

STATE OF MINNESOTA
COUNTY OF CARVER

DISTRICT COURT
FIRST JUDICIAL DISTRICT
CASE TYPE: OTHER CIVIL

Craig Liechty and Michael Fisher,)
)
 Plaintiffs,)
)
 v.)
)
 Keith Anderson and Audi Car Club of)
 North America, Inc.,)
)
 Defendants.)

Court File No. _____

SUMMONS

THE STATE OF MINNESOTA TO THE ABOVE-NAMED DEFENDANTS:

You are hereby summoned and required to serve upon plaintiffs' attorney an answer to the Complaint which is hereby served upon you within twenty (20) days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

This case may be subject to Alternative Dispute Resolution (ADR) processes under Rule 114 of the General Rules of Practice for District Courts. The Court Administrator or your attorney can provide you with information about ADR options and a list of neutrals available in your area. ADR does not affect your obligation to respond to the Summons and Complaint within 20 days.

Dated: May 4, 2007.

HINSHAW & CULBERTSON LLP

By: 

Russell S. Ponessa

Reg. No. 169316

Danell K. Olson

Reg. No. 0340765

333 South Seventh Street, Suite 2000

Minneapolis, MN 55402

Telephone: 612-333-3434

Fax: 612-334-8888

ATTORNEYS FOR PLAINTIFFS CRAIG
LIECHTY AND MICHAEL FISHER

STATE OF MINNESOTA
COUNTY OF CARVER

DISTRICT COURT
FIRST JUDICIAL DISTRICT
CASE TYPE: OTHER CIVIL

Craig Liechty and Michael Fisher,)
)
 Plaintiffs,)
)
 v.)
)
 Keith Anderson and Audi Car Club of)
 North America, Inc.,)
)
 Defendants.)

Court File No. _____

COMPLAINT

Plaintiffs Craig Liechty and Michael Fisher, for their Complaint against defendants Keith Anderson and Audi Car Club of North America, Inc., state:

DESCRIPTION OF ACTION

1. This lawsuit arises from defendant Keith Anderson's improper and unlawful attempt to remove Craig Liechty and Michael Fisher from their duly elected positions on the Board of Directors of the Audi Car Club of North America, Inc. Defendant Anderson's intentional and willful actions violate the Audi Club's Bylaws and Minnesota statutory and common law which require that Craig Liechty and Michael Fisher serve out their elected terms on the Board of Directors.

THE PARTIES

2. Plaintiff Craig Liechty ("Liechty") is a resident of Chagrin Falls, Ohio. Liechty is a longstanding member and current director and officer in the Audi Car Club of North America, Inc.

3. Plaintiff Michael Fisher ("Fisher") is a resident of Traverse City, Michigan. Fisher is a longstanding member and current director of the Audi Car Club of North America, Inc.

4. Defendant Keith Anderson ("Anderson") is a resident of Carver County, Minnesota. Anderson is a member, director, and current President of the Audi Car Club of North America, Inc.

5. The Audi Car Club of North America, Inc. ("Audi Club") is a Minnesota non-profit corporation with its designated registered office located at 7700 Quattro Drive, Chanhassen, Minnesota.¹ In accordance with its articles of incorporation, the Audi Club was organized and exists under the provisions of the Minnesota Non-Profit Corporation Act, Minnesota Statutes, Chapter 317A, and laws amendatory thereof and supplementary thereto.

JURISDICTION AND VENUE

6. Defendant Anderson is subject to the jurisdiction of this Court as he resides in Minnesota.

7. Defendant Audi Club is subject to the jurisdiction of this Court because it is a Minnesota non-profit corporation with a registered office in the State of Minnesota.

8. Venue in this district is proper pursuant to Minnesota Statute § 542.09 because, among other things, defendant Anderson resides in Carver County and the registered corporate office of Audi Club is in Carver County.

¹ Prior to 2002, the registered name of the Audi Club was Quattro Club U.S.A., Inc. For simplicity the organization is collectively referred to herein as the Audi Club.

GENERAL ALLEGATIONS

The Members of the Audi Club Elected Liechty and Fisher to Serve Three Year Terms on the Audi Club Board of Directors

9. In 2004, in accordance with the Audi Club's Bylaws, the voting members of the Audi Club elected plaintiff Liechty to a three year term on the Board of Directors running from 2005 through 2007, and then until the end of the meeting at which his successor has been elected.

10. In 2005, in accordance with the Audi Club's Bylaws, the voting members of the Audi Club elected plaintiff Fisher to a three year term on the Board of Directors running from 2006 through 2008, and then until the end of the meeting at which his successor has been elected.

11. In 2006, in accordance with the Audi Club's Bylaws, Liechty was nominated and elected by the Board of Directors to serve as Chairman of the Board.

The Audi Club Bylaws in Effect at the Time Liechty and Fisher Were Elected to the Board of Directors Provide for a Three Year Term and Further Provide that a Director Holds Office for the Term for Which He Was Elected

12. The Audi Club Bylaws in effect in 2004 and 2005 state the following regarding the number, method of election, and term of the Board of Directors of the Audi Club:

ARTICLE V. Directors

5.1. Number and Method of Election. The Board of Directors of this Club shall consist of at least three but not more than nine persons. The members may, by an affirmative change in the bylaws, increase the number of the Board of Directors to more than nine; however, the total number of Directors shall be evenly divisible by three. The Directors of this organization shall be elected by eligible voting members.

5.2. Term. Each director of this organization shall be elected to serve a term of not more than two consecutive three-year terms. A director shall hold office for the term for which he or she was elected until the end of the meeting at which his or her successor has been elected. Any

vacancies occurring in the Board of Directors shall be filled by a vote of the majority of the directors then in office.

13. The Audi Club Bylaws in effect in 2004 and 2005, state the following regarding the management of the organization:

5.4. Management of Affairs of Organization. The property, affairs, activities, and concerns of the organization shall be managed by the Board of Directors, which, without limiting the scope of the foregoing, shall have the power to appoint the officers of the Club, to appoint and direct agents, to grant general or limited authority to officers, employees and agents of the Club, to make, execute and deliver contracts and other instruments and documents in the name of and on behalf of the Club. In addition, the Board of Directors may exercise all the powers of the Club and do all lawful acts and things which are not reserved to the members, by law, or the bylaws of the Club. The Board of Directors shall interpret the bylaws.

Defendant Anderson Proposes a Bylaw Amendment Regarding the Terms of the Elected Directors

14. In the fall of 2006, defendant Anderson proposed an amendment to Article V, Directors, 5.2, Term, of the Audi Club Bylaws, stating:

PROPOSAL 3

ARTICLE V. Directors.

5.2 Term

Amendment to the following Article V, 5.2. Term is proposed:

Each director of this organization shall be elected to serve a term of not more than two consecutive three-year terms. A director shall hold office for the term for which he or she was elected until the end of the meeting at which his or her successor has been elected. Any vacancies occurring in the Board of Directors shall be filled by a vote of the majority of the directors then in office. Members may not serve on the Board of Directors as an Officer or Director in an appointed or elected capacity for more than nine consecutive years. The member that served nine consecutive years as a director or officer may then elect to run for a position after a one year absence from the Board of Directors.

15. In information provided to the Audi Club members, the stated reason for defendant Anderson's proposed amendment to the directors' term was as follows:

Reason for proposed amendment:

This amendment allows the club to grow and expand under new leadership. It also gives the membership opportunities to become involved in the organization in a leadership capacity, bringing new skills and fresh ideas to grow the club.

16. The Audi Club Board of Directors did not by majority vote at a regular Board of Director meeting with a legal quorum present decide to submit defendant Anderson's proposed bylaw amendment regarding the directors' term to the Audi Club members for a majority vote.

17. At an Audi Club Chapter Representatives Conference Call on October 30, 2006, defendant Anderson stated that the proposed bylaw amendment to the directors' term is not an attempt to force Liechty and Fisher from the Board of Directors. The prepared and distributed Notes from the October 30, 2006, Chapter Communications Teleconference state that "Affected board members are NOT kicked off immediately, will serve out the remainder of their term."

18. Consistent with defendant Anderson's public statements and representations to the Audi Club members, and the distributed Notes from the October 30, 2006, Chapter Communications Teleconference, the proposed bylaw amendment to Article V, Directors, 5.2. Term, provides that "[a] director shall hold office for the term for which he or she was elected until the end of the meeting at which his or her successor has been elected."

19. As a corporation organized and existing under the provisions of the Minnesota Non-Profit Corporation Act, the terms of the Audi Club's directors are subject to the requirements of Minnesota Statute § 317A.207, which provide that "[a] decrease in the number of directors or term of office does not shorten an incumbent director's term."

20. At the 2006 Audi Club annual general election, the members voted to adopt the proposed bylaw amendment regarding the term of directors.

**Defendant Anderson's Improper Attempt to Terminate Liechty and Fisher
from Their Elected Positions on the Board of Directors in Violation of
the Audi Club Bylaws and the Minnesota Non-Profit Corporation Act**

21. On December 21, 2006, defendant Anderson informed Liechty that amended Bylaw 5.2. Term, was being interpreted by the executive committee to contain "no grandfather clause" and was further being interpreted by the executive committee to effectively terminate and shorten the term for which Liechty and Fisher were elected to as members of the Board of the Directors.

22. In separate letters to Liechty and Fisher dated January 12, 2007, defendant Anderson again asserted the executive committee's interpretation of amended Bylaw Article V. Directors. 5.2. Term, stating that "[s]ince the language of the amendment does not contain a grandfather clause, it would not be appropriate to allow directors serving more than nine years to continue in that capacity." Defendant Anderson's January 12, 2007, letter goes on to state that "as a result, the executive committee is writing to advise you that you are no longer on the Board of Directors."

23. At the time of defendant Anderson's attempted removal of Liechty from the Audi Club Board of Directors, Liechty had not served as a member of the Board of Directors for more than nine consecutive years.

24. At the time of defendant Anderson's attempted removal of Fisher from the Audi Club Board of Directors, Fisher had not served as a member of the Board of Directors for more than nine consecutive years.

25. After issuing his January 12, 2007, letter improperly and unlawfully attempting to remove Liechty and Fisher from the Audi Club Board of Directors before the terms for which they were elected expired, in violation of the Audi Club Bylaws and Minnesota Statute § 317A.207, defendant Anderson then wrongfully, unlawfully, and intentionally took actions to

prevent Liechty and Fisher from acting in their capacity as an elected Director and to prevent Liechty and Fisher from participating in the affairs, activities, and concerns of the Audi Club Board of Directors.

26. After issuing his January 12, 2007, letter, defendant Anderson also wrongfully, unlawfully, and intentionally took actions to exclude Liechty from serving on the executive committee of the Audi Club in his elected capacity as an officer and Chairman of the Board.

27. After issuing his January 12, 2007, letter improperly and unlawfully attempting to remove Liechty and Fisher from the Audi Club Board of Directors before the terms for which they were elected expired, defendant Anderson then wrongfully, unlawfully, and intentionally used the executive committee, without Liechty's participation in his capacity as Chairman of the Board, to manage the affairs, activities, and concerns of the Audi Club thus usurping the authority of the Board of Directors in violation of the Audi Club's Bylaws.

CLAIMS

COUNT I

Declaratory Judgment and Declaratory Relief

28. Plaintiffs incorporate by reference Paragraph 1-27 above.

29. As set forth in this Complaint, a judiciable dispute and controversy exists between the parties which is appropriate for determination by declaratory judgment and relief pursuant to the Declaratory Judgment Act, Minnesota Statutes, Chapter 55.

30. As set forth in this Complaint, plaintiffs Liechty and Fisher are entitled to a declaratory judgment and declaratory relief which include, but are not limited to:

- a. A declaration that plaintiff Liechty remains in his position on the Audi Club Board of Directors and as Chairman of the Board until the expiration of his elected term, with all rights and obligations provided for under the Audi Club Articles and Bylaws and Minnesota statutory and common law;

- b. A declaration that plaintiff Fisher remains in his position on the Audi Club Board of Directors until the expiration of his elected term, with all rights and obligations provided for under the Audi Club Articles and Bylaws and Minnesota statutory and common law;
- c. A declaration that the actions of defendant Anderson and the executive committee in attempting to terminate plaintiffs' positions on the Audi Club Board of Directors before the expiration of plaintiffs' elected terms are null and void;
- d. A declaration that the actions and decisions of the Audi Club executive committee which violate the Audi Club's Bylaws are null and void, including a declaration that the executive committee does not, acting alone and without the participation of the Board of Directors, have the authority to manage and make decisions regarding the property, affairs, activities, and concerns of the Audi Club;
- e. A declaration that defendant Anderson is not protected by the immunity provisions of the Minnesota Non-Profit Corporation Act because, as set forth in this Complaint, defendant Anderson did not act in good faith, did not act within the scope of his responsibilities as a director and officer, and otherwise committed reckless, intentional, or willful misconduct in violation of the Audi Club's Bylaws and Minnesota statutory and common law; and
- f. A declaration that defendant Anderson is personally liable for his attorneys' fees and defense costs in this action, and is not entitled to indemnification for such fees and costs from or through the Audi Club because defendant Anderson did not act in good faith, did not act within the scope of his responsibilities as a director and officer, and otherwise committed reckless, intentional, or willful misconduct in violation of the Audi Club's Bylaws and Minnesota statutory and common law.

COUNT II

Injunctive and Equitable Relief

- 31. Plaintiffs incorporate by reference Paragraph 1-30 above.
- 32. Plaintiffs Liechty and Fisher are likely to succeed on the merits of their claims.
- 33. Plaintiffs Liechty and Fisher have suffered and will continue to suffer irreparable harm, and have no adequate remedy at law, if defendants are not enjoined from their attempt to terminate plaintiffs from their elected positions on the Audi Club's Board of Directors prior to the expiration of their elected terms and if defendants are not ordered to allow plaintiffs to

resume and carry out their rights and obligations under the Audi Club's Articles and Bylaws and Minnesota statutory and common law as elected members of the Board of Directors.

34. Defendants' wrongful and illegal conduct threaten the ongoing operations of the Audi Club.

35. Plaintiffs are entitled to temporary and permanent and injunctive relief in order to prevent irreparable harm and to restore the status quo in the operation and management of the Audi Club. To the extent plaintiffs' damages are unquantifiable, such inability to quantify is further evidence of irreparable harm supportive of the remedy of injunctive relief.

36. Plaintiffs are also entitled to temporary and permanent injunctive and equitable relief in order to prevent irreparable harm and restore the status quo pursuant to the Minnesota Non-Profit Corporation Act, for the reasons set forth in this Complaint, including that defendant Anderson has acted fraudulently, illegally, and/or in a manner unfairly prejudicial towards plaintiffs Liechty and Fisher in their capacities as directors, officers, and members of the Audi Club.

COUNT III
Illegal Conduct or Action Unfairly Prejudicial Towards a Director
Minnesota Statute § 317A.751

37. Plaintiffs incorporate by reference Paragraphs 1-36 above.

38. As set forth in this Complaint, defendant Anderson has acted fraudulently, illegally, and/or in a manner unfairly prejudicial toward plaintiffs Liechty and Fisher in their capacity as members and directors of the Audi Club and has otherwise violated Minnesota Statute § 317A.751.

39. As a result of defendant Anderson's above-described acts and omissions, plaintiffs are entitled to injunctive, equitable, and other relief under the common law and Minnesota Statute § 317A.751 which includes, but is not limited to:

- a. An order requiring defendants to allow plaintiff Liechty to remain in his position on the Audi Club Board of Directors until the expiration of his elected term, with all rights and obligations provided for under the Audi Club Articles and Bylaws and Minnesota statutory and common law;
- b. An order requiring defendants to allow plaintiff Fisher to remain in his position on the Audi Club Board of Directors until the expiration of his elected term, with all rights and obligations provided for under the Audi Club Articles and Bylaws and Minnesota statutory and common law;
- c. An order enjoining and prohibiting defendant Fisher and the executive committee, acting alone and without the participation of the Board of Directors, to make decisions regarding the property, affairs, activities, and concerns of the Audi Club; and
- d. An order enjoining and prohibiting the Audi Club from indemnifying defendant Anderson for his attorneys' fees and defense costs in this action.

COUNT IV
Breach of Fiduciary Duties

40. Plaintiffs incorporate by reference Paragraphs 1-39 above.

41. As a director and officer of the Audi Club, defendant Anderson owes a fiduciary duty to plaintiffs and the Audi Club to act in good faith, with honesty in fact, with loyalty, and in a manner which is in the best interests of the Audi Club and its members and which complies with the Audi Club Code of Ethics, and with the care of an ordinary, prudent person under similar circumstances.

42. As a director and officer of the Audi Club, defendant Anderson owes a fiduciary duty to act with the highest standards of integrity toward plaintiffs Liechty and Fisher, to use his position and voting power in a fair and equitable manner and not to use his position and voting power, in conflict of interest or otherwise, to seek control of corporate activities in a manner which is beneficial to himself and which is detrimental to plaintiffs Liechty and Fisher and the Audi Club.

43. The actions and omissions of defendant Anderson as set forth in this Complaint constitute a violation of his fiduciary duties to plaintiff Liechty in his capacity as a director, officer, and member of the Audi Club, and to plaintiff Fisher in his capacity as a director and member of the Audi Club.

44. Defendant Anderson's breaches of his fiduciary duties are unlawful acts which are unfairly prejudicial and damaging to plaintiffs Liechty and Fisher, entitling plaintiffs to relief under the common law and the Minnesota Non-Profit Corporation Act.

45. As a result of defendant Anderson's breaches of fiduciary duty as set forth in this Complaint, plaintiffs Liechty and Fisher have been irreparably harmed and have no adequate remedy at law as a result of efforts to remove them from their elected positions on the Audi Club's Board of Directors before the expiration of their elected term, and have and will incur damages including, but not limited to, attorneys' fees, costs, and disbursements in connection with this action.

REQUEST FOR RELIEF

WHEREFORE, plaintiffs Craig Liechty and Michael Fisher request that the Court enter an order and judgment against defendant as follows:

1. For the declaratory relief and judgment set forth above;
2. For the temporary and permanent injunctive and equitable relief set forth above, pursuant to common law and the Minnesota Non-Profit Corporation Act;
3. For an award of plaintiffs' actual damages;
4. For an award of costs, disbursements, and attorneys' fees incurred by plaintiffs in this action, pursuant to the Minnesota Non-Profit Corporation Act; and
5. For such other and further relief that is just, equitable, and permitted by law.

Dated: May 4, 2007.

HINSHAW & CULBERTSON LLP

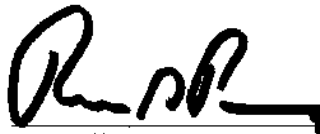
By: 

Russell S. Ponessa Reg. No. 169316
Danell K. Olson Reg. No. 0340765
333 South Seventh Street, Suite 2000
Minneapolis, MN 55402
Telephone: 612-333-3434
Fax: 612-334-8888

ATTORNEYS FOR PLAINTIFFS CRAIG
LIECHTY AND MICHAEL FISHER

ACKNOWLEDGMENT

The undersigned hereby acknowledges that pursuant to Minn. Stat. § 549.211 sanctions may be awarded to the party or parties against whom the allegations in this pleading are asserted.



Russell S. Ponessa