

# Michael Keaton Beats Producers' Lawsuit Over His Directorial Debut (Exclusive)

by Eriq Gardner

**A judge gives Keaton a big victory, noting how hard the actor-director worked to publicize his directorial debut, 'The Merry Gentleman'**

This just might be **Michael Keaton's** year, one in which artistic inspection leads to serendipity.

He's sitting in a comfortable position ahead of the Academy Award nominations, with an acclaimed performance in *Birdman*, where he plays an actor attempting to revive his career on Broadway. Now, thanks to an Illinois federal court judge's summary judgment on Monday, he won't have to worry about the week after the Oscars, when a jury trial was scheduled to examine what went wrong on *The Merry Gentleman*, his 2008 directorial debut.

U.S. District Judge **Gary Feinerman** has dismissed claims brought by a production company run by hedge fund manager **Paul Duggan** that Keaton didn't live up to his contract for *Merry Gentleman*, which starred Keaton and **Kelly Macdonald** in a story about a young woman who escapes her abusive husband and then enters a complicated relationship with a suicidal hit man.

The tale told in the lawsuit is that Keaton became director when the screenwriter (**Ron Lazzeretti**) got ill. Keaton was paid \$100,000 to helm the picture and delivered his first cut in August 2007, which was well after the deadline. The producers weren't happy with what Keaton turned in, so they began cutting their own version, which was accepted at the 2008 Sundance Film Festival.

Keaton wasn't happy about this, and he allegedly told the festival's director that he would only attend if his



version was screened. A deal was worked out on the precipices of Sundance, and *Merry Gentleman* showed to good reviews. *The Hollywood Reporter* said it was an "impressive directorial debut...edgy entertainment." But despite CAA handling sales, it couldn't land distribution from its Sundance premiere.

Eventually, the film was released. Keaton gave some odd interviews in support. On ABC's *Good Morning America*, for instance, he couldn't confirm a description of the plot. Ultimately, the \$5.5 million flick was a bomb at the box office, and producers filed a lawsuit against Keaton, blaming him for things such as going fly-fishing when he should have been working on the film.

The shortcoming of the lawsuit, as articulated by Judge Feinerman, was the lack of causation between Keaton's supposed breach of his director's agreement

and the monetary losses the film producers said they incurred. This is important because the plaintiff was attempting to prove reliance damages, meaning the producers would be compensated as if the contract with Keaton had never been formed. They wanted not just the \$100,000 they had paid Keaton; they wanted their entire \$5.5 million investment on *Merry Gentleman* back.

“The problem is that Merry Gentleman [LLC] does not even attempt to make such a showing,” writes the judge, referring to the connection between Keaton’s actions and the damages. “The closest Merry Gentleman comes is its drive-by, one sentence argument that Keaton’s alleged breaches caused damages ‘in that it was unable to screen and market the film of its choosing’ and ‘in that it endured substantial additional costs.’”

But the judge says these arguments were underdeveloped. The production company didn’t say what those additional costs might be or how it didn’t get the film of its choosing.

“It is undisputed that Keaton actually finished the film and that it was selected by the prestigious Sundance Film Festival, was shown at the festival’s largest venue, and received critical praise and nationwide publicity unusual for such a film,” continues the judge in his opinion. “While Keaton allegedly took too long to finish the first cut, he did finish it; and while he allegedly should not have insisted on his Director’s Cut’s being shown at Sundance, his cut received positive reviews, and he appeared at the festival and made all required

publicity appearances; and while he allegedly should have been more enthusiastic and engaged in his television appearances, he did make the appearances and, by Duggan’s own admission, he worked harder to publicize the film than any other director of a comparably sized film.”

And so Keaton successfully defends the lawsuit, even though the judge seems primed to also reject Keaton’s counterclaims alleging that the producers breached the director’s agreement by failing to provide him with qualified editors and starting work on its own version of the film. The judge says the counterclaims fail on pretty much the same failures to allege causality. He’s giving Keaton’s side a few weeks to brief on why dismissal on the counterclaims shouldn’t be entered.

Keaton is represented by **Michael Kump** and **Jeremiah Reynolds** of Kinsella Weitzman Iser Kump & Aldisert LLP in Santa Monica, Calif., along with local counsel in Chicago, **Sidney Herman**, **Hamilton Hill** and **Chris Hagale** of Bartlit Beck Herman Palenchar & Scott LLP.

“Michael is extremely gratified with the court’s decision to grant our motion and dismiss the claims against him,” says Kump. “This lawsuit should never have been filed. Every person who worked on the film testified that Michael worked tirelessly and passionately to make the best possible film. The movie received widespread critical praise when it premiered at the Sundance Film Festival and later when it was released. Michael looks forward to continuing with his many artistic endeavors.”