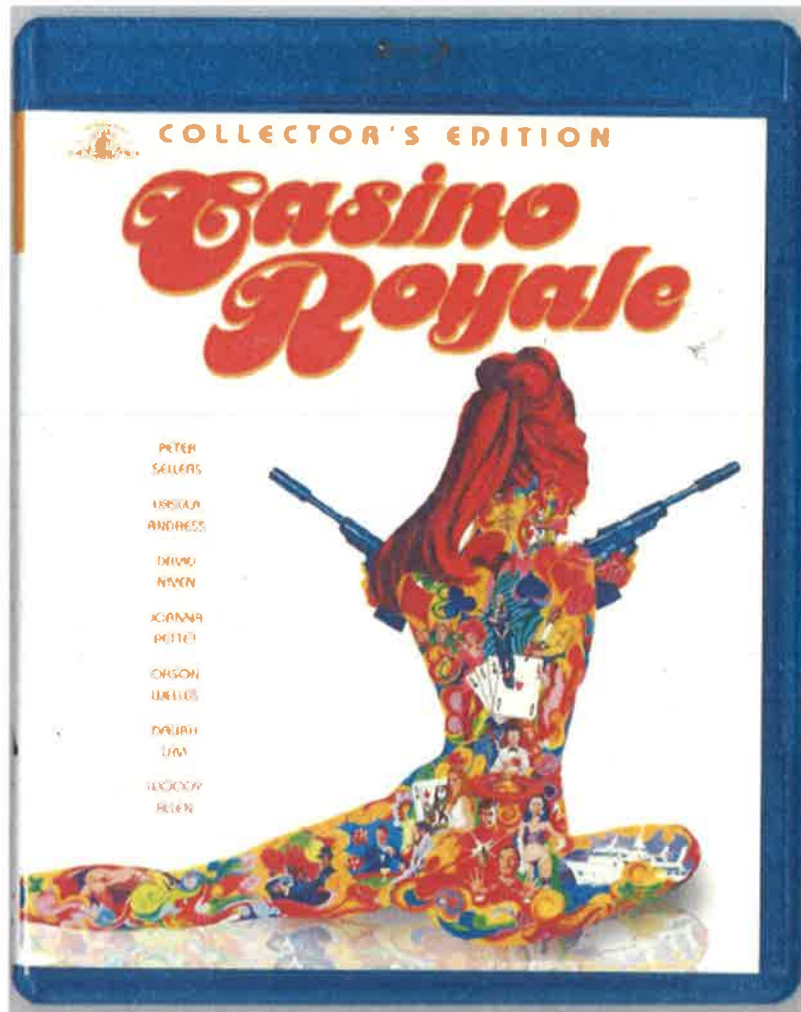


43. The back side of the *Never Say Never Again* Blu-ray Collector's Edition states, among other things, "Sean Connery is back for his final performance as agent James Bond ..." and "Agent 007 is hurled into a pulse-pounding race to save the world from armageddon when two atomic warheads are hijacked by the evil SPECTRE organization[.]" The back side of the *Never Say Never Again* Blu-ray Collector's Edition also reflects it contains special features that include commentary with "James Bond Historian Steven Jay Rubin" and a "Sean is Back Featurette[.]" The back side of the *Never Say Never Again* Blu-ray Collector's Edition also

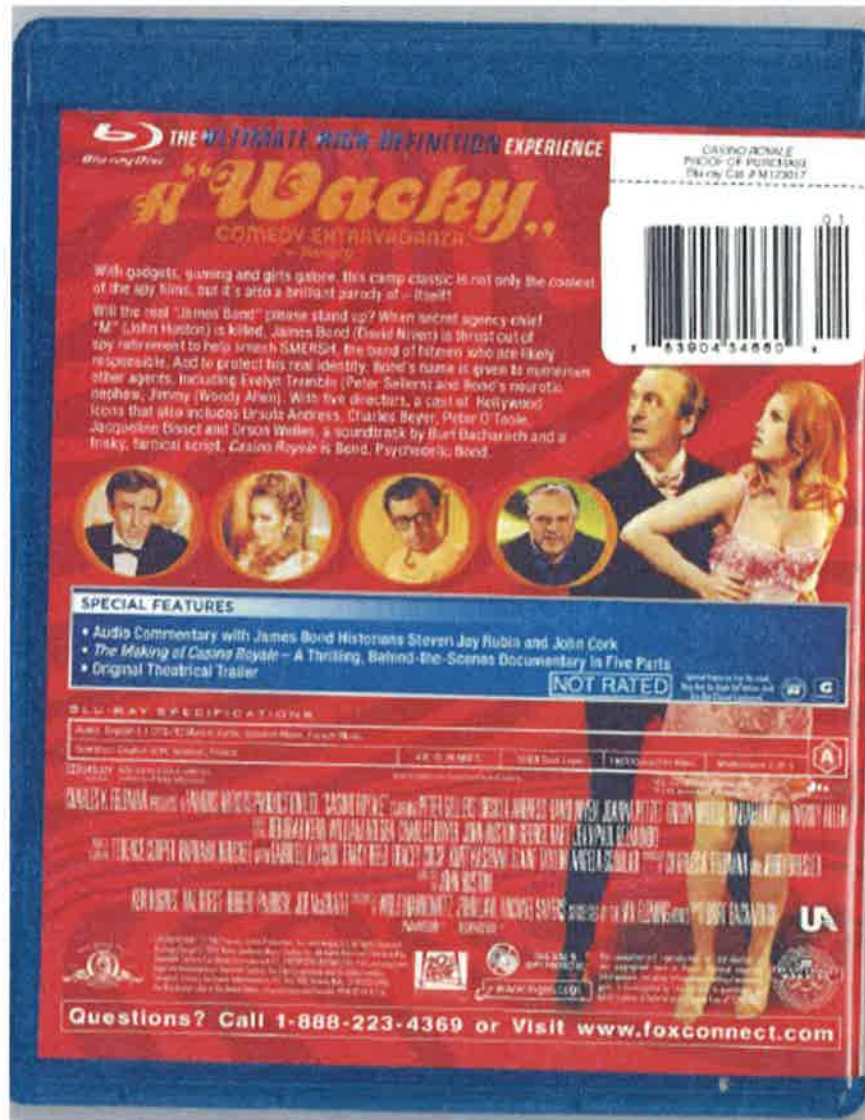
contains the logo and/or trademark of 20<sup>th</sup> Century Fox.

44. The front side of the *Casino Royale* (1967) Collector's Edition features, among other things, the likeness of a young nude woman holding two pistols with silencers attached thereto and the likeness of a dark-haired man wearing a dark suit and bow tie while dropping from a parachute and holding a pistol with a silencer attached thereto. The MGM trademark also appears on the front side of the *Casino Royale* (1967) Collector's Edition.

45. A true, correct, and unaltered photograph of the front side and back side of the *Casino Royale* (1967) Collector's Edition is as follows:







46. The back side of the *Casino Royale* (1967) Collector's Edition states, among other things, "Will the real 'James Bond' please stand up? When secret agency chief 'M' (John Huston) is killed, James Bond (David Niven) is thrust out of spy retirement to help smash SMERSH, the band of hitmen who are likely responsible. And to protect his real identity, Bond's name is given to numerous other agents[.]". The back side of the *Casino Royale* (1967) Collector's Edition also states "*Casino Royale* is Bond. Psychedelic Bond." The back side of the *Casino Royale* (1967) Collector's Edition also contains the MGM trademark and the logo or trademark of 20<sup>th</sup> Century Fox.

1           47. Thus, despite producing, promoting and selling *Casino Royale* and *Never Say*  
 2 *Never Again* as individual DVS's and Blu-ray movies, Defendants represents that the Sets  
 3 contain **ALL** the James Bond ever made. These representations are false, misleading, and likely  
 4 to deceive reasonable consumers.

5           48. All Defendants are headquartered or have their principal place of business in  
 6 California. The false and misleading representations are conceived, reviewed, approved and  
 7 otherwise controlled by Defendants from Defendants' headquarters and/or principal place of  
 8 business out of Beverley Hills and Los Angeles in California.

9           49. On or about February 9, 2016, Plaintiff Mary L. Johnson purchased the James  
 10 Bond Collection via the Internet from the Amazon.com website for approximately One Hundred  
 11 Six United States Dollars and Forty-Four Cents (\$106.44).

12           50. Amazon, the world largest online retailer, sells a variety of consumer products,  
 13 including DVD's and Blurays. It served as intermediary in the transaction between Plaintiff and  
 14 Defendants.

15           51. On its website, Amazon reproduces Defendants' false and misleading  
 16 representations that the Sets contain "all" of the James Bond movies.

17           52. Before making her purchasing decision concerning the James Bond Collection  
 18 with Amazon, Plaintiff physically handled and inspected the James Bond Collection in person at  
 19 a "brick and mortar" store or stores that carried the James Bond Collection. While handling the  
 20 James Bond Collection in person, Plaintiff read the representations on the back of the box of the  
 21 James Bond Collection.

22           53. Ultimately, Plaintiff read and relied upon the deceptive representations on the box  
 23 of the James Bond Collection, and repeated on Amazon, to the effect that the James Bond  
 24 Collection contained **ALL** of the James Bond movies ever made. Among the representations  
 25 Plaintiff read and relied upon was the representation that "All the Bond films are gathered  
 26 together in this one-of-a-kind boxed set – every gorgeous girl, nefarious villain and charismatic

1 star from Sean Connery to Daniel Craig.”

2 54. Plaintiff believed that the James Bond Collection contained **ALL** the James Bond  
3 films as represented on the box, which films would include *Casino Royale* (1967) and *Never Say*  
4 *Never Again* if complete. Plaintiff would not have purchased the James Bond Collection at the  
5 price she paid absent the false, misleading and deceptive representations on the box of the James  
6 Bond Collection as set forth above.

7 55. Instead of purchasing what she thought was a boxed set containing **ALL** of the  
8 James Bond films, Plaintiff purchased a set containing **ALL** of the James Bond films **MINUS**  
9 two (2) such films, namely *Casino Royale* (1967) and *Never Say Never Again*.

10 56. Plaintiff lost money as a result of Defendants’ unfair and deceptive claims in that  
11 she did not receive what she paid for.

12 57. *Casino Royale* (1967) and *Never Say Never Again* can be purchased individually  
13 on the Amazon website and, on information and belief, in traditional brick and mortar stores  
14 and/or their related websites. In addition, MGM, on its own website, offers for sale through  
15 Amazon *Never Say Never Again*.<sup>3</sup>

16 58. On information and belief, *Casino Royale* (1967) can be purchased for \$ 29.99  
17 and *Never Say Never Again* can be purchased for \$39.38 on the Amazon website.

18 59. Accordingly, in order to have **ALL** the Bond films as represented on the Sets,  
19 Plaintiff would have to spend approximately \$29.99 plus tax for *Casino Royale* (1967) and  
20 \$39.38 plus tax for *Never Say Never Again* for a total of \$69.37 plus tax. Potential additional  
21 shipping and handling charges might also apply if these two missing movies are purchased on  
22 Amazon or other websites.

23 60. Plaintiff was misled by Defendants’ false, unfair, and deceptive representations.  
24 Plaintiff and Class members paid more money than they should have as a result of the  
25 Defendants’ false, unfair, and deceptive misrepresentations to the extent that the monies they  
26

<sup>3</sup> <http://www.mgm.com/#!/results/james+bond> (last visited Jan. 30, 2017).

1 paid for the Set exceeded the value of the Set they received.

2 61. Plaintiff and Class members have conferred substantial benefits on Defendants by  
3 purchasing their James Bond DVD and/or Blu-ray Sets, and Defendants have consciously and  
4 willingly accepted and enjoyed these benefits.

5 62. Defendants knew or should have known that consumers' payments for their James  
6 Bond DVD and/or Blu-ray Sets were given with the expectation that the Sets would include "all"  
7 of the James Bond movies as represented.

8 63. Because of the false, unfair, and deceptive misrepresentations as described herein,  
9 Defendants have been unjustly enriched by their wrongful receipt of Plaintiff's and Class  
10 members' monies.

11 64. Defendants should be required to account for and disgorge all monies, profits and  
12 gains which they have obtained or will unjustly obtain in the future at the expense of consumers.

### 13 CLASS ALLEGATIONS

14 65. Plaintiff realleges and incorporates by reference as if fully rewritten the previous  
15 paragraphs of the Complaint.

16 66. Plaintiff brings this action as a class action pursuant to Washington Superior Court  
17 Rule 23. Plaintiff seeks certification of Plaintiff's claims and certain issues in this action on  
18 behalf two alternative Classes (hereinafter referred to as the "**Plaintiff Class**" or "**Class**")  
19 consisting of:

20 All persons who purchased, since March 6, 2013, one or more DVD/Blu-ray box  
21 sets entitled Bond 50: Celebrating Five Decades of Bond 007, The James Bond Collection,  
22 and/or The Ultimate James Bond Collection, in the United States, for their own or household use  
23 rather than for resale or distribution.

24 Alternatively, all persons who purchased, since March 6, 2013, one or more  
25 DVD/Blu-ray box sets entitled Bond 50: Celebrating Five Decades of Bond 007, The James  
26 Bond Collection, and/or The Ultimate James Bond Collection, in the states of California, Florida,



1 Illinois, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, and  
 2 Washington,<sup>4</sup> for their own or household use rather than for resale or distribution.

3 Specifically excluded from the Class are Defendants, officers, directors and  
 4 employees of any of the Defendants and members of their immediate families, and any Judge  
 5 who may preside over this case and his or her immediate family.

6 67. Plaintiff reserves her right to amend or modify the Class description with greater  
 7 specificity or further division into subclasses or limitations to particular issues.

8 68. This action has been brought and may properly be maintained as a class action  
 9 pursuant to Washington Superior Court Rule 23, in that there is a well-defined community of  
 10 interest, the Class is so numerous as to make it impracticable to bring all of its members before  
 11 the Court, the adjudication of this action as a class action is a superior method of resolving this  
 12 controversy, and substantial benefits will accrue to members of the Class.

13 69. The precise number of Class members is as yet unknown to Plaintiff. However,  
 14 based on the sales of all Sets throughout the United States, upon information and belief, Plaintiff  
 15 alleges the number of Class members to be in the hundreds of thousands. It is therefore  
 16 impracticable to bring all members of the Class before this Court and disposition of the Class  
 17 members' claims in a class action is in the best interests of the parties and judicial economy.

18 70. There is a community of interest in that (a) common questions of law and fact in  
 19 this action predominate over individual questions, (b) the claims of the Class representatives are  
 20 typical of the claims of other members of the Class, and (c) the Class representatives will  
 21 adequately represent the interests of the Class.

22 71. **COMMONALITY:** Common questions of law and fact exist as to all members of

23  
 24 <sup>4</sup> The states in the Multi-State Class are limited to those states with similar consumer fraud laws  
 25 under the facts of this case: California (Cal. Bus. & Prof. Code § 17200, *et seq.*; Cal. Civ. Code §  
 26 1770 *et seq.*; and Cal. Bus. & Prof. Code § 17500 *et seq.*); Florida (Fla. Stat. § 501.201, *et seq.*);  
 Illinois (815 Ill. Comp. Stat. 505/1, *et seq.*); Massachusetts (Mass. Gen. Laws Ch. 93A, *et seq.*);  
 Michigan (Mich. Comp. Laws § 445.901, *et seq.*); Minnesota (Minn. Stat. § 325F.67, *et seq.*);  
 Missouri (Mo. Rev. Stat. § 407.010, *et seq.*); New Jersey (N.J. Stat. § 56:8-1, *et seq.*); New York  
 (N.Y. Gen. Bus. Law § 349, *et seq.*); and Washington (Wash. Rev. Code § 19.86.010, *et seq.*).



the Class and predominate over any questions which affect individual members of the Class in that Defendants have engaged in a common course of conduct in dealings with the Class and acted in a manner generally applicable to the entire Class. These common questions of law and fact include without limitation:

(a) Whether Defendants distributed and marketed, sold or otherwise placed the Sets in the stream of commerce in the United States and/or certain states within the United States;

(b) Whether the representations made by Defendants on the Sets are false;

(c) Whether the representations made by Defendants on the Sets are likely to deceive a reasonable consumer;

(d) Whether the representations made by Defendants on the Sets are unfair or deceptive;

(e) Whether Plaintiff and Class members directly and proximately suffered injury to their business or property by purchasing the Sets;

(f) Whether the representations on the outside of the box Sets constitute express warranties the Defendants breached and whether said representations also give rise to claims for breach of the implied warranty of merchantability for which the Defendants are liable to Plaintiff and the Class; and

(g) Whether Plaintiff and Class members are entitled to punitive damages under the Washington Consumer Protection Act.

72. **TYPICALITY:** The claims of Plaintiff are typical of the claims of the other Class members in that the Plaintiff, like other Class members, purchased one of the Sets distributed and/or marketed by Defendants which contained the false, untrue, deceptive, and misleading representations, and Plaintiff, like the other members of the Class, have been damaged by Defendants' false, untrue, deceptive, and misleading representations in that they purchased a Set that did not contain ALL of the James Bond films as represented. Furthermore, the factual basis

1 of Defendants' misconduct is common to all Class members and represents a common thread of  
 2 misconduct resulting in injury to all Class members. Lastly, the relief sought is common.

3 73. **ADEQUATE REPRESENTATION:** Plaintiff is a member of the Class and will  
 4 fairly and adequately represent and protect the interests of the Class. Plaintiff has retained  
 5 counsel who are experienced in prosecuting consumer class actions. Plaintiff has no interests that  
 6 conflict with those of the Class. Plaintiff and her counsel are committed to vigorously  
 7 prosecuting this action on behalf of the Class.

8 74. **SUPERIORITY:** Defendants' conduct applied uniformly to Plaintiff and all  
 9 Class members so that Plaintiff and all Class members were uniformly deceived. A class action is  
 10 superior to all other available methods for the fair and efficient adjudication of this controversy.  
 11 Plaintiff and Class members have suffered economic harm as a result of Defendants' unlawful  
 12 and wrongful conduct which was directed towards Class members and the public as a whole  
 13 rather than specifically and uniquely against any individual Class members.

14 75. Defendants have acted in a uniform manner with respect to Plaintiff and Class  
 15 members. Absent a class action, most Class members would likely find the costs of litigating  
 16 their claims prohibitively high and would therefore have no effective remedy at law. Because of  
 17 the relatively small size of any individual Class member's claims, it is likely that only a few  
 18 could afford to seek legal redress for Defendants' misconduct. Absent a class action, Class  
 19 members will continue to incur damages and Defendants' wrongful conduct will continue with  
 20 no effective remedy.

21 76. Class treatment in this Court will conserve the resources of the courts and the  
 22 litigants and will promote consistency and efficiency of adjudication by providing common  
 23 answers to the common questions of knowledge, conduct, duty, and breach that predominate in  
 24 this action.

25 77. Plaintiff knows of no difficulty that will be encountered in the management of this  
 26 litigation that would preclude its maintenance as a class action.

**COUNT I - VIOLATION OF WASHINGTON'S CONSUMER PROTECTION ACT,**  
**RCW 19.86**

78. Plaintiff realleges and incorporates by reference as if fully rewritten the previous paragraphs of the Complaint.

79. The Defendants' marketing and sale of the Sets as described herein by way of statements or advertisements on the Sets' packaging that are false constitute unfair or deceptive acts or practices in trade or commerce that affects the public interest that has caused injury to Plaintiff's business or property and the Class's business or property.

80. As a direct and proximate result of the Defendants' violation of the Washington Consumer Protection Act, Plaintiff and Class members have been damaged in an amount to be proven at trial. The Court should enter a judgment for actual damages in favor of Plaintiff and the Class and increase the award of damages up to an amount not to exceed three times the actual damages sustained pursuant to RCW 19.86.090.

**COUNT II – BREACH OF EXPRESS WARRANTIES**

81. Plaintiff realleges and incorporates by reference as if fully rewritten the previous paragraphs of the Complaint.

82. Beginning on or about September 15, 2012, which is at least since four years prior to the filing date of this action, and as set forth hereinabove, Defendants made representations to the public, including Plaintiff, on their packaging and other means that the Sets included "all" of the Bond films and 'every gorgeous girl, nefarious villain and charismatic star from Sean Connery to Daniel Craig.'" These and related promises became part of the basis of the bargain between the parties and thus constituted express warranties.

83. Thereon, Defendants, through their distributors and agents, sold the Sets to Plaintiff and Class members, who bought the Sets from Defendants' distributors and agents.

84. However, Defendants breached the express warranties they made by virtue of the representations they generated and printed on the outside of the Sets in that the Sets were missing two Bond films and in fact did not include "all" of the Bond films and 'every gorgeous girl,

1 nefarious villain and charismatic star from Sean Connery to Daniel Craig.” As a result of this  
 2 breach, Plaintiff and Class members in fact did not receive goods as warranted by Defendants.

3 85. As a direct and proximate result of this breach of warranty by Defendants,  
 4 Plaintiff and Class members have been damaged in an amount to be determined at trial.

5 **COUNT III – BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY**

6 86. Plaintiff realleges and incorporates by reference as if fully rewritten the previous  
 7 paragraphs of the Complaint.

8 87. Beginning on or about September 15, 2012, which is at least since four years prior  
 9 to the filing date of this action, and as set forth hereinabove, Defendants made representations to  
 10 consumers, including Plaintiffs, on their packaging and other means that the Sets included “all”  
 11 of the Bond films and ‘every gorgeous girl, nefarious villain and charismatic star from Sean  
 12 Connery to Daniel Craig.” Plaintiff and other consumers bought the Sets from Defendants’  
 13 distributors and agents.

14 88. An implied warranty of merchantability guarantees that consumer goods meet  
 15 each and every one of the following: (1) Pass without objection in the trade under the contract  
 16 description; (2) Are fit for the ordinary purposes for which such goods are used; and (3) run,  
 17 within the variations permitted by the agreement, of even kind, quality and quantity within each  
 18 unit and among all units involved; (4) Are adequately contained, packaged, and labeled as the  
 19 agreement may require; and (5) Conform to the promises or affirmations of fact made on the  
 20 container or label if any. RCW 62A.2-314.

21 89. Defendants were merchants with respect to goods of this kind which were sold to  
 22 Plaintiff and other consumers, and there was in the sale to Plaintiff and Class members an  
 23 implied warranty that those goods were merchantable.

24 90. However, Defendants breached that warranty implied in the contract for the sale  
 25 of goods, in that the Sets were missing two Bond films and in fact did not include “all” of the  
 26 Bond films and ‘every gorgeous girl, nefarious villain and charismatic star from Sean Connery to

1 Daniel Craig” as set forth in detail hereinabove.

2 91. As a result of Defendants’ conduct, Plaintiff and Class members did not receive  
3 goods as impliedly warranted by Defendants to be merchantable.

4 92. As a direct and proximate result of this breach of warranty by Defendants,  
5 Plaintiff and other Class members have been damaged in an amount to be determined at trial.

6 **PRAYER FOR RELIEF**

7 **WHEREFORE**, Plaintiff, on behalf of herself and Class members prays for:

8 1. An Order certifying the Class, and appointing Plaintiff as representative of the  
9 Class, and appointing counsel of record for Plaintiff as Class counsel;

10 2. The entry of judgment on the claims set forth in this Complaint in favor of  
11 Plaintiff and the Class and against the Defendants in an amount to be proven at trial;

12 3. Actual damages to Plaintiff and all Class members;

13 4. Punitive or exemplary damages under the Washington Consumer Protection Act  
14 to Plaintiff and all Class members;

15 5. An award of attorneys’ fees;

16 6. An award of costs;

17 7. An award of interest, including both pre and post-judgment interest, at the highest  
18 rate allowable by law; and

19 8. Such other and further relief as the Court may allow.

20 DATED this 6 day of March, 2017.

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