

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

CASE NO.:

08-41298 CA 25

D WADE'S PLACE, LLC,
a Florida Limited Liability Company,

Plaintiff,

v.

DWYANE WADE, an individual,

Defendant.

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COMPLAINT

The Plaintiff, D Wade's Place, LLC, by and through undersigned counsel, hereby sues the Defendant, Dwyane Wade, and alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. This is an action for damages in excess of \$15,000 exclusive of attorneys' fees and costs.
2. The Plaintiff, D Wade's Place, LLC ("DWP") is a Florida limited liability company with its principal place of business in Palm Beach Gardens, Florida.
3. The Defendant, Dwyane Wade ("Wade"), is an individual residing in Miami-Dade County.
4. Venue is proper in Miami-Dade County, Florida because the Defendant is a resident of Miami-Dade County and the events giving rise to this Complaint occurred in this jurisdiction.

GENERAL ALLEGATIONS

5. On or about August 6, 2007 DWP and Wade entered into a Joint Venture Agreement, the purpose of which was to develop and operate an upscale restaurant concept to be named D Wade's. A true and correct copy of the Joint Venture Agreement is attached hereto as Exhibit "A". In furtherance of the Joint Venture Agreement, DWP expended substantial sums of money in D Wade's restaurants in Ft. Lauderdale, Florida and Boca Raton, Florida. Among other things, in order to make these restaurants operational, DWP closed, renovated and built-out previously existing and profitable restaurants, and spent substantial sums in marketing and promoting the new D Wade's Place restaurants. DWP has also entered into a lease and substantially completed the construction of a new D Wade's Place restaurant in Aventura, Florida.

6. Pursuant to Sections 2 A. and 2 D. of the Joint Venture Agreement, Wade is obligated to participate in certain marketing activities, including making himself available for advertising and marketing promotions, and making a minimum number of promotional appearances at each restaurant location. Sections 2 A. and 2 D. of the Joint Venture Agreement state as follows:

- A. Wade hereby agrees to immediately license the right to use his name, image and likeness in marketing the Restaurant Concept. This Agreement shall be conclusive as between the parties and shall have the same effect as a license agreement. Wade will use his reasonable best efforts to promote the goodwill of the Restaurant Concept and to participate in marketing opportunities for the Restaurant Concept. Subject to his other business demands, Wade shall make himself available, at times and locations acceptable to Wade, for commercials, newspaper, print, radio and/or television advertising for Restaurant Concept, provided that Wade shall have final approval of any advertising in which he appears. Wade shall deliver notice of his approval or disapproval of such advertising within fourteen (14) days

after presentation to him. DWP shall have the right to use advertising and marketing materials that have previously been approved, unless otherwise restricted by Wade. Notwithstanding the foregoing, DWP agrees to produce advertisements and marketing materials that are in good taste consistent with the Restaurant Concept. (Emphasis added)

- D. Subject to Wade's other business demands, Wade shall make himself available for a grand opening of each restaurant and shall make an appearance at any DWP restaurant at least once per calendar quarter or at least four (4) times in a calendar year.

7. In violation of the Joint Venture Agreement, Wade has failed to meet his advertising and promotional appearance obligations which has caused and/or contributed to the failure of the Boca Raton and Ft. Lauderdale locations, has caused and/or contributed to the loss of strategic opportunities for the significant expansion of the business, and has caused and/or contributed to the delay in the completion and opening of the Aventura location . Further, Wade has advised that he does not intend to perform his future obligations pursuant to the Joint Venture Agreement.

COUNT I

BREACH OF CONTRACT

8. The Plaintiff realleges and restates the allegations of Paragraphs 1 through 7 as if fully set forth herein.

9. DWP and Wade entered into a Joint Venture Agreement dated August 6, 2007, a true and correct copy of which is attached hereto as Exhibit "A".

10. Wade has breached the Joint Venture Agreement by failing to comply with his obligations to actively market and promote the restaurant locations, and has advised that he does not intend to perform his future obligations pursuant to the Joint Venture Agreement.

11. All conditions precedent to bringing this action have occurred, have been performed, or have been waived.

12. As a direct and proximate result of Wade's breaches of the Joint Venture Agreement, DWP has suffered damages, and will continue to suffer damages in the future.

WHEREFORE, DWP demands that judgment be entered against Wade, for an award of damages, prejudgment interest, costs, and for such other relief as the Court deems appropriate, including injunctive relief.