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## Gilmer v. Walt Disney Company

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## CASE SUMMARIES

GILMER v. WALT DISNEY COMPANY, 915 F. Supp. 1001 (W.D. Ark. 1996).

Named class action Plaintiff, Janet Gilmer, moved to remand the case to the State Circuit Court of Washington County, Arkansas, the court in which it was originally filed, for lack of subject matter jurisdiction. Defendants, Walt Disney Company and Buena Vista Home Video, removed the action to federal court on the basis of diversity of citizenship and the existence of the minimum \$50,000 amount in controversy required by 28 U.S.C. §§ 1332 and 1441. Plaintiff conceded the existence of diversity of citizenship, but denied the existence of the minimum amount in controversy. The original complaint, filed by Plaintiff on behalf of herself and all others similarly situated, asserts three causes of action, including common law fraud, negligence, and breach of warranties, all based upon allegations that the video cassettes of *The Lion King* and *The Little Mermaid* contain drawings and animated scenes depicting sexual messages or other sexually related material unsuitable for young children and/or family videos. While the complaint seeks no specific dollar amount of damages, but instead, "all damages that are recoverable at law, including punitive damages," Plaintiff contends that the amount of damages per class member will not approach the minimum \$50,000 amount in controversy required for federal subject matter jurisdiction.

*Held:* Defendants have established by a preponderance of the evidence that the amount in controversy is greater than \$50,000. Under Arkansas law, it is certainly possible that Plaintiff's claim for punitive damages will result in an award exceeding the required minimum \$50,000 amount in controversy. And as long as one Plaintiff's claim meets that amount, 28 U.S.C. § 1367 confers supplemental jurisdiction over the claims of any class member who would not independently meet the \$50,000 requirement.

Therefore, the court has subject matter jurisdiction over the case.  
Motion Denied.

S.B.

**SILVERMAN V. MAJOR LEAGUE BASEBALL PLAYER RELATIONS  
COMM., 67 F.3d 1054 (1995).**

This was an action by the National Labor Relations Board (NLRB) representing the Major League Baseball Players Association (MLBPA) against the Major League Baseball Player Relations Committee, Inc. (PRC). The NLRB sought temporary injunctive relief under § 10(j) of the National Labor Relations Act at the district court level to prevent the PRC from unilaterally eliminating the free agency, anti-collusion, and salary arbitration provisions of the expired Basic Agreement. Judge Sonia Sotomayer granted the relief, and this appeal followed after a failed attempt by the PRC to get an emergency stay of the injunction.

Fearful that escalating player salaries would eventually lead to economic disaster, the baseball owners wished to install a salary cap system on every team. The players opposed such a cap vehemently, and on August 12, 1994, the Players' Union went on strike. This effectively ended the baseball season for that year as the two sides could not make any headway for the next four months. On December 23, the owners declared an impasse in the negotiations, and unilaterally implemented their salary cap proposal. The MLBPA filed unfair labor charges with the NLRB against the owners, and the NLRB planned to issue a complaint against the owners.

In order to avoid the charges, the owners made an agreement with the NLRB to retract the salary cap system and to restore the status quo. However, on February 6, 1995, the owners eliminated the right for individual teams to negotiate and sign individual players. The owners then gave all their negotiating powers to the PRC. This maneuver effectively eliminated the free agency, anti-collusion, and salary arbitration provisions of the expired Basic Agreement. Once again, the MLBPA filed charges with the NLRB, and the NLRB then sought an injunction in federal district court.

The issue on appeal was whether the trial court was correct in asserting that there was reasonable cause to believe that the provisions eliminated were mandatory subjects of bargaining and if so, was the use of temporary injunctive relief "just and proper." Mandatory subjects are those dealing with "wages, hours, and