

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

DAVID LOUIS WHITEHEAD,

Plaintiff,

v.

NETFLIX, INC., ET AL.,

Defendants.

Case No. 2:18-cv-00460-RWS-RSP

**DEFENDANTS' MOTION TO DISMISS AND SUPPORTING BRIEF**

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Pursuant to Federal Rules of Civil Procedure 8, 9(b), 12(b)(1), 12(b)(6), and principles of res judicata, Defendants Netflix, Inc. (“Netflix”) and Viacom, Inc. (“Viacom”) submit this Motion to Dismiss Plaintiff’s First Amended Complaint (Dkt. No. 10).

## INTRODUCTION

David Louis Whitehead’s (“Plaintiff”) Amended Complaint should be dismissed because this Court does not have subject matter jurisdiction over Plaintiff’s frivolous claims—claims that are largely impossible to comprehend. *See* Fed. R. Civ. Pro. 12(b)(1); *Hagans v. Lavine*, 415 U.S. 528, 536-537 (1974). Plaintiff’s claims should also be dismissed because they are duplicative of other cases that have been dismissed and thus barred by principles of res judicata. Indeed, Plaintiff’s claims are nearly identical to, and at times exactly the same as, claims he has filed in numerous courts across the country against an ever growing litany of entertainment oriented defendants. *See infra* section II. Additionally, Plaintiff’s claims fall woefully short of requisite pleading requirements and thus fail to state a claim for which relief can be granted. *See* Fed. R. Civ. Pro. 12(b)(6).

Finally, Plaintiff’s frivolous claims should be dismissed to prevent further waste of judicial resources. *See Ratcliff v. Texas*, No. 9:15-CV-106, 2017 WL 9325347, at \*2 (E.D. Tex. Feb. 13, 2017) (dismissing pro se plaintiff’s claims and recommending sanctions to prevent further waste of judicial resources because plaintiff’s claims were implausible, frivolous and devoid of merit), report and recommendation adopted, No. 9:15-CV-106, 2017 WL 907992 (E.D. Tex. Mar. 7, 2017), *aff’d*, 699 F. App’x 410 (5th Cir. 2017), cert. denied, 138 S. Ct. 1704, 200 L. Ed. 2d 960 (2018). The Fifth Circuit has previously noted that Mr. Whitehead has a long “history of extensive and vexatious litigation.” *Whitehead v. White & Case, L.L.P.*, 519 F. App’x 330, 332 (5th Cir. 2013). Plaintiff’s filings have been restricted in a number of jurisdictions and he is frequently

deemed a “vexatious litigant.” See *Whitehead v. Sony Pictures*, No. CV 16-0580 (SRN/BRT), 2016 WL 3064074, at \*2 (D. Minn. May 31, 2016) (dismissing Mr. Whitehead’s claims and warning him that the court may impose monetary sanctions or filing restrictions if he continues to “prosecute further frivolous or malicious litigation in this District”); *Whitehead v. Millennium Films*, No. CV1503564RGKAGR, 2016 WL 7638185, at \*4 (C.D. Cal. May 4, 2016) (granting defendants’ motion for judgment on the pleadings and finding Mr. Whitehead’s litigation conduct “frivolous and harassing in nature” causing needless expense and unnecessary burden on the court and defendants); *Whitehead v. Friedman*, 02–1630 (RWR), ECF No. 48 (D.D.C. Sept. 8, 2013) (finding that Mr. Whitehead’s “history of vexatious litigation is well documented” and barring him from commencing any action without first obtaining leave of the court); *Whitehead v. White & Case, LLP*, No. 12-CV-0399, 2012 WL 1795151, at \*4 (W.D. La. Apr. 19, 2012), report and recommendation adopted, No. 12-CV-0399, 2012 WL 1795148 (W.D. La. May 16, 2012) (ordering pre-filing restrictions against Mr. Whitehead and dismissing his complaint “to avoid any further waste of the court’s time or the incurring of attorney fees and expenses by the many defendants”); *Whitehead v. Paramount Pictures Corp.*, No. 1:08CV792(AJT/TRJ), 2009 WL 1491402, at \*3 (E.D. Va. May 26, 2009), aff’d in part sub nom.; *Whitehead v. Paramount Pictures, Inc.*, 366 F. App’x 457 (4th Cir. 2010) (enjoining Mr. Whitehead from filing any new civil actions, motions, papers, or requests for relief without seeking and obtaining court approval); *Whitehead v. Wickham*, No. 05-CA-3346, 2005 WL 2874975, at \*3 (D.C. Super. Ct. Sept. 6, 2005), aff’d sub nom. *Whitehead v. Viacom, Inc.*, 63 F. App’x 175 (4th Cir. 2003) (requiring Mr. Whitehead to seek leave prior to filing any new motions and seek leave of the presiding judge of the civil division prior to filing any new lawsuit); *Whitehead v. Viacom*, 233 F. Supp. 2d 715, 726 (D. Md. 2002)

(requiring plaintiff seek leave of court before filing any new motions or cases). As such, the Court should dismiss Plaintiff's claims to prevent further waste of time, money, and judicial resources.

### **STATEMENT OF THE ISSUES**

1. Whether Plaintiff's Amended Complaint should be dismissed under Rule 12(b)(1) where this Court lacks subject matter jurisdiction over Plaintiff's frivolous claims.
2. Whether Plaintiff's Amended Complaint should be dismissed where the claims are duplicative and barred by res judicata.
3. Whether Plaintiff's Amended Complaint should be dismissed under Rules 8, 9(b), and 12(b)(6) where
  - a. Plaintiff failed to properly state a claim and allege facts sufficient to plead a plausible cause of action for copyright infringement;
  - b. Plaintiff failed to properly state a claim and allege facts sufficient to plead a plausible cause of action for fraud;
  - c. Plaintiff failed to properly state a claim and allege facts sufficient to plead a plausible cause of action for bad faith dealings;
  - d. Plaintiff failed to properly state a claim and allege facts sufficient to plead a plausible cause of action for breach of contract and tortious interference with potential contracts;
  - e. Plaintiff failed to properly state a claim and allege facts sufficient to plead a plausible cause of action for anti-trust violations;
  - f. Plaintiff failed to properly state a claim and allege facts sufficient to plead a plausible cause of action for civil rights violations;

- g. Plaintiff failed to properly state a claim and allege facts sufficient to plead a plausible cause of action for negligence.

### **FACTUAL BACKGROUND AND STATEMENT OF THE CASE**

Plaintiff filed his first complaint against Netflix on November 2, 2018. Dkt. No. 1. While it is unclear precisely what Plaintiff claims, it appeared he was attempting to assert claims for copyright infringement, fraudulent and unfair business practices, bad faith dealings, violations of privacy, fraudulent, unfair, and deceptive business practices, conspiracy to steal intellectual property using false advertising, breach of contract, misappropriation of intellectual properties, anti-trust violations, violations of civil rights, tortious interference with potential contracts, and negligence. Dkt. No. 1 at 7-12. Plaintiff amended his complaint on February 21, 2019, adding additional defendants—Walt Disney Company, Marvel Entertainment,<sup>1</sup> and Viacom—and additional works he claimed were infringed. *See* Dkt. No. 10.

The allegations involving Netflix in Plaintiff’s Amended Complaint surround Plaintiff’s submission of a “30 film proposal,” to Netflix, Netflix’s rejection of that “proposal,” and the production and distribution of the film “Black Panther.” Dkt. No. 10 at 3-7. The alleged “30 film proposal” is an eight-page document containing the title and brief synopsis of 30 “film projects,” purportedly created by Mr. Whitehead. Dkt. No. 10 at 5-7, Ex. C2. Plaintiff claims Netflix actively participated in a scheme to steal copyright protected “intellectual property” and conspired with the other named defendants to keep Plaintiff from profiting from his works—namely his idea for a movie entitled “Batman Blackman,” which was submitted to Netflix by Plaintiff’s attorney, W. Alan Pesnell, on November 18, 2016 as one of the 30 “films” in Plaintiff’s proposal. Dkt. No. 10

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<sup>1</sup> As of the date of filing, The Walt Disney Company and Marvel Entertainment, LLC have not been properly served.

at 3-7, Ex. C1. Importantly, Plaintiff submitted only the following information to Netflix regarding “Blackman Batman”:

10. Batman Blackman...

Synopsis: proposed as a Warner Bros special using an all black cast in the Batman series. Music by Michael Jackson “Invincible” LP/CD. (Director of Interest: A. Malik Abbott). (Actor of Interest: Wesley Snipes and others).

Dkt. No. 10 Ex. C2 at 4.

Plaintiff claims Netflix improperly rejected his 30 film proposal after Netflix “requested” he “obtain counsel” to submit the proposal. Dkt. No. 10 at 5, ¶11. Plaintiff claims Netflix’s “Executive office of Chief Content Officer Theodore Sarandos secretary Alexis” requested the submission. Dkt. No. 10 at 5, ¶12. He believes this communication with “Alexis” constitutes a “solicitation” of and contract for his work. Dkt. No. 10 at 5, ¶13. Plaintiff further claims he “followed Netflix’s policy” as it pertained to solicited ideas and materials for film productions, Dkt. No. 10 at 6, ¶15, yet Plaintiff failed to include the relied-upon policy or alleged communications with Netflix for review by this Court or the Defendants.<sup>2</sup> Plaintiff concedes that “Netflix responded within minutes of receiving” the emailed transmission, “denying the proposal,” Dkt. No. 10 at 5, ¶11, and interprets the immediate rejection as a clear indication of “fraud and negligence and violations of privacy.” Dkt. No. 10 at 5, ¶13; 6, ¶14. Without explanation, Plaintiff asserts that Netflix’s rejection of his submission also “involves fraud and conspiracy to steal intellectual properties,” Dkt. No. 10 at 6, ¶15, and that “one of his film project ideas submitted to Netflix, led to the creation of a film ‘Black Panther,’ currently shown by Netflix . . . .” *Id* at ¶16 (emphasis added).

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<sup>2</sup> Plaintiff attached an excerpt of Netflix’s policy to his initial complaint, but not to his Amended Complaint. Nevertheless, that excerpt of the Netflix policy, makes clear that Netflix only considers submissions from attorneys and others with whom Netflix has a preexisting relationship, *see* Dkt. No. 1 at Ex. A, and Plaintiff does not allege that his counsel had such a relationship when his proposal was submitted.

Completely unrelated to the submission and rejection of Plaintiff's 30 film proposal, Plaintiff's claims against Defendant Viacom are based upon allegations of copyright infringement of his book, "Brains, Sex & Racism in the CIA and The Escape" in the production of the movie and novel "Mission Impossible." Dkt. No. 10 at 4, ¶¶ 8; 7; 12. As set forth below, these exact claims against Viacom have previously been litigated and are thus barred by *res judicata*.

All of Plaintiff's allegations are baseless and in keeping with Plaintiff's decades-long *modus operandi*. See, e.g., *Whitehead v. Wickham*, No. 15207-04, Mem. Order at 48 n. 177 (D.C. Super. Ct. Mar. 31, 2005) ("It is evident to this Court that Whitehead is either, at best, a dealer in Mitigation futures, or at worst a 'litigation extortionist.' Neither approach should be tolerated under the Rules of Civil Procedure."). Plaintiff has a long history of vexatious litigation—each case being dismissed or resolved in favor of the defendants.<sup>3</sup> Plaintiff's conduct has caused at least five courts to declare him a vexatious litigant and issue pre-filing orders. See *Millennium Films*, 2016 WL 7638185, at \*4 (citing *White & Case LLP*, 12-cv-0399, ECF No. 45); *Friedman*, 02-1630 (RWR), ECF No. 48; *Paramount Pictures Corp.*, 1:08VC792, 2009 WL 1491402, at \*4; *Wickham*, 05-CA-3346, 2005 WL 2874975, at \*5; *Viacom*, 233 F. Supp.2d at 727). As in each

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<sup>3</sup> See, e.g., *Whitehead v. Netflix*, No. 1:17-CV-225, 2017 WL 4508869 (W.D. La. Mar. 28, 2017); *Whitehead v. Sony Pictures*, No. CV 16-580, 2016 WL 8732631 (D. Minn. Apr. 22, 2016); *Whitehead v. White & Case, LLP*, No. 12-cv-0399, 2012 WL 1795151 (W.D. La. Apr. 19, 2012); *Whitehead v. Paramount Pictures Corp.*, No. 1:08cv792, 2009 WL 1491402 (E.D. Va. May 26, 2009); *Whitehead v. Macy's Inc.*, No. 1:08cv792, 2008 WL 5142289 (E.D. Va. Dec. 3, 2008); *Whitehead v. Wickham*, No. 05-3346, 2005 WL 2874975 (D.C. Super. Ct. Sept. 6, 2005); *Whitehead v. Twentieth Century Fox Film Corp.*, No. 05-1462, 2005 WL 3275905 (D.D.C. Aug. 29, 2005); *Whitehead v. CBS/Viacom, Inc.*, 315 F. Supp. 2d 1 (D.D.C. 2004); *Viacom*, 233 F. Supp. 2d 715; *Whitehead v. Dreamworks LLC*, No. 98-1917, 2001 WL 1218903 (D.D.C. June 14, 2001); *Whitehead v. New Line Cinema*, No. 98-1231, 2000 WL 33351821 (D.D.C. June 14, 2000); *Whitehead v. Time Warner, Inc.*, No. 98-0257, 2000 WL 33542703 (D.D.C. June 14, 2000); *Whitehead v. Columbia Pictures*, No. 98-1882, 2000 WL 33582458 (D.D.C. June 14, 2000); *Whitehead v. Metro Goldwyn Mayer Studio, Inc.*, No. 98-0256, 2000 WL 33542704 (D.D.C. June 14, 2000); *Whitehead v. Paramount Pictures Corp.*, 53 F. Supp. 2d 38 (D.D.C. 1999); *Whitehead v. United States*, 155 F.3d 574 (Fed. Cir. 1998); *Whitehead v. Deutsch*, No. 96-420 (D.D.C. Mar. 31, 1997); *Whitehead v. Woolsey*, No. 93-1363-A (E.D. Va. Jan. 21, 1994); *Whitehead v. Woolsey*, No. 92-0917 (D.D.C. Feb. 26, 1993). It is important to note that this list of cases provides only a small sampling of the cases Plaintiff has filed with similar allegations against defendants in the entertainment industry.

of these prior matters, the Amended Complaint here fails to state a claim or the basis for any claim, and is frivolous, duplicative, and fails to satisfy even the most basic of pleading requirements. Defendants Netflix and Viacom therefore respectfully request this Court dismiss Plaintiff's Amended Complaint in its entirety.<sup>4</sup>

## ARGUMENT

### **I. THE AMENDED COMPLAINT SHOULD BE DISMISSED UNDER FEDERAL RULE OF CIVIL PROCEDURE 12(b)(1) FOR LACK OF SUBJECT MATTER JURISDICTION**

This Court lacks subject matter jurisdiction over Plaintiff's claims because they are "so attenuated and unsubstantial as to be absolutely devoid of merit." *Hagans*, 415 U.S. at 536-537 (citing cases); see *Bell v. Hood*, 327 U.S. 678, 682-283 (1946) (same). This Court may dismiss a complaint that is wholly insubstantial for lack of subject matter jurisdiction under Rule 12(b)(1). *Whitehead v. Paramount Pictures Corp.*, 1:08CV792, 2009 WL 1565639 (E.D. Va. May 28, 2009) (citing *Hagans*, 415 U.S. at 536-537); *Whitehead v. White & Case, LLP*, No. 12-CV-0399, 2012 WL 1795151, at \*3 (W.D. La. Apr. 19, 2012), report and recommendation adopted, No. 12-CV-0399, 2012 WL 1795148 (W.D. La. May 16, 2012) ("Some courts have responded to such [baseless] complaints by dismissing for lack of subject-matter jurisdiction under Rule 12(b)(1) when the allegations in a complaint are absolutely devoid of merit, wholly insubstantial, obviously frivolous, or no longer open to discussion.").

Plaintiff's Amended Complaint is based upon assertions, speculation, and conclusory allegations that he has been the victim of a conspiracy—allegedly based in racial animus—to steal his copyrighted material without just compensation. To the extent his claims surround the creation

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<sup>4</sup> Although The Walt Disney Company and Marvel Entertainment, LLC have not been properly served to date, they have provided declarations in support of this Motion and a Motion to Transfer. See Exhibits 1 and 2. Defendants will file a Motion to Transfer under 28 U.S.C. § 1404(a) later this week.

and distribution of the movie “Black Panther,” there is no question that the film was based on the Marvel Comic character created by Stan Lee and Jack Kirby in the 1960s, long before Plaintiff submitted his “proposal” to Netflix.<sup>5</sup> Plaintiff’s allegations here are thus consistent with the fantastic allegations Plaintiff has raised over the past two decades against a myriad of entertainment entities. *See supra* footnote 2; *see also Sony Pictures*, 2016 WL 8732631, at \*3 (“Whitehead’s history of copyright litigation rests on the fanciful and fantastic notion that he is responsible for many of the most popular films, books, songs, and other cultural products of our time”).

Plaintiff’s allegations are wholly implausible, and the Court should dismiss this case for lack of subject matter jurisdiction as courts have done in Plaintiff’s other cases, and in other similarly frivolous cases. *See White & Case, L.L.P.*, 519 Fed. App’x. at 332; *see also Fitzgerald v. First East Seventh Street Tenants Corp.*, 221 F.3d 362, 363-64 (2d Cir. 2000) (holding that a federal district court may dismiss a frivolous complaint *sua sponte* even when the plaintiff has paid the required filing fee); *Rosner v. Fader*, CIV.A RDB-09-1923, 2009 WL 2358358 at \*3 (D. Md. July 29, 2009) *aff’d*, 333 F. App’x 719 (4th Cir. 2009) (“A complaint that is totally implausible, attenuated or unsubstantial, such as this, may be dismissed *sua sponte* for lack of subject matter jurisdiction, even when the civil filing fee has been paid.”); *Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir. 1999) (“a district court may, at any time, *sua sponte* dismiss a complaint for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure when the allegations of a complaint are totally implausible, attenuated, unsubstantial, frivolous, devoid of merit, or no longer open to discussion”); *Crowley Cutlery Co. v. United States*, 849 F.2d 273, 276

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<sup>5</sup> *See* Vernon Mitchell, Jr., *The Black Panther: A Comic Book History*, Washington University at St. Louis-Dowd Modern History Library, May 23, 2018, available at <https://library.wustl.edu/the-black-panther-a-comic-book-history>. Attached as Exhibit 3.



(7th Cir. 1988) (“a suit which is frivolous does not invoke the jurisdiction of the federal courts”); *O’Connor v. United States*, 159 F.R.D. 22, 24-25 (D.Md.1994) (“patently insubstantial complaints for Rule 12(b)(1) purposes include those that are based on indisputably meritless legal theory and those whose factual contentions are clearly baseless, as well as claims describing fantastic or delusional scenarios”)(internal quotation marks omitted); *Keeler v. City of Newport News*, No. 2:12CV325, 2013 WL 12155728 at \*2 (E.D. Va. Feb. 19, 2013) (dismissing case for lack of subject matter jurisdiction after determining “the totality of Plaintiff’s submissions relate to a fantastic and wholly implausible scenario”).

## **II. PLAINTIFF’S CLAIMS SHOULD BE DISMISSED BECAUSE THEY ARE DUPLICATIVE AND BARRED BY RES JUDICATA**

### **A. Claims against Netflix are duplicative and barred by Res Judicata.**

The Amended Complaint should also be dismissed for the separate and independent reason that it is duplicative of Plaintiff’s prior frivolous suits filed and dismissed by other courts across this county. *See supra* footnote 3. This Court has authority to dismiss a suit that is duplicative of another federal suit as part of the general power to administer the docket unless there are special circumstances to favor the second suit. *Netflix*, 2017 WL 4508869, at \*2 (citing *Cambridge Toxicology Group, Inc. v. Exnicios*, 495 F.3d 169, 178 (5th Cir. 2007)).

Most notably, the Amended Complaint contains allegations against Netflix that are nearly identical to those previously dismissed as duplicative by the Western District of Louisiana in March 2017. *Netflix*, 2017 WL 4508869, at \*1 (“Plaintiff’s current suit resembles other suits filed around the country and in this Court in which he brought claims against . . . entertainment-oriented defendants contending that these defendants committed ‘conspiracy and due process violations to steal the plaintiff’s copyright works . . . .’”). In that case, Plaintiff alleged Netflix committed copyright infringement, conspiracy, fraud, negligence, and civil right violations rooted in the

rejection of his “30 film proposal” submitted by attorney W. Alan Pesnell on November 18, 2016—the **exact same** set of facts alleged against Netflix in the case at hand. *See id.* In the Louisiana case and the case at bar, Plaintiff alleged “defendants engage in fraudulent schemes for purposes to steal intellectual properties and expressions of ideas.” Compare *Whitehead v. Netflix*, No. 1:17-CV-225, Amended Complaint at 2, Exhibit 4 with Dkt. No. 10 at 5-7. Plaintiff did not heed the Louisiana Court’s warning as to duplicative filings—instead he filed a petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit, which was denied, *Whitehead v. Netflix*, 139 S. Ct. 225 (2018), a petition for writ of certiorari before the United States Supreme Court, which is currently pending, *Whitehead v. Netflix Inc.*, 1-5, 2017 WL 9831652, and now attempts to bring the same claims in the Eastern District of Texas.<sup>6</sup>

There are no special circumstances that would warrant an exception to the res judicata analysis to consider Plaintiff’s claims here. Plaintiff filed this case in the Eastern District of Texas not because of any connection to this District, but because he is prohibited from filing in his home district without special permission of the Court, and this District happens to be nearby. *See Netflix*, 2017 WL 4508869, at \*1 (“This Court previously ordered the Clerk to not accept any future filings of any kind from Plaintiff unless the filing is first presented to a district judge and the judge has specifically ordered in writing that the pleading may be filed.” (citing *Whitehead v. White & Case LLP*, 12-cv-0399, ECF No. 45 (W.D. La., May 16, 2012))). This case is thus nothing more than another episode in a long line of meritless cases, the goal of which appears to be for Plaintiff to bully Defendants into paying him to go away. *White & Case, LLP*, 2012 WL 1795151, at \*1 (citing *Whitehead v. Paramount Pictures*, 145 F. Supp. 2d 3, 5 (D.D.C. 2001)). Plaintiff’s behavior wastes the Court’s and litigants’ time and money and is impermissible under the Rules of Civil

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<sup>6</sup> Plaintiff has also requested to transfer this action to Louisiana, California, or New York. *See* Dkt. Nos. 4, 64.

Procedure. Plaintiff's Amended Complaint should be dismissed now before more time, money, and judicial resources are spent on another one of Plaintiff's frivolous filings. *See Cuvillier v. Taylor*, 503 F.3d 397, 401 (5th Cir. 2007) (quoting *Twombly*, 550 U.S. at 556-57).

**B. Claims against Viacom are barred by Res Judicata.**

Plaintiff's claims against Viacom are also barred by res judicata because he has previously filed substantially the same allegations of copyright infringement against Viacom and its subsidiary Paramount Pictures, in the District of Maryland and the District of Columbia wherein final judgment in favor of defendants was entered along with a finding that further litigation was barred. *Whitehead v. Paramount Pictures Corp.*, 53 F.Supp.2d 38, 40–42 (D. D.C. 1999); *Viacom*, 233 F. Supp. 2d at 723 (D. Md. 2002) (finding that the requirements for res judicata have been met with respect to allegations of infringement pertaining to “Mission Impossible, [and] Mission Impossible 2,<sup>7</sup>” that “Plaintiff is barred from bringing claims against Defendant with respect to these works,” and dismissing claims with respect to these works). As such, Plaintiff is barred from alleging the claims against Viacom found in Counts I, IX, and XI of the Amended Complaint, and Viacom should be dismissed from the Amended Complaint. *See United States ex rel. Long v. GSDM Idea City, L.L.C.*, 798 F.3d 265, 274 & n.7 (5th Cir. 2015) (“where a successful affirmative defense [including res judicata] appears on the face of the pleadings, [the Fifth Circuit] ha[s] not hesitated” to affirm dismissal of the underlying claims under Rules 12(b)(6) or 12(c)); *see also Van Duzer v. U.S. Bank Nat'l Ass'n*, 582 Fed.Appx. 279, 283 (5th Cir. 2014) (per curiam) (affirming dismissal on 12(c) motion because plaintiffs' claims were barred by res judicata, noting as well that “discovery would have been a meaningless expense”); *Meador v. Oryx Energy Co.*,

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<sup>7</sup> The final judgment in *Paramount Pictures Corp.*, 53 F. Supp. 2d 38, included a finding of no infringement by the “novelization of the film MISSION: IMPOSSIBLE.” 53 F. Supp. 2d at 45.

87 F. Supp. 2d 658, 663-67 (E.D. Tex. 2000) (granting 12(b)(6) motion to dismiss because res judicata barred plaintiff's claims).

Plaintiff asserts “[t]he previous rulings on this case involve[ ] fraud on the courts by officers of the court. Whereas, the presiding judges had massive pecuniary interest, pointing to fraud on the court, which allows the plaintiff to refile this case, as well as other copyright infringement cases, allowed by this court.” Dkt. No. 10 at 4, ¶8. However, Plaintiff's bald assertion that there was “fraud on the court” and that “presiding judges had massive pecuniary interest[s]” is insufficient to overcome the bar of res judicata, and is procedurally improper. *See* Fed. R. Civ. P. 60(b); *see generally* Federal Rules of Appellate Procedure. Therefore, this Court should dismiss all claims against Viacom as barred by res judicata.

**III. PLAINTIFF'S CLAIMS FAIL TO PROPERLY STATE A CLAIM OR MEET THE REQUISITE PLEADING REQUIREMENTS AND SHOULD BE DISMISSED UNDER 12(b)(6).**

Plaintiff's Amended Complaint also fails because he fails to meet even the most basic of pleading standards. The Federal Rules of Civil Procedure require only “a short and plain statement of the claim showing that the pleader is entitled to relief. . . .” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Plaintiff is obligated to provide the grounds of entitlement to relief beyond mere labels and conclusions or formulaic recitations of a cause of action. *Id.* The legal sufficiency of a complaint is measured by whether it meets the standards for a pleading stated in, *inter alia*, Rule 8 (providing general rules of pleading—including a showing of entitlement to relief), and Rule 12(b)(6) (requiring that a complaint state a claim upon which relief can be granted). *Id.* Additionally, a plaintiff must plead claims of fraud and negligent misrepresentation with particularity under Fed. R. Civ. P. 9(b). *Lone Star Fund V (U.S.), L.P. v. Barclays Bank PLC*, 594 F.3d 383, 387 (5th Cir. 2010) (citing *Benchmark Elecs., Inc. v. J.M. Huber Corp.*, 343 F.3d 719, 723–24 (5th Cir. 2003)). Pro se plaintiffs are held to less stringent standards than lawyers, but

“conclusory allegations or legal conclusions masquerading as factual conclusions will not suffice to prevent a motion to dismiss.” *Taylor v. Books A Million, Inc.*, 296 F.3d 376, 378 (5th Cir. 2002) (citation omitted). Where, as here, a plaintiff makes only confused, vague and conclusory allegations, with nothing specific to support the claims of wrongdoing, the pleading fails to meet the liberal pleading standard and should be dismissed. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (“[T]he pleading standard Rule 8 announces does not require ‘detailed factual allegations,’ but it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation. A pleading that offers ‘labels and conclusions’ . . . will not do. Nor does a complaint suffice if it tenders ‘naked assertion[s]’ devoid of ‘further factual enhancement.’”) (internal citations omitted).

“The ultimate question in a Rule 12(b)(6) motion is whether the complaint states a valid claim when all well-pleaded facts are assumed true and are viewed in the light most favorable to the plaintiff.” *Lone Star*, 594 F.3d at 387 (citing *In re Katrina Canal Breaches Litig.*, 495 F.3d 191, 205 (5th Cir. 2007)). Although material allegations in the Amended Complaint must be accepted as true and construed in the light most favorable to Plaintiff, this Court is not required to accept conclusory legal allegations cast in the form of factual allegations if those conclusions cannot reasonably be drawn from the facts alleged. *See Firefighters’ Ret. Sys. v. Grant Thornton, L.L.P.*, 894 F.3d 665, 669 (5th Cir. 2018). The Court’s task is to determine whether the plaintiff has stated a legally cognizable claim that is plausible. *Iqbal*, 556 U.S. at 678-79 (2009). Here the claims are not.

Plaintiff’s Amended Complaint must be dismissed in its entirety for failure to state a claim under Rule 12(b)(6) and failure to plead claims with requisite specificity under Rules 8 and 9(b). Plaintiff’s claims are not legally cognizable because the Amended Complaint lacks grounds for relief beyond perplexing, unsupported legal conclusions. Plaintiff fails to provide enough facts to

make claims plausible on their face, and his conclusions cannot reasonably be drawn from the facts alleged. As such, Plaintiff's claims should be dismissed.

**A. PLAINTIFF FAILS TO ALLEGE A CAUSE OF ACTION FOR COPYRIGHT INFRINGEMENT (COUNTS I<sup>8</sup>, III, IV, V(1)<sup>9</sup>, V(2), VI, and VII).**

Although Count I is the only count of the Amended Complaint titled "Copyright Infringement," several of Plaintiff's other numbered allegations are based in copyright infringement, including Count III (alleging "defendants infringed the plaintiff's works"), Count IV (alleging "defendants gained access to plaintiff's intellectual property . . . for development of productions based on plaintiff's intellectual properties"), Count V(1) (alleging "defendants gained access to plaintiff's intellectual property. . . . to infringe plaintiff's copyrights"), Count V(2) (alleging "[c]onspiracy to [s]teal the plaintiff's intellectual property"), Count VI (alleging "defendants . . . breached of [sic] contract using plaintiff's copyrighted work without his consent"), Count VII (alleging [m]isappropriation of [i]ntellectual [p]roperties"). Each of these allegations should be dismissed for failure to state a valid claim of copyright infringement. *See Daboub v. Gibbons*, 42 F.3d 285, 288–89 (5th Cir.1995) (explaining that the Copyright Act at 17 U.S.C. § 301(a) expressly preempts all causes of action falling within its scope, with a few exceptions); *see also General Universal Sys., Inc. v. Lee*, 379 F.3d 131, 149 (5th Cir. 2004) (finding repackaged copyright claims are not independently actionable).

"To prove copyright infringement, a plaintiff must establish (1) ownership of a valid copyright; (2) factual copying; and (3) substantial similarity." *Armour v. Knowles*, 512 F.3d 147, 152 (5th Cir. 2007). "For the circumstantial case of factual copying, the combined existence of

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<sup>8</sup> Plaintiff alleges that "defendants infringed his copyright works: "Batman Blackman, and Brains, Sex and Racism in the CIA and the Escape for Black Panther and 1996 Mission: Impossible Film and Novel." We do not separately analyze Plaintiff's claims regarding his book "Brains, Sex, and Racism in the CIA and the Escape" and Mission Impossible because those claims are barred by res judicata. *See supra* Part II.

<sup>9</sup> Plaintiff's Amended Complaint contains two allegations titled "Count Five." We refer to the first Count Five as "Count V(1)" and the second Count Five as "Count V(2)."

access to the copyrighted work and similarities between the two works establishes the assumption as a matter of law that copying in fact occurred.” *Id.*

Here, the parties dispute whether Plaintiff has a valid copyright to “Batman Blackman” at all,<sup>10</sup> but even if the work were properly copyrighted, his claim would fail. Plaintiff alleges that Wesley Snipes, through his attorney, had access to the allegedly copyrighted work—the concept for “Batman Blackman.” Dkt. No. 10 at 4, ¶6; Ex. C 21. However, Plaintiff does not explain whether Snipes, or his attorney provided access to Netflix or any of the named Defendants. Rather, Plaintiff merely claims that “Marvel Entertainment Company had access.” Dkt. No. 10 at 4, ¶6. Although Plaintiff asserts “that one of his film project ideas submitted to Netflix, led to the creation of a film ‘Black Panther,’ currently shown by Netflix,” Dkt. No. 10 at 6 (emphasis added), Plaintiff does not allege that Netflix had anything to do with the actual production of the film “Black Panther”—therefore he does not allege that Netflix “copied” anything. Even reading the totality of the complaint in the light most favorable to the plaintiff, Plaintiff only alleges copyright infringement against Netflix through the distribution of the movie “Black Panther”—a movie for which he does not have a valid copyright. Plaintiff can only bring a copyright claim to protect his own work—“Blackman Batman,” not “Black Panther.”

Even if this Court finds Plaintiff’s pleadings satisfy the “valid copyright” and “factual copying” elements, a comparison of Plaintiff’s “Batman Blackman” and Plaintiff’s own description of its similarities with “Black Panther” are wholly insufficient to meet the substantially similar standard. This Court is permitted to assess and reach a conclusion as to whether the works

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<sup>10</sup> Plaintiff attached an application for a collection of works, which named “Batman, Blackman” as the last page of exhibits attached to the Amended Complaint. This attachment is not sufficient to demonstrate a valid copyright. *See Fourth Estate Public Benefit Corp. v. Wall-Street.com, LLC*, — U.S. —, 139 S.Ct. 881, 203 L.Ed.2d 147 (2019) (clarifying that “ ‘registration ... has been made’ within the meaning of 17 U.S.C. § 411(a) not when an application for registration is filed, but when the Register has registered a copyright after examining a properly filed application”).

are substantially similar within a Rule 12(b)(6) context because Plaintiff attached his synopsis of “Batman Blackman,” along with comparisons of his copyrighted work to the movie “Black Panther.” See *Lone Star*, 594 F.3d at 387 (citing *Collins v. Morgan Stanley Dean Witter*, 224 F.3d 496, 498–99 (5th Cir. 2000) (“The court’s review is limited to the complaint, any documents attached to the complaint, and any documents attached to the motion to dismiss that are central to the claim and referenced by the complaint.”); see also *In re Katrina Canal Breaches Litigation*, 495 F.3d at 205. A defendant is encouraged to attach documents to a motion to dismiss to “assist[ ] . . . the court in making the elementary determination of whether a claim has been stated.” *Collins*, 224 F.3d at 499.

In this case, the Court can consider the contents of the movie “Black Panther” and Plaintiff’s work “Batman Blackman” in deciding whether the Amended Complaint states a claim. Plaintiff accuses Defendants of infringing Plaintiff’s copyrighted works, the works are referred to throughout the Amended Complaint, and portions are attached as exhibits. See Exhibit 5. After this review, it will be clear to the Court that these two works are not substantially similar—they differ in all of the basic elements of “plot, themes, dialogue, mood, setting, pace, characters, and sequence of events.” *Randolph v. Dimension Films*, 630 F. Supp. 2d 741, 746 (S.D. Tex. 2009), *aff’d*, 381 F. App’x 449 (5th Cir. 2010) (explaining that works must share a “similarity of expression,” as evinced by “similarities of treatment, details, scenes, events and characterization, or a similarity in their total concept and feel”) (internal citations and quotations omitted). Even Plaintiff’s own comparison of the two movies demonstrates a significant lack of similarity. See Dkt. No. 10 at 3, ¶6 (describing the differences in plot, location, and characters). Moreover, the characters, setting, and storyline for the film “Black Panther” were created in the 1960s by Stan Lee and Jack Kirby for Marvel Comics, see *supra* footnote 4, and thus could not plausibly be based



on Plaintiff's concept for "Batman Blackman," a character and storyline he claims he created in the 1990s, which itself appears to be based upon the DC Comic character, "Batman", which first appeared in May 1939. *See* Exhibit 6.

**B. PLAINTIFF FAILS TO ALLEGE A CAUSE OF ACTION FOR FRAUD (COUNTS II, V(1), V(2))**

As the Fifth Circuit recognized in *Lone Star*, claims based on "fraud and negligent misrepresentation . . . must [be] plead . . . with particularity under Fed. R. Civ. P. 9(b)." 594 F.3d at 387 (citing *Benchmark*, 343 F.3d at 723–24 (5th Cir. 2003)); *see also SHS Inv. v. Nationwide Mut. Ins. Co.*, 798 F.Supp.2d 811, 815 (S.D. Tex. 2011) (concluding that Rule 9(b) applies "to all averments of fraud, whether they are part of a claim of fraud or . . . statutory claims based on allegations of fraud"). The heightened pleading standard established by Rule 9(b) applies to all of Plaintiff's claims wherein the gravamen of the allegation is fraud. *Dragoslavac v. Ace Hardware Corp.*, 274 F. Supp. 3d 578, 587 (E.D. Tex. 2017). Claims based in fraud must therefore go further than the requirements of Rule 8 by "stat[ing] with particularity the circumstances constituting fraud." *Id.* at 582 (citing Fed. R. Civ. P. 9(b)). Plaintiffs must allege the "who, what, when, and where" of the fraud. *Id.* (citing *Williams v. WMX Techs., Inc.*, 112 F.3d 175, 178 (5th Cir. 1997)).

Plaintiff fails to allege facts showing fraud or negligent misrepresentation in Count II (alleging Netflix committed fraudulent and unfair business practices by fail[ing] to honor a project submission policy, which is advertised on the internet), Count V(1) (alleging Netflix "falsely represented its obligation relating to plaintiff's 30 film proposal" and "[o]ther named defendants used false and deceptive business practices . . . to infringe plaintiff's copyrights"), Count V(2) (alleging conspiracy to steal plaintiff's "expression of ideas" through a "developed scheme"). Each of these claims fall short of the requirements of Rule 8, and thus fail further by not "stat[ing] with particularity the circumstances constituting fraud." *Dragoslavac*, 274 F. Supp. 3d at 582

(citing Fed. R. Civ. P. 9(b)). Far from providing the particularity required to state a fraud claim, Plaintiff's allegations are so lacking in detail that Defendants struggle to understand who is implicated in each of Plaintiff's allegations, whether they are part of a claim of fraud, and when and how the alleged fraud took place. Indeed, all of Plaintiff's fraud claims rest on conclusory allegations. As such, all claims rooted in fraud or negligent misrepresentation including Counts II, V(1), V(2), must be dismissed.

**C. PLAINTIFF FAILS TO ALLEGE A CAUSE OF ACTION FOR BAD FAITH DEALINGS IN COUNT III**

Although Count III asserts a copyright violation against Viacom, *see supra* Part III(A), Plaintiff also claims Netflix engaged in “Bad Faith Dealings.” Dkt. No. 10 at 8. It is unclear whether Plaintiff's allegation is based in contract or tort; nevertheless, because Netflix owed Plaintiff no duty whatsoever—particularly no duty of good faith and fair dealings—Plaintiff's allegation of “Bad Faith Dealings” must be dismissed. *See Hux v. S. Methodist Univ.*, 819 F.3d 776, 781 (5th Cir. 2016) (explaining that “Texas law does not impose a generalized contractual duty of good faith and fair dealing and, in fact, rejects it in almost all circumstances,” and that “in an extremely narrow class of cases [involving the insurer-and an insured relationship], the Texas courts have determined that a special relationship may give rise to a tort duty of good faith and fair dealing.”) Because Plaintiff and Netflix have neither a “special relationship,” nor any form of contractual relationship, Plaintiff's claims must be dismissed.

**D. PLAINTIFF FAILS TO ALLEGE A CAUSE OF ACTION FOR BREACH OF CONTRACT AND TORTIOUS INTERFERENCE WITH POTENTIAL CONTRACTS (COUNT VI AND X)**

Nor can Plaintiff assert claims against Defendants for breach of contract or interference with future contracts. Plaintiff fails to allege any facts showing the existence of any contract, implied or otherwise—past, present, or future, let alone how Netflix or any of the named

defendants failed or refused to do an act it had promised to perform. *See Cronus Offshore, Inc. v. Kerr McGee Oil & Gas Corp.*, 369 F. Supp. 2d 848, 855 (E.D. Tex. 2004) (explaining that under Texas law, the essential elements of a breach of contract include: (1) the existence of a valid contract; (2) that the plaintiff performed or tendered performance; (3) that the defendant breached the contract; and (4) that the plaintiff was damaged as a result of the breach—and that “breach” occurs when a party fails or refuses to perform an act that it has expressly promised to perform). Likewise, Plaintiff offers no facts to support how Defendants have interfered with potential contracts. These claims must be therefore be dismissed.

**E. PLAINTIFF FAILS TO ALLEGE A CAUSE OF ACTION FOR ANTI-TRUST VIOLATIONS IN COUNT VIII**

Plaintiff’s antitrust claim is below, in its entirety:

Count Eight  
Anti-Trust Violations

Plaintiff has a small business, and his film projects worth millions of dollars. Netflix rejected the material due to outside interference via other competing Corporations and individuals.

Dkt. No. 10 at 10. Defendants do not know what “Anti-Trust Violations” are being alleged, and cannot defend against unknown “interference via other competing Corporations and individuals.” *See id.* Because Plaintiff failed to plead any fact to support an anti-trust violation, this claim must be dismissed. *See Apani Sw., Inc. v. Coca-Cola Enters., Inc.*, 300 F.3d 620, 628 (5th Cir. 2002) (citing cases wherein courts have upheld the dismissal of alleged anti-trust violations under Rule 12(b)(6) for pleading deficiencies).

**F. PLAINTIFF FAILS TO ALLEGE A CAUSE OF ACTION FOR VIOLATIONS OF CIVIL RIGHTS (DUE PROCESS) PERTAINING TO POTENTIAL CONTRACTS (5<sup>th</sup> AND 14<sup>th</sup> AMENDMENT VIOLATIONS) IN COUNT IX**

Plaintiff alleges Defendants violated his civil rights based on his race, but offers no facts showing racial discrimination or any activity attributable to a state actor, as such a claim requires.

*See Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 930 (1982) (“[T]he Due Process Clause protects individuals only from governmental and not from private action. . . .”). Because Plaintiff has failed to plead any fact to support a civil rights violation, this claim must be dismissed. *See Iqbal*, 556 U.S. at 678 (explaining that ‘naked assertions’ devoid of ‘further factual enhancement’ are insufficient under Rule 8) (quoting *Twombly*, 550 U.S. at 557).

#### **G. PLAINTIFF FAILS TO ALLEGE A CAUSE OF ACTION FOR NEGLIGENCE IN COUNT XI**

Plaintiff alleges Defendants were negligent when they “requested” and “used” his “intellectual property” “without compensation.” Dkt. No. 10 at 12. But Plaintiff fails to allege facts to support this allegation. In Texas, “[t]he common law doctrine of negligence consists of three elements: 1) a legal duty owed by one person to another; 2) a breach of that duty; and 3) damages proximately resulting from the breach.” *Greater Houston Transp. Co. v. Phillips*, 801 S.W.2d 523, 525 (Tex. 1990). Proximate cause, has two sub-components—cause-in-fact and foreseeability. *W. Invs., Inc. v. Urena*, 162 S.W.3d 547, 551 (Tex. 2005) (citing *Travis v. City of Mesquite*, 830 S.W.2d 94, 98 (Tex. 1992)). Here, no duty exists between Plaintiff and any of the Defendants. Indeed, Plaintiff offers no facts to support what duty Defendants owed Plaintiff, how Defendants breached said duty, or how he was proximately harmed by such breach. Plaintiff merely asserts conclusory legal statements, and he failed to plead facts to support a negligence claim. As such, this claim must be dismissed. *See Collins*, 224 F.3d 496, at 498 (“in order to avoid dismissal for failure to state a claim . . . a plaintiff must plead specific facts, not mere conclusory allegations”).

#### **CONCLUSION**

For all of these reasons, Defendants Netflix and Viacom respectfully request this Court dismiss Plaintiff’s Amended Complaint in its entirety.

Respectfully submitted,

/s/ Jennifer H. Doan

Jennifer H. Doan

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Cole A. Riddell

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**ATTORNEYS FOR DEFENDANTS  
NETFLIX, INC AND VIACOM, INC.**

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). Mr. Whitehead was served with a true and correct copy of the foregoing by certified mail, return receipt requested, and electronic mail on this 28th day of May 2019.

/s/ Jennifer H. Doan

Jennifer H. Doan

# **EXHIBIT 1**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

DAVID LOUIS WHITEHEAD,

Plaintiff,

v.

NETFLIX, INC., ET AL.,

Defendants.

Case No. 2:18-cv-00460-RWS-RSP

**DECLARATION OF THE WALT DISNEY COMPANY  
IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS AND  
MOTION TO TRANSFER TO THE CENTRAL DISTRICT OF CALIFORNIA**

I, Jonathan S. Headley, hereby declare:

1. I am Senior Vice President and Treasurer of The Walt Disney Company ("TWDC"). The facts stated in this Declaration are based upon my personal knowledge, my review of the books and records of TWDC, or information provided to me in my capacity as Senior Vice President and Treasurer of TWDC and, if called to testify, I could and would competently testify thereto.

2. TWDC is a holding company that owns stock in a variety of corporations operating in, among others, the fields of entertainment, recreation, and consumer products. It does not make, use, sell, offer for sale or import any products or motion pictures. As a holding company, TWDC did not produce, distribute, or market motion pictures, including *Black Panther* or *Avengers: Infinity War*.

3. TWDC is incorporated in the State of Delaware, with its principal place of business in Burbank, California. TWDC is only registered to do business in Delaware, New York, the

District of Columbia, and California. TWDC maintains offices only in the District of Columbia and the states of California and New York.

4. TWDC is not registered to do business in the State of Texas; has never maintained offices in Texas; has not appointed an agent for the service of process in the State of Texas; has never had an office, mailing address, place of business, or other type of presence in Texas; and has never had any officers, directors, agents, or employees in the State of Texas.

5. TWDC does not store or maintain any of its business records in Texas.

6. TWDC has never maintained, owned, or rented any offices, real estate, or any other physical space in Texas.

7. TWDC currently has thousands of employees. Based on existing records, I am not aware of any TWDC employees who reside in Texas.

8. TWDC has never held a security interest in any real property located in Texas.

9. TWDC does not and has not consented to be sued in Texas.

10. TWDC did not produce, market, or distribute any products or works, including the accused motion pictures *Black Panther* or *Avengers: Infinity War*, in Texas.

11. TWDC has not entered into any contract with Plaintiff, Mr. David Louis Whitehead, including any contract under which either TWDC is obligated to perform any contractual duties, in whole or in part, in Texas.

12. Litigating this dispute in Texas will place a significant burden on TWDC and its employees. Virtually all of TWDC's records are located in Burbank, California. Most of TWDC's employees are based in Burbank, California. If this case is tried in the Eastern District of Texas, each California-based employee will have to miss at least two days of work in order to testify at trial. I understand that the travel time to and from Marshall, Texas is no less than four hours each



way, and that does not even include time spent driving to the airport, getting through airport security, waiting at the gate, waiting on the plane, waiting in the rental car line, etc. It would therefore be impractical for a witness to depart, testify, and return home the same day. Moreover, because I understand that witnesses are often required to be "on call" for a day or more before they testify, each employee will more likely have to miss three or four days of work if the trial is in Texas.

13. By contrast, if the case is tried in the Central District of California, the drive time between TWDC's offices in Burbank and the federal courthouse is less than one hour. TWDC's California-based employees can therefore be available to testify on just one hour's notice, and the only work time they will miss besides time actually spent testifying is that short drive time each way.

14. Trial in the Central District of California would therefore be substantially more convenient for TWDC and its employees than it would be in the Eastern District of Texas.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 28<sup>th</sup>, 2019 in Burbank, California.

  
\_\_\_\_\_  
JONATHAN S. HEADLEY

# **EXHIBIT 2**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

DAVID LOUIS WHITEHEAD,

Plaintiff,

v.

NETFLIX, INC., ET AL.,

Defendants.

Case No. 2:18-cv-00460-RWS-RSP

**DECLARATION OF MARVEL ENTERTAINMENT, LLC  
IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS AND  
MOTION TO TRANSFER TO THE CENTRAL DISTRICT OF CALIFORNIA**

I, Michael Salama, hereby declare:

1. I am Assistant Secretary of Marvel Entertainment, LLC ("Marvel Entertainment").

The facts stated in this Declaration are based upon my personal knowledge, my review of the books and records of Marvel Entertainment, or information provided to me in my capacity as Assistant Secretary of Marvel Entertainment and, if called to testify, I could and would competently testify thereto.

2. Marvel Entertainment is the parent company of various entities that do business under the Marvel brand. It does not make, use, sell, offer for sale or import any products or motion pictures. Marvel Entertainment does not produce, distribute, or market motion pictures, and did not produce, distribute or market *Black Panther* or *Avengers: Infinity War*.

3. Marvel Entertainment is a Delaware limited liability company, with its principal place of business in New York, New York. Marvel Entertainment is only registered to do business in Delaware, New York, California, Mississippi, and Massachusetts. Marvel Entertainment maintains offices only in the states of California and New York.

4. Marvel Entertainment is not registered to do business in the State of Texas; has never maintained offices in Texas; has not appointed an agent for the service of process in the State of Texas; has never had an office, mailing address, place of business, or other type of presence in Texas; and has never had any officers, directors, agents, or employees in the State of Texas.

5. Marvel Entertainment does not store or maintain any of its business records in Texas.

6. Marvel Entertainment has never maintained, owned, or rented any offices, real estate, or any other physical space in Texas.

7. Marvel Entertainment currently has approximately 100 employees. Nearly all of Marvel Entertainment's employees are in New York. No Marvel Entertainment employees reside in Texas.

8. Marvel Entertainment has never held a security interest in any real property located in Texas.

9. Marvel Entertainment does not and has not consented to be sued in Texas.

10. Marvel Entertainment does not produce, market, or distribute any products or works in Texas, and did not produce, market, or distribute *Black Panther* or *Avengers: Infinity War* in Texas.

11. Marvel Entertainment has not entered into any contract with Plaintiff, Mr. David Louis Whitehead, including any contract under which either Marvel Entertainment is obligated to perform any contractual duties, in whole or in part, in Texas.

12. Litigating this dispute in Texas will place a significant burden on Marvel Entertainment and its employees. Virtually all of Marvel Entertainment's records are located in

New York. Most of Marvel Entertainment's employees are based in New York. The travel time for Marvel Entertainment's New York-based employees will be substantial regardless of whether the case is tried in the Eastern District of Texas or Central District of California. However, because Marvel Entertainment has offices in Burbank, California, Marvel Entertainment will more easily be able to arrange for transportation and accommodations for witnesses in the Central District of California and, more importantly, can provide these witnesses guest offices from which to work that are a short drive time from the federal courthouse.

13. Trial in the Central District of California would therefore be substantially more convenient for Marvel Entertainment and its employees than it would be in the Eastern District of Texas.

*Zak*  
I declare under penalty of perjury that the foregoing is true and correct. Executed on May \_\_\_\_\_, 2019 in Burbank, California.

  
\_\_\_\_\_  
MICHAEL SALAMA

# **EXHIBIT 3**

# University Libraries

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## The Black Panther: A Comic Book History

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By Vernon Mitchell, Jr., Curator of Popular American Arts on 23 May 2018 in [Dowd Modern Graphic History Library, Special Collections, What's New](#)

The late 1960s was a tumultuous time for America both domestically and abroad. The events taking place outside U.S. shores, such as the Vietnam conflict, began to affect domestic unrest in already existing social movements, most notably the Civil Rights Movement. Although President Lyndon Johnson signed the Voting Rights Act into law on August 6, 1965, which banned discriminating voting policies, just five days later, riots broke out in Watts, a section of Los Angeles, centered around police brutality toward African Americans. Times were indeed tense, and the issues of race were at the forefront. The fires that burned in Southern California were not solely about one incident *per se*, but a response to continued systematic oppression. Dr. Martin Luther King, Jr., who, by this time, was venturing outside of the Jim Crow South to address poverty in America's ghettos in urban centers like Chicago and Los Angeles, called the emerging riots the "language of the unheard."<sup>[1]</sup>

The larger implications of socio-economic inequality were now part of a larger critique of what America was and was not. This was the backdrop that Marvel Comics' Stan Lee and Jack Kirby used to create their new character, *Black Panther*. The character's alter ego, King T'Challa, was ruler of the fictional African kingdom of Wakanda. He was the first black superhero to debut in American comic books.



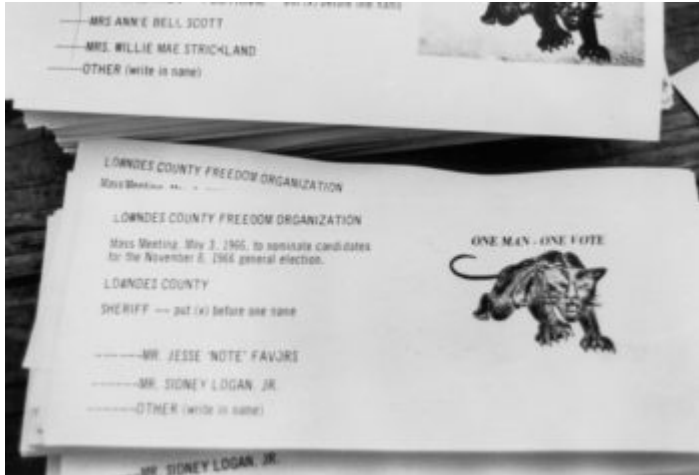
Fantastic Four, Vol. 1, No. 52, July 1966, the Center for the Humanities Collection, WU Special Collections

Originally conceived of as the “Coal Tiger,” *Black Panther* cannot be separated from the times in which he burst onto the comic book scene in *Fantastic Four* #52 in July of 1966. Prior to the release of the comic, Lee and Kirby, according to writer Sean Howe, were very much aware and influenced by an article in *The New York Times* that discussed the formation of the Lowndes Country Freedom Organization (LCFO), which had as their emblem a black panther.<sup>[2]</sup> Howe attributed that article as the impetus for changing the name of the character that Lee and Kirby had been working on for months.

The media referred to the LCFO as “The Black Panther Party,” after its formation in 1965 under the direction of Student Nonviolent Coordinating Committee (SNCC) field secretary, Stokely Carmichael (Kwame Ture). Carmichael believed that African Americans’ political power resided in the will and political self determination of local people.<sup>[3]</sup> This was his organizing principal for the voter registration work that he was engaged in. However, that was easier said than done. “Bloody Lowndes,” as it was commonly known then, earned that unflattering nickname from decades of violence and terror inflicted on African Americans to disenfranchise them. To have a clearer understanding of just how dire things were in 1965, we must grasp the



fact that no African American had successfully registered to vote there in over sixty years. Additionally, 86 white families owned 90 percent of the land.[4]



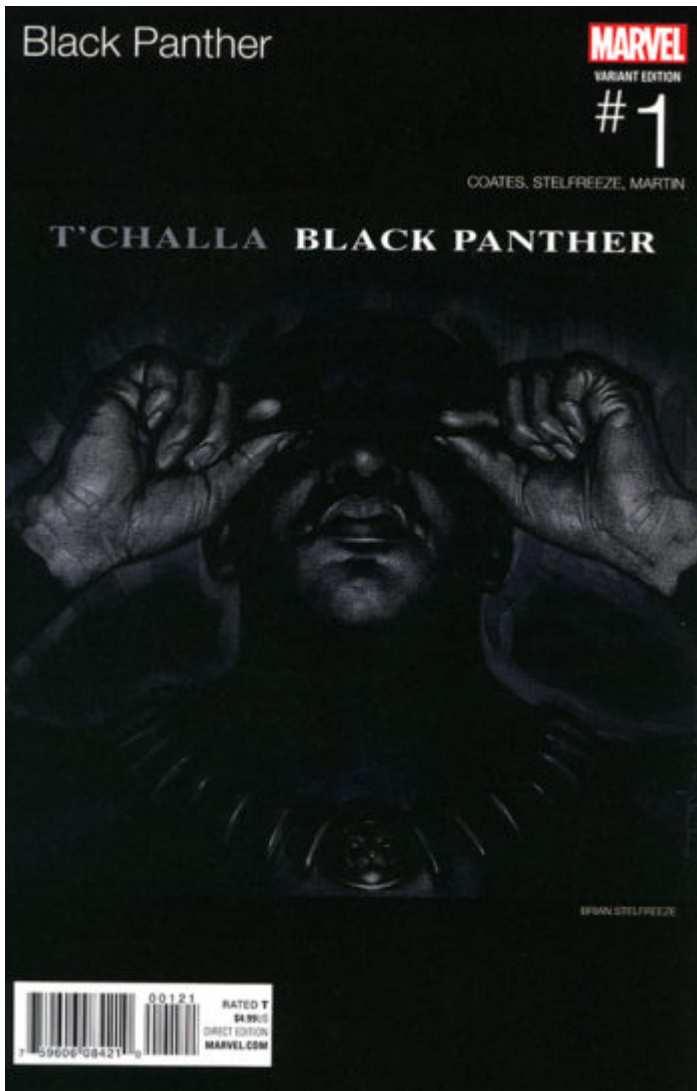
Lowndes County Freedom Organization ballot, stock photo from Eyes on the Prize, Henry Hampton Collection, WU Special Collections

Contemporarily, animal symbols readily associated with political parties are the donkey and elephant. In Alabama, election laws required that political parties have a unique symbol. John Hulett, Sr., a local leader in Lowndes County during the time, explained that African Americans felt like their backs were pushed against the wall socio-politically and metaphorically they believed that they would respond like a cornered panther to take control of their political fate. Thus, the black panther embodied both identity and strength as members of the party sought to vote for their elected officials—nominees that came from their community, which was 80% African American at the time. The LFCO mascot did not just inspire Lee and Kirby, but it also inspired the formation of the Black Panther Party for Self Defense in Oakland, California in October of 1966. Given this historical context, it is hard to see how the Marvel character could be viewed as anything other than inherently political.



Jungle Action Featuring: the Black Panther, Vol. 1, No. 22, Jun.  
1976, The Center for the Humanities Collection, WU Special  
Collections

When interviewed about *Black Panther*, a year before the recent film was released, Stan Lee seemed to downplay the political import with a normalizing attitude toward diverse representation in the artistic medium. “It wasn’t a huge deal to me,” he confessed, “A good many of our people here in America are not white. You’ve got to recognize that you’ve got to include them in whatever you do.”<sup>[5]</sup> So it could be argued that with the Black Panther character, Lee and Kirby were attempting to chip away at the intolerance in comics by introducing T’Challa to American audiences. The film based on the comic has enjoyed tremendous success, and as such, questions of cultural impact have been part of the conversations about the character and the film. Many journalists, cultural critics, and scholars have chimed in about what *Black Panther* means for American popular culture, if anything. In her essay, “[And All Our Past Decades Have Seen Revolutions](#),” Rebecca Wanzo, Associate Professor of Women, Gender, and Sexuality Studies at Washington University in St. Louis, maintained, “If we recognize that representation matters, and that Black representation has been a tool in white supremacy, tracing the character over decades illustrates an epic struggle to make a “real” Black character out of something that was a white fantasy of blackness.”<sup>[6]</sup>



Black Panther variant cover by Brian Stelfreeze. No. 1, 2016, private collection

Making sense of that very “struggle” for representation is exactly one of the subjects the latest Special Collection exhibit in Olin Library attempts to convey. The goal of the exhibit is not to give critical commentary, but rather to highlight the way the character has changed over the decades. The exhibition starts with 1966 to the most recent iteration of the character. This allows visitors and patrons to see the evolution of *Black Panther* starting from the Lee and Kirby era to the most contemporary rendition by Ta-Nehisi Coates and Brian Stelfreeze. This exhibit was curated by Skye Lacerte, Curator of the Modern Graphic History Library, and Vernon Mitchell, Jr., Curator of Popular American Arts and Culture. Their exhibit focuses on the art of *Black Panther* by highlighting comic book covers and spreads that they believe give some insight into the way the character changes over the last fifty-two years. The comic books used in this exhibition are from the [Center for the Humanities Comics Collection](https://www.library.wustl.edu/the-black-panther-a-comic-book-history/), transferred to the DB Dowd Modern Graphic History Library in 2012.

Typically, we do not tend to associate comic books with libraries, but we absolutely should. *Black Panther* gives the library the opportunity to reach different audiences and also expose

this particular genre of book to those that may undervalue its contribution or be unfamiliar with the work. “Comics reveal a great deal about our varying identities,” mentioned Lacerte, when asked why comic books and graphic novels should be available in libraries. “Comic book characters,” she went on to say, “are something people can see themselves in and it helps people feel like they belong or have someone on their side. Comics can also teach us about ourselves (in the present) and then teach others about people in the past.” Other University Library staff, such as Garth Reese, Head of Curation, asserted that comic books also give us a view into material culture as well. “Comic books today are printed and produced with better materials and technology than just a decade ago. They also can give glimpses into popular culture that traditional literature can never reveal.”

The *Black Panther* comic book exhibit can teach us a great deal about the medium and its larger impact on society or vice versa. The character, *Black Panther*, was born out of the cultural and social revolutions of the 1960s, and what impact and meaning that has on our understanding of the series and subsequent characters is left to the visitors, patrons, and scholars. However, what better time to talk about comics and their influence in popular culture than at this very moment, when the superhero film genre is arguably at its apex?

[1] Martin Luther King, Jr., “The Other America,” (speech) Grosse Pointe High School, 14 March 1968.

[2] Sean Howe, *Marvel Comics: The Untold Story* (New York: HarperCollins, 2012), 32, 33. “Negroes Lose Fight to Oust All Officers in Lowndes County,” *The New York Times*, 1 April 1966; John Corry “The Changing Times IN Lowndes County: An All-Negro Ticket; The Changing Times in Alabama: All Negro Ticket,” *The New York Times*, 31 October 1966.

[3] Peniel Joseph, *Stokely: A Life*, (New York: Basic Civitas, 2014), 87.

[4] Rebecca Woodham, “Lowndes County Freedom Organization,” *Encyclopedia of Alabama* <http://www.encyclopediaofalabama.org/article/h-1781> (Accessed 14 May 2018).

[5] Joshua Ostroff, “Marvel Comicss Icon Stan Lee Talks Superhero Diversity And Creating Black Panther,” *Huffpost*, 9 September 2016. [https://www.huffingtonpost.ca/2016/09/01/stan-lee-marvel-superhero-diversity\\_n\\_11198460.html](https://www.huffingtonpost.ca/2016/09/01/stan-lee-marvel-superhero-diversity_n_11198460.html) Accessed 8 May 2018.

[6] Rebecca Wanzo, "And All Our Past Decades Have Seen Revolutions: The Long Decolonization of Black Panther" *The Black Scholar*, 19 February 2018.

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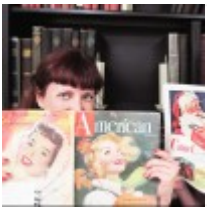


Dowd Modern Graphic History Library

Special Collections

What's New

## ABOUT THE AUTHOR



## RELATED



### **Film & Media Archive Completes Preservation of Rare Promotional Film**

13 May 2019

The Washington University Libraries' Film & Media Archive has successfully completed ...

# **EXHIBIT 4**



~~U.S. DISTRICT COURT  
WESTERN DISTRICT  
OF LOUISIANA  
FILED  
2017 APR 23 P 5:00  
TONY R. MOORE  
CLERK  
DAVID L. WHITEHEAD,  
DEPUTY~~

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF LOUISIANA

~~U.S. DISTRICT COURT  
WESTERN DISTRICT  
OF LOUISIANA  
FILED  
2017 APR 23 P 5:00  
TONY R. MOORE  
CLERK  
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APR 23 2017

TONY R. MOORE, CLERK  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT LOUISIANA  
BY: *hcm*

PLAINTIFF,

V.

Case No. 17-cv-225

JUDGE Drell

Mag. Judge Perez-Montes,

NETFLIX INC, ET AL,  
DOES 1 THROUGH 5,  
DEFENDANTS.

AMENDED COMPLAINT (Fed. Rules Proc. 7 & 15 a) FOR EQUITABLE RELIEF AND CIVIL PENALTIES, FRAUD AND IMPLIED BREACH OF CONTRACT, CONSPIRACY AND CIVIL RIGHTS VIOLATIONS, VIOLATIONS OF THE SHERMAN ACT as amended (15 U.S.C. Section 4) and 28 U.S.C. Section 2201 (a)

Plaintiff representing himself Pro Se, brings civil amended complaint for equitable relief and civil penalties, fraud and implied breach of contract, conspiracy and civil rights violations (class citizens) against defendant Netflix.

**JURISDICTION AND VENUE**

1. This complaint or amended complaint is filed under Section 4 of the Sherman Act, as amended (15 U.S.C. § 4) and 28 U.S.C. § 2201(a) in order to declare, prevent and restrain violations, as hereinafter alleged, by the defendants of Section 1 of the Sherman Act (15 U.S.C. § 1), and under Section 7A(g)(1) of the Clayton Act (15 U.S.C. § 18a(g)(1)), as amended by the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (.HSR Act.), to recover civil penalties for violations of Section 7A(a) thereof. This Court has jurisdiction over this action and the Defendants under Section 7A(g) of the Clayton Act, 15 U.S.C. § 18a(g), and 28 U.S.C. §§ 1331 and 1337(a), 1345, 1355 and 2201(a).



2. Defendants Netflix and employees are engaged in interstate commerce and in activity substantially affecting interstate commerce. Netflix does business in this district.

3. Defendant Netflix is incorporated under the laws of Delaware, with a principal place of business in California.

4. Plaintiff is a citizen of the United States and resident of the City of Bossier, Louisiana.

5. Defendant Netflix is a wholly owned subsidiary of Netflix, incorporated under the laws of Delaware, with a principal place of business in California. It conducts business, and is found, in the State of Louisiana.

6. Venue is proper in this district under Section 12 of the Clayton Act, 15 U.S.C. § 22 and 28 U.S.C. §§ 1391 (b), (c) and (d), 1395(a).

7. Defendants [Netflix]

Defendants Netflix engages the consumers to submit scripts and other entertainment materials to its internet site, calling for materials of original content for cable film productions. Defendants also requested original content via telephonic communication. After soliciting the plaintiff's 30 film proposal, defendant Netflix inc immediately rejected the submission violating anti-trust laws of the United States of America. Netflix Inc falsely stated that the plaintiff's proposal was not solicited by the company mounting to a legal dispute immuned for judicial bias and conflicts of interest relating to a previous ruling by the District Court Judge. (See Attached Exhibit 4, response of Netflix Inc relating to the case). Also see attached exhibits 1, 2 and 3 pertaining to the submission of 30 film project by Attorney Alan Pesnell and FTC (Federal Trade Commission).

8. Plaintiff asserts and believe that defendants engages in fraudulent schemes for purposes to steal intellectual properties and expressions of ideas. Defendants by law are prohibited from soliciting original content materials with purposes to reject those materials, basically stealing ideas and expressions of ideals mounting to fraud.



9. Plaintiff asserts and believes that defendants solicited his copyrighted materials with expressions of ideas for purposes to steal those ideas and expressions without compensating the plaintiff for his fruit of labor.
10. Plaintiff's submission for a 30 film proposal was provided to Netflix by a licensed and practicing attorney in the State of Louisiana.
11. Plaintiff believes and assert that defendants' association with The Weinstein family known as The Weinstein Company in dispute with the plaintiff are tied to the defendant Netflix and the company's decision to reject the plaintiff's 30 film proposal violating Sherman Anti-Trust.
12. Plaintiff also believes and asserts that defendant Netflix was engaged in preparing a 2017 Golden Globes party function with The Weinstein Company members when defendants rejected plaintiff's film proposal. Further, stating that plaintiff was in dispute with The Weinstein Company when defendant Netflix denied his 30 film proposal which was solicited by the company.
13. Plaintiff believes and assert that his 30 film proposal involves Afro Americans and defendant rejected his proposal due to race (black) in violations of the 42 U.S.C. Section 1964 Civil Rights Act and 42 U.S.C. 1981, 42 U.S.C. Section 1985 (3) and 1991 pertaining to business contracts violations. Plaintiff and his film projects involves a class of African Americans and Defendants action is based on violations against a racial class of people as well as Sherman Anti-Trust violations.

#### **First Offense**

14. Violations of the Sherman Act (monopoly) on the market.

The allegations of Paragraphs 1 through 13 of this AMENDED Complaint are re-alleged and incorporated by reference here with the same force and effects as though set forth here in full.

Defendants' act against the plaintiff violates anti-trust laws, basically denying plaintiff the right to engage in film productions involving his 30 film proposal and having a monopoly on the market relating to cable and films.



Defendants' act harms competition and discriminates against minorities involving film productions.

**Second Offense**  
**(VIOLATION OF SECTION ONE OF THE SHERMAN ACT:  
MARKET AND Monopoly)**

15. The allegations of Paragraphs 1 through 13 of this Amended Complaint are re-alleged and incorporated by reference here with the same force and effects as though set forth here in full. During the interim period, Netflix were direct competitors in the relevant markets. During the interim period, Netflix engaged in a contract, combination, or conspiracy in restraint of trade that was unlawful under Section 1 of the Sherman Act (15 U.S.C. § 1) by agreeing, not to allow plaintiff contracts for the relevant market(s) to Netflix and, more specifically, not to allow minority competition relating to film, cable and TV productions. These agreements harmed competition in the relevant markets by foreclosing the possibility that the plaintiff would have obtained contract terms for any legitimate business purpose.

**Third Offense**

Violations of the Sherman Act: Agreement to Deny Plaintiff the right to enter the Markets for film and Television and Cable Broadcast based on broad base **Conspiracy.**

16. The allegations of Paragraphs 1 through 13 of this Amended Complaint are re-alleged and incorporated by reference here with the same force and effects as though set forth here in full. Beginning at least as early as October 2016 and continuing through November 18, 2017, direct competitors Netflix engaged in a conspiracy in restraint of trade that was unlawful under Section 1 of the Sherman Act (15 U.S.C. § 1). Specifically, Netflix agreed with adverse parties in-particular The Weinstein Company not to enter into contracts with the plaintiff relating to his 30 film projects. This agreement harmed competition in the relevant markets by foreclosing the possibility that plaintiff would have obtained film contracts and

distribution deals and to secure better contract terms but for the collusion; and this agreement was unrelated to any legitimate business purpose. Only to prevent or deny plaintiff to enter into the film business.

**FOURTH OFFENSE:  
(VIOLATION OF SECTION 7A OF THE CLAYTON ACT)**

17. The allegations of Paragraphs 1 through 13 of this Complaint are re-alleged and incorporated by reference here with the same force and effects as though set forth here in full. Section 7 of the Clayton Act prohibits stock or asset acquisitions affecting commerce where .the effect of such acquisition may be substantially to lessen competition, or tend to create a monopoly... 15 U.S.C. § 18.

**FIFTH OFFENSE  
(Fraud and Fraudulent Advertisement)**

18. The allegations of Paragraphs 1 through 13 of this amended complaint are re-alleged and incorporated by reference here with the same force and effects as though set forth here in full. Section 7 of the Clayton Act prohibits stock or asset acquisitions affecting commerce where .the effect of such acquisition may be substantially to lessen competition, or tend to create a monopoly... 15 U.S.C. § 18.

**Sixth Offense  
Negligence**

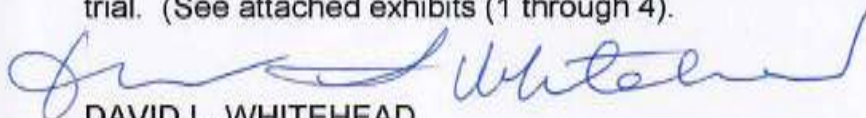
19. The allegations of Paragraphs 1 through 13 of this amended complaint are re-alleged and incorporated by reference here with the same force and effects as though set forth here in full. Section 7 of the Clayton Act prohibits stock or asset acquisitions affecting commerce where .the effect of such acquisition may be substantially to lessen competition, or tend to create a monopoly... 15 U.S.C. § 18.



**Seventh Offense**  
**Racial DISCRIMINATION BASED ON CLASS (African Americans)**

20. The allegations of Paragraphs 1 through 13 of this amended complaint are re-alleged and incorporated by reference here with the same force and effects as though set forth here in full. Section 7 of the Clayton Act prohibits stock or asset acquisitions affecting commerce where .the effect of such acquisition may be substantially to lessen competition, or tend to create a monopoly... 15 U.S.C. § 18. Plaintiff will amend his complaint as discovery provides added information and evidence pertaining to this Sherman anti-trust claim involving fraud, breach of contract, conspiracy and other violations.

In Conclusion plaintiff in this civil action case demands the amount of \$100 million dollars, and 10 million compensatory damages. In addition, plaintiff demands a jury trial. (See attached exhibits (1 through 4).



DAVID L. WHITEHEAD

1906 Scott St.

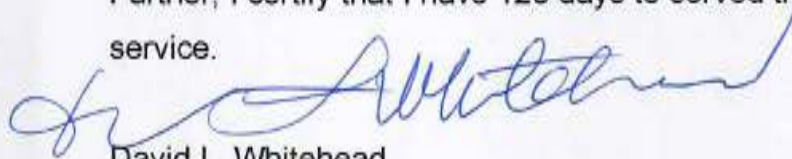
Bossier, Louisiana 71111

(Cell No. 318-820-5029)

Or 318-525-8065)

Certificate of Service

I certify that I sent defendant Netflix inc a copy of this pleading on April 23, 2016. Further, I certify that I have 120 days to served the defendants through registered agent service.



David L. Whitehead

Mail - Outlook Team - Outlook

[EX 1]

Outlook Mail

Search Mail and People

Folders

- Inbox 946
- Junk Email 84
- Drafts 747
- Sent Items 1
- Deleted Items 3
- Archive
- vid

Categories

Shipping updates

New |  Reply |  Delete |  Archive |  Junk |  Sweep

Attorney Alan Pesnell's 30 film project proposal to Netflix for David Louis Whitehead (One of the biggest Hollywood Proposals--Rejected)

DW David Whitehead  
Today, 10:08 AM  
You: David Whitehead (daouddavidlouis@yahoo.com)

Reply |

You forwarded this message on 11/22/2016 10:20 AM

Attorney Pesnell's 30 film project proposal to Netflix relating to his client David Whitehead was one of the biggest Hollywood Proposals which was rejected violating US Anti-Trust laws pertaining to a minority citizen of the United States.

Hopefully, the Trump Doctrine will be to make money and not block legitimate Money-Making Operations in the country!

(c) 2016 dlw

**See offers >**

View details



[EX 2]

**THE PESNELL LAW FIRM**

(A PROFESSIONAL LAW CORPORATION)

H.C. Beck Building, Suite 1100  
400 Travis Street  
Shreveport, Louisiana 71101

BILLY R. PESNELL  
J. WHITNEY PESNELL\*  
W. ALAN PESNELL

\*ALSO ADMITTED TO PRACTICE IN TEXAS  
AND THE DISTRICT OF COLUMBIA

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TELEPHONE: (318) 226-5577  
TELECOPY: (318) 226-5578

EMAIL:  
ALAN@PESNELLLAWFIRM.COM

November 18, 2016

Mr. Ted Sarandos, Chief Content Officer  
Netflix  
100 Winchester Circle  
Los Gatos, CA 95032  
[tsarandos@netflix.com](mailto:tsarandos@netflix.com)  
[asst\\_originalcontent@netflix.com](mailto:asst_originalcontent@netflix.com)

Re: David Whitehead; Various Film Projects.

Dear Mr. Sarandos:

I represent David Whitehead in regard to certain film and theatrical projects he is working on and contemplating for the near future. My understanding is that David has been in contact with your assistant, Alexis, concerning submission of his projects for production.

On behalf of Mr. Whitehead, I am submitting to your office a listing and brief synopsis of a major proposal for a multi-film deal, involving my client David Whitehead, screenwriter, Executive Producer, Playwright, Theatrical Director, and Actor. An example of one of the projects on the submission is a project adapted from musical play "My Aretha: the life of Aretha Franklin and Rev. C. L. Franklin" (referred to herein as "Aretha"). That play met with critical success in the Washington Times in 2002. Also included in the synopsis is a project entitled "Erykah Badu in Paris with Momma Voodoo" which has received interest from others in the industry.

Film maker Charles Burnett in 2005, sent my client an email and attachment stating that the "Aretha" project "... sounds very inviting and will make wonderful film." Moreover, in 2008, award winning film maker Woody Allen, through his agent at ICM Talent, requested a financial offer to direct "Aretha". Howard University film professor Alonzo Crawford stated, "I am writing to lend my support to this exciting musical drama film about Aretha Franklin and her contributions as a vocalist and performer to the recording industry. As the "Queen of Soul" her accomplishments span many decades and several different musical scenes. She is truly an American icon and national treasure. In addition, Ms. Franklin has used her talent to support many humanitarian causes over the course of her career..."

Professor and Librarian O. D. Alexander, who after observing the play performance of



"Aretha" stated the following:

"My Aretha" by David Louis Whitehead, was the most impressive activity that was brought to Southeastern University not only for student and community entertainment but also to facilitate order to the cultural contributions to the Queen of Soul. This work exhibited the life of Aretha in three stages---First in the early years, then the searching, and finally the Aretha that we all know--the musician not just the singer. Presenting such an outstanding biographical work on Aretha Franklin and her great music was probably an arduous task for the playwright. It was difficult because no only did he write an exceptional script, but he also had to audition numerous singers and actors and actresses to portray the characters used. All of the performers were dynamic musicians and the musical support ensemble were equivalent to anything group that one would see and hear on Broadway."

Adding to the excitement around "Aretha" Department of State Public Affairs officer, Romana Harper, after seeing the play's performance, stated:

"The David Whitehead Production on the life and times of Aretha Franklin was a theatrical delight... It would have made Aretha proud...the historical context gave depth to this biographical account of Lady Soul...I really enjoyed the musical renditions of Aretha's best, and was most entertained by this incredible group of budding entertainments...Kudos!"

The Honorable Congressman John Conyers, a ranking member on the US House of Representatives Judiciary Committee and past chair, offered his statements on "Aretha," labeling my client as an extremely dedicated and talented artist. The Honorable Congressman John Lewis was also supportive of "Aretha." In addition, the projects "The Big Bad Wolf - The Mike Tyson Story" and "Michael Jackson and the Ghost of Ben", in their format as stage plays, were both mentioned in the Washington Post. The "Michael Jackson" play was critically reviewed. The Washington city newspaper declared that the play gives a dramatic take on the life of the Michael Jackson.

Simply put, there is no reason to believe that David's other projects will not meet with similar success. David's projects, being afro-centered, should obtain and hold a large piece of the market for black viewers. We believe that market is a growing and sustainable field that will also attract a substantial viewing from white viewers as well as other ethnic groups as well.

I am submitting a list of works for your review in the form of a numerical listing attached to this letter. David has listed his view of the best directors and artists where listed, in his view of the project's completion. Once you have had a chance to peruse this listing, we would appreciate an opportunity to discuss with you a potential association for production of these projects under the Netflix umbrella. Upon request, a manuscript or written representation can be provided for any of the projects. All listed are the property of David Whitehead and are either copyrighted, registered with the Screen Writers' Guild West, or protected under trade secret and intellectual property laws of various states. The projects are listed on the attachment.

We appreciate you taking the time to read this letter, and review the submission. We look forward to hearing from you soon.

With kindest regards, I am

Yours very truly,

---

S/ *W. Alan Pesnell*  
W. Alan Pesnell

WAP/jl

cc: Mr. David Whitehead



**30 Film Projects on Multi-Deal involving the copyright writings of David Louis Whitehead:**

**1. "Erykah Badu in Paris with Momma Voodoo,"**

**Synopsis:** Erykah Badu in Paris with Momma Voodoo is about a dream in which Erykah has, involving the characters Momma Voodoo and an African King. The setting is in the Paris, France, the U.S. and Africa. Momma Voodoo is being pursued by the African King, at one of Erykah Badu's concerts being held in a Paris restaurant. Somehow, the two characters of Momma Voodoo and the African King enter the Paris concert of Erykah Badu. They land on stage, and interplay with Erykah. The sub-plot is where the African King is attempting to have sexual relations with Momma Voodoo, the witch doctor, to cure himself of the curse of being overly sexed. The sub-plot drama, gains the attention of Erykah Badu, who is performing, when both Momma Voodoo and the African King enter on stage, during her concert in the Paris restaurant. Ms. Badu becomes deeply involved with the plot, which is part to her delusional dream. Overall: "Erykah Badu...." Is another in a series of vignettes that feature popular tunes performed at various stages in the magnificent career of the Queen of Hip Hop and the Afro Centric Diasapora", Ms. Erykah Badu. The work illustrates important events in the life of Erykah Badu, mainly her music. Erykah's Paris concert is repeatedly disrupted by the character Momma Voodoo, who is pursued by an eccentric African Monarch, who refuses to leave her alone. The musical captures the total concept and feel of Erykah Badu singing her R&B, greatest hits, as she attempts to resolve the potential romantic dispute between Momma Voodoo and her companion- The African King, as he attempts to romance her, to cure his disease, overly sexed. Director of interest: A. Malik Abbott; © 2016; (Actresses of Interest: Erykah Badu, Dennis Haysbert, Rihanna, Vivica Fox).

**2. "How Rebecca Zinani Madison Got Her Freak Off,"** (Trilogy or possibly a 4-part motion picture comedy "Rebecca in Africa"). Rihanna is awaiting financial offer to star as Rebecca. (Director of interest is Jeffrey Byrd); © 2016.

**Synopsis:** The work depicts the main character Rebecca as an accomplished and successful African American woman. She is a Harvard Law Graduate, who was in the top 5% of her class. She is beautiful, stylish, happily single, and a very successful Wall Street lawyer. She is



exceptional; and therefore, it will take a rare and exceptional man to qualify as her mate. And, while the male dominated world in which she as ascended would like to think of her as just another pretty face, she enjoys beating them over and over again at her own game—both on and off the field. Rebecca is the modern day feminist and role model for all women who want to do, be, and have more. “A modern Day feminist as heroin in the novel Woman v. Man. A woman against the world succeeding against the barriers, stereotypes, and obstacles which seek to say, “No”. This work is the selling of sex as comedy. Sexual exploits made comedic based upon the vulnerability and narrow-mindedness of men towards women. Sex made comedic when some men are seeking to womanize when confronted by a beautiful, successful and accomplished intelligent female lawyer/woman. Never get on Rebecca’s hit-list, you might not recover after she get her freak off.”

### 3. **Aretha (The Life of Aretha Franklin and Rev. C. L. Franklin)**

**Synopsis:** The screenplays “Aretha” and “Aretha 2” are based on the musical play “My Aretha” the life of Aretha Franklin and Rev. C. L. Franklin. The story for the film production depicts the life and times of one of America’s finest artist, singer and performer, Aretha Franklin and her legendary father, the late Rev. C. L. Franklin. This work exhibited the life of Aretha in three stages---First in the early years, then the searching for her father, the Great Rev. C. L. Franklin, who was part of the Negro Civil Rights Movement, led by Rev. Dr. Martin Luther King, and finally, Aretha, that we all know—the musician not just the singer. In short, Aretha gives the historical context in depth to the biographical account of Lady Soul—The Queen, Ms. Franklin. Director of Interest: Bill Duke, signed Letter of Intent. (Actresses of Interest: Jenifer Hudson, Fantasia, Jill Scott and Zendaya Coleman) (Actor of Interest: Dennis Haysbert).

Aretha 2 will have a different cast, different music and Director of interest: Melvin Van Peebles and Mario Van Peebles.

### 4. **Michael Jackson and The Ghost of Ben** for film Animation and musical stage:

**Synopsis:** Michael Jackson tells his life story to his pet rat friend named Ben. Ben dies and MJ talks to The Ghost of Ben. Director of Interest: Julie Dash.



**5. The Fight (Musical Stage and Film (animation)) Michael Jackson versus Prince**

**Synopsis:** Michael Jackson and Prince battle it out musically and by words. Director of Interest: Dwain Smith Ya'Ke Smith.

**6. Sherman General Sherman,"** received an outstanding review of the script by Ford's Theatre in Washington, D.C. Director of Interest: Mario Van Peebles (c) 2013-14;

**Synopsis:** Sherman General Sherman is about the Civil War. Sherman General Sherman tells the story of his leadership, leading the Yankees to victory over the Confederates. In this musical screenplay and score, the Northern Army, led by General Sherman marches from Atlanta to Savannah, Georgia, destroying the Confederate Army in the state of Georgia. General Sherman, then, continues to lead his rout of the Confederacy, by marching his men from Georgia, up the Carolina coast to Virginia, where, the Confederate Army, under the direction of General Robert E. Lee, is flanked by both General Grant and Sherman's men, and other Northern units. General Lee surrenders, and later, Lincoln is assassinated. The story ends. The screenplay also has a fascinating tale, describing the relations of General Sherman's with the black/African slaves. Sherman gives them land ownership, although he, like Lincoln, did not care about them. Yet, to save the Union, Sherman fought to preserve the U.S. Constitution and the republic. The work has the great singer and composer Lizz Wright's soundtrack supporting and expressing the storyline's action, historical developments and sequences of interrelated events.

**7. Dr. Condoleezza Rice. Biopic.**

**Synopsis:** First African American Female National Security Advisor and First African American Secretary of State, smooth the way for President Ronald Reagan and President George H.W. Bush to deal with Soviet Leader Makhail Gorbachev noting that Sanaa Lathan's agent has script. (Director of Interest: Jeffrey Byrd ). (Actress of Interest: Sanaa Latham)



**8. A Night With Anita Baker.** Musical Film for Cable Television.

**Synopsis:** Radio DJ Jazz describes the life of Anita Baker and her music. Director of Interest: Malik Abbott or Dwain Smith (Ya'Ke Smith). (Actress of Interest: Kim Fields and singer Lizz Wright).

**9. The Rise Fall & Rise of A Mayor—The Life of Marion S. Barry.**

**Synopsis:** Is about the Former D.C. Mayor. The script demonstrates Barry as the man, and the unique politician who defeated the odds by gaining power, from Mississippi to Tennessee to Washington, DC as Mayor for life. His trials and tribulations are highlighted including his civil rights grass roots activity. Director of Interest: Bill Duke. Mr. Duke signed a letter of intent to direct this film project. (Actor of Interest: Delroy Lindo, Vivica Fox as Rasheeda Moore)

**10. Batman Blackman...**

**Synopsis:** proposed as a Warner Bros special using an all black cast in the Batman series. Music by Michael Jackson "Invincible" LP/CD. (Director of Interest: A. Malik Abbott). (Actor of Interest: Wesley Snipes and others).

**11. The Reginald Lewis Story: Why Should White Men Have All The Fun** (6 to 7 part potential cable television films on the high powered executive of Beatrice TLC, who died in 1993), noting that Harvard University's Law Center is named after Mr. Lewis.

**Synopsis:** Reginald Lewis was an icon relating to finance and international business born in Baltimore, Maryland. He was determine to succeed in any endeavor... Director of Interest: Bill Duke. Actor of Interest: Dennis Haysbert.

12. **“Louisiana River Business Woman: The Barbara Ann Miller Story”** entails Ms. Barbara Ann Miller, an overweight black female, who beats the odds coming from the country and streets, and racism in the south, by raising her children as a beautician and becoming a successful business woman. Director of Interest: Mario Van Peebles. Actress of Interest: Gabourey “Gabby” Sidibe as Barbara Ann Miller or MONIQUE Angela Hicks.

13. **Fly-Girl. The Bessie Coleman Story.**

**Synopsis:** Bessie Coleman became the first African American woman aviator, who died after her plane crashed... Director of Interest: Julie Dash. Actor of Interest: Saana Latham.

14. **The Malcolm X Project.** A one man show for cable television.

**Synopsis:** A more serious take of Malcolm X’s Political and Social Philosophy relating to black life in America during the 1960s. Director of Interest: David Parks (son of Gordon Parks of Shaft and Super Fly) or Julie Dash. Actor of Interest: Dennis Haysbert or Samuel L. Jackson.

15. **Marilyn Dances –Happy Birthday, Mr. President (The Life of Marilyn Monroe)** for stage and film. (Director of Interest: Julie Dash. Actress of interest: Brittany Spears and Halle Berry.

**Synopsis:** Ms. Marilyn Monroe revisit her times with President John F. Kennedy and Attorney General Robert Kennedy, Elizabeth Taylor, and Richard Burton.

16. **Phyllis Hyman Sophisticated.**

**Synopsis:** The film project examines the psychology, music and life of Singer Phyllis Hyman who was troubled by love and competition...although the world loved her... (Actresses of Interest: Catherine Marie or Alicia Keys as Phyllis Hyman; MONIQUE Angela Hicks as her



assistant who attempts to provide encouragement during Ms. Hyman's life struggles). Director of Interest: Dwain Smith (Ya'Ke Smith).

17. **The Black Widow...** (Director of Interest Julie Dash).

Synopsis: This work examines the life of Jacqueline Bouvier Kennedy Onassis relating to her attachment to President John F. Kennedy and Ari Onassis...

18. **Let Them Come To Berlin.** Director of Interest: Mario Van Peebles.

Synopsis: President John F. Kennedy makes his case for Democracy and Freedom to Europe while giving his speech in Berlin, Germany.

19. **Frederick Douglass.** Director of Interest: Jeffrey Byrd.

Synopsis: (4 part film based on copyrighted scripts on the "Narratives of Frederick Douglass").

20. **Miles Davis Narration and Tunes.** Director of Interest: A. Malik Abbott.

Synopsis: A five part film series based on the life of Miles Davis.

21. **Roberta Flack** Director of Interest Dwain Smith (Ya'Ke Smith).

Synopsis: The work examines Roberta Flack and her music reflecting back to Donnie Hathaway in a time capsule. (Cameo appearance of his daughter Lalah Hathaway singing as her father).

22. **The Big Bad Wolf vs. Ms. Little Red Riding Hood—The Mike Tyson Story.** Director of Interest: Julie Dash.

**Synopsis:** How Ms. Little Red Riding Hood brought down the Heavyweight Champion Mike Tyson, and how the system of justice and life seems unfair...

23. **God versus Satan.** Director of Interest: Julie Dash.

**Synopsis:** 10 part film series as Satan travels throughout the Holy Bible causing trouble attempting to defeat God.

24. **Ray Charles.** Director of Interest: A. Malik Abbott.

**Synopsis:** Ray Charles plays the piano with his band and singers telling his story. (Actor of interest Brian McKnight)

25. **Mahalia Jackson.** Director of Interest: Dwain Smith (Ya'Ke Smith).

**Synopsis:** Several (3) women sing and act as Mahalia Jackson for Cable television special as a Documentary. Actress of Interest as narrator Victoria Rowell.

26. **Mahalia Jackson A Child of God.** Director of Interest: Jeffrey Byrd.

**Synopsis:** Actors interplay while Mahalia sings.

Actors of Interest: Denis Haysbert and Kevin Hart.

27. **Seven Dips in a Dirty Pond.** Director of Interest: Bill Duke.

**Synopsis:** Biblical Story of the Great Army General who finally believed in God.



28. **Dr. Martin Luther King, Jr and the music of Earth Wind and Fire.** Director of Interest: Dwain Smith (Ya'Ke Smith).

Synopsis: Dr. King reads passages from his works and the music of Earth Wind and Fire is used in the plot of the story.

29. **Otis Redding Sing for Me.** Director of Interest: A. Malik Abbott.

Synopsis: Woman determined that Otis Redding was born to be her man.

30. **JFK and RFK Versus LBJ.** Director of Interest: Julie Dash

Synopsis: The fight for political power between The Kennedys and Lyndon Baines Johnson.

**\*\*\* These ideas and expressions of ideas cannot be used without the authors consent. The ideas and contents contained in the above listed projects, together with all written documentation associated therewith are the sole property of David Whitehead, and constitute trade secrets, intellectual property, copyrighted works and works registered with the Screenwriters' Guild of America West, as documented, and are protected by the laws of the United States of America and the various states as may be applicable. These ideas are submitted in strict confidence.**

**David L. Whitehead**

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United States of America  
FEDERAL TRADE COMMISSION  
Washington, D.C. 20580

[EX 3]

Consumer Response Center

January 18, 2017

David Louis Whitehead  
1906 Scott St.  
Bossier, LA 71111

FTC Ref. No. 14015921

Dear Mr. Whitehead:

Thank you for contacting the Federal Trade Commission (FTC) regarding alleged antitrust violations of Netflix.

The FTC has been directed by Congress to act in the interest of all consumers to prevent fraudulent, deceptive, and unfair business practices in the marketplace. Contacts from consumers and businesses are very important to our work as they are often the first indication of a problem in the marketplace, and may provide the initial evidence to begin an investigation.

While the FTC is not able to intervene in individual disputes, the information you have provided has been recorded in our secure online database which is used by thousands of civil and criminal law enforcement authorities worldwide. This database enables law enforcement agencies to identify questionable business practices that may lead to investigations and prosecutions. In addition, our attorneys and investigators regularly review the complaint database to look for law enforcement targets, evaluate the need for consumer education, and make policy recommendations. Your letter has been added to our database for that purpose.

As a consumer, you have additional alternatives for corrective action. This includes directly contacting legal assistance.

Thank you for providing information that may be used to develop or support the FTC's enforcement initiatives. You can find free educational materials on a variety of consumer topics, press releases, and other important information on our website at [www.ftc.gov](http://www.ftc.gov).

Sincerely,

Consumer Response Center





[EX 4]

- [Alan Pesnell <alan@pesnelllawfirm.com>](mailto:alan@pesnelllawfirm.com)
- 
- 11/20/16 at 9:35 PM

To

- [David Whitehead](#)

**From:** Asst OriginalContent [mailto:asst\_originalcontent@netflix.com]

**Sent:** Friday, November 18, 2016 3:49 PM

**To:** Alan Pesnell

**Subject:** Re: Proposals for Netflix productions.

We appreciate your interest in and inquiry about Netflix's original programming. Unfortunately, we don't accept or review unsolicited material or ideas. For that reason, we won't consider any creative materials or ideas we receive that were not specifically requested by Netflix, including yours, and will instead destroy them.

On Fri, Nov 18, 2016 at 11:44 AM, Alan Pesnell <[alan@pesnelllawfirm.com](mailto:alan@pesnelllawfirm.com)> wrote:

I represent Mr. David Whitehead. I attach hereto a letter and attachment sent to your offices. Mr. Whitehead was told submit this to your directly by Alexis, Mr. Sarandos' Assistant.

I appreciate your consideration, and look forward to hearing from you soon.

With kindest regards, I am

Very truly yours,

W. Alan Pesnell

400 Travis Street, Suite 1100

Shreveport, LA 71101

318-226-5577 – phone

318-226-5578 - fax

# **EXHIBIT 5**


WIKIPEDIA

# Black Panther (film)

*Black Panther* is a 2018 American superhero film based on the Marvel Comics character of the same name. Produced by Marvel Studios and distributed by Walt Disney Studios Motion Pictures, it is the eighteenth film in the Marvel Cinematic Universe (MCU). The film is directed by Ryan Coogler, who co-wrote the screenplay with Joe Robert Cole, and stars Chadwick Boseman as T'Challa / Black Panther, alongside Michael B. Jordan, Lupita Nyong'o, Danai Gurira, Martin Freeman, Daniel Kaluuya, Letitia Wright, Winston Duke, Angela Bassett, Forest Whitaker, and Andy Serkis. In *Black Panther*, T'Challa is crowned king of Wakanda following his father's death, but his sovereignty is challenged by an adversary who plans to abandon the country's isolationist policies and begin a global revolution.

Wesley Snipes expressed interest in working on a Black Panther film in 1992, but the project did not come to fruition. In September 2005, Marvel Studios announced a Black Panther film as one of ten based on Marvel characters and distributed by Paramount Pictures. Mark Bailey was hired to write a script in January 2011. *Black Panther* was officially announced in October 2014, and Boseman made his first appearance as the character in *Captain America: Civil War* (2016). By 2016, Cole and Coogler had joined; additional cast joined in May, making *Black Panther* the first Marvel film with a predominantly black cast. Principal photography took place from January to April 2017 at EUE/Screen Gems Studios in the Atlanta metropolitan area, and Busan, South Korea.

*Black Panther* premiered in Los Angeles on January 29, 2018, and was released theatrically in the United States on February 16, in 2D, 3D, IMAX, and other premium large formats. The film received praise from critics for its direction, screenplay, acting (particularly that of Boseman, Jordan, and Wright), costume design, production values, and soundtrack, though the computer-generated effects received some criticism. Many critics considered it to be one of the best films set in the MCU and noted its cultural significance, with organizations including the National Board of Review and American Film Institute naming it one of the Top 10 Films of 2018. During its theatrical run, the film grossed over \$1.35 billion and broke numerous box office records, including for the highest-grossing film by a black director. It became the ninth highest-grossing film ever, the third highest-grossing film ever in North America, and for 2018 it was the highest-grossing film of the year in the U.S. and Canada as well as the second highest-grossing film of the year worldwide.

<b>Black Panther</b>	
	
Theatrical release poster	
<b>Directed by</b>	Ryan Coogler
<b>Produced by</b>	Kevin Feige
<b>Written by</b>	Ryan Coogler Joe Robert Cole
<b>Based on</b>	Black Panther by Stan Lee Jack Kirby
<b>Starring</b>	Chadwick Boseman Michael B. Jordan Lupita Nyong'o Danai Gurira Martin Freeman Daniel Kaluuya Letitia Wright Winston Duke Angela Bassett Forest Whitaker

The film received numerous awards and nominations, with seven nominations at the 91st Academy Awards including Best Picture, with wins for Best Costume Design, Best Original Score, and Best Production Design. *Black Panther* is the first superhero film ever to receive a Best Picture nomination, as well as the first film in the MCU to win an Academy Award. The film also received three nominations at the 76th Golden Globe Awards, two wins at the 25th Screen Actors Guild Awards, and twelve nominations at the 24th Critics' Choice Awards (winning three), among others. A sequel is in development with Coogler returning to write and direct.

	Andy Serkis
<b>Music by</b>	Ludwig Göransson
<b>Cinematography</b>	Rachel Morrison
<b>Edited by</b>	Michael P. Shawver Debbie Berman
<b>Production company</b>	Marvel Studios
<b>Distributed by</b>	Walt Disney Studios Motion Pictures
<b>Release date</b>	January 29, 2018 (Dolby Theatre) February 16, 2018 (United States)
<b>Running time</b>	134 minutes <sup>[1]</sup>
<b>Country</b>	United States
<b>Language</b>	English
<b>Budget</b>	\$200 million <sup>[2][3]</sup>
<b>Box office</b>	\$1.347 billion <sup>[4]</sup>

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## Plot

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Thousands of years ago, five African tribes war over a meteorite containing vibranium. One warrior ingests a "heart-shaped herb" affected by the metal and gains superhuman abilities, becoming the first "Black Panther". He unites all but the Jabari Tribe to form the nation of Wakanda. Over centuries, the Wakandans use the vibranium to develop advanced technology and isolate themselves from the world by posing as a Third World country. In 1992, Wakanda's King T'Chaka visits his brother N'Jobu, who is working undercover in Oakland, California. T'Chaka accuses N'Jobu of assisting black-market arms dealer Ulysses Klaue with stealing vibranium from Wakanda. N'Jobu's partner reveals he is Zuri, another undercover Wakandan, and confirms T'Chaka's suspicions.

In the present day, following T'Chaka's death,<sup>[N 1]</sup> his son T'Challa returns to Wakanda to assume the throne. He and Okoye, the leader of the Dora Milaje regiment, extract T'Challa's ex-lover Nakia from an undercover assignment so she can attend his coronation ceremony with his mother Ramonda and younger sister Shuri. At the ceremony, the Jabari Tribe's leader M'Baku challenges T'Challa for the crown in ritual combat. T'Challa defeats M'Baku and persuades him to yield rather than die.

When Klaue and his accomplice Erik Stevens steal a Wakandan artifact from a London museum, T'Challa's friend and Okoye's lover W'Kabi urges him to bring Klaue back alive. T'Challa, Okoye, and Nakia travel to Busan, South Korea, where Klaue plans to sell the artifact to CIA agent Everett K. Ross. A firefights erupts and Klaue attempts to flee but is caught by T'Challa, who reluctantly releases him to Ross' custody. Klaue tells Ross that Wakanda's international image is a front for a technologically advanced civilization. Erik attacks and extracts Klaue as Ross is gravely injured protecting Nakia. Rather than pursue Klaue, T'Challa takes Ross to Wakanda, where their technology can save him.

While Shuri heals Ross, T'Challa confronts Zuri about N'Jobu. Zuri explains that N'Jobu planned to share Wakanda's technology with people of African descent around the world to help them conquer their oppressors. As T'Chaka arrested N'Jobu, the latter attacked Zuri and forced T'Chaka to kill him. T'Chaka ordered Zuri to lie that N'Jobu had disappeared and left behind N'Jobu's American son in order to maintain the lie. This boy grew up to be Stevens, a U.S. black ops soldier who adopted the name "Killmonger". Meanwhile, Killmonger kills Klaue and takes his body to Wakanda. He is brought before the tribal elders, revealing his identity to be N'Jadaka and claim to the throne. Killmonger challenges T'Challa to ritual combat, where he kills Zuri, defeats T'Challa, and hurls him over a waterfall to his presumed death. Killmonger ingests the heart-shaped herb and orders the rest incinerated, but Nakia extracts one first. Killmonger, supported by W'Kabi and his army, prepares to distribute shipments of Wakandan weapons to operatives around the world.

Nakia, Shuri, Ramonda, and Ross flee to the Jabari Tribe for aid. They find a comatose T'Challa, rescued by the Jabari in repayment for sparing M'Baku's life. Healed by Nakia's herb, T'Challa returns to fight Killmonger, who dons his own Black Panther suit. W'Kabi and his army fight Shuri, Nakia, and the Dora Milaje, while Ross remotely pilots a jet and shoots down planes carrying the vibranium weapons. M'Baku and the Jabari arrive to reinforce T'Challa. Confronted by Okoye, W'Kabi and his army stand down. Fighting in Wakanda's vibranium mine, T'Challa disrupts Killmonger's suit and stabs him. Killmonger refuses to be healed, choosing to die a free man rather than be incarcerated.

T'Challa establishes an outreach center at the building where N'Jobu died, to be run by Nakia and Shuri. In a mid-credits scene, T'Challa appears before the United Nations to reveal Wakanda's true nature to the world. In a post-credits scene, Shuri helps Bucky Barnes with his recuperation.

## Cast

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- **Chadwick Boseman as T'Challa / Black Panther:**  
 The king of the African nation of Wakanda<sup>[6][7][8]</sup> who gains enhanced strength by ingesting the heart-shaped herb.<sup>[9]</sup> He ascends to the throne following the death of his father T'Chaka in *Captain America: Civil War* (2016).<sup>[6][10]</sup> Boseman called T'Challa an anti-hero who is "very much aware" of his responsibility as the leader of Wakanda.<sup>[11][12]</sup> Black Panther's suit, which forms around his body, was inspired by a similar design in Ta-Nehisi Coates' *Black Panther* comic book run.<sup>[13]</sup> Boseman worked with the same dialect coach he had during *Message from the King* (2016),<sup>[11]</sup> and worked with Marrese Crump to stay in shape between *Civil War* and *Black Panther*.<sup>[10]</sup> To prepare for the role, Boseman visited South Africa twice; examined Shaka Zulu, Patrice Lumumba, speeches from Nelson Mandela, and Fela Kuti songs; talked to a Yoruba Babalawo; trained in Dambe, Capoeira Angola, and Zulu stick fighting; and took a DNA test to better understand his African ancestry.<sup>[14]</sup> He signed a five-film contract with Marvel.<sup>[15]</sup> Ashton Tyler plays a young T'Challa.<sup>[16]:i</sup>
- **Michael B. Jordan as N'Jadaka / Erik "Killmonger" Stevens:**  
 A U.S. black-ops soldier who seeks to overthrow his cousin T'Challa,<sup>[17][18]</sup> with his own opinion on how Wakanda should be ruled.<sup>[19]</sup> Jordan had wanted to play a villain for "a while",<sup>[20]</sup> and likened Killmonger and T'Challa's relationship to the X-Men characters Magneto and Professor X.<sup>[21]</sup> He added that Killmonger is strategic, thoughtful, patient, and "trained to a T".<sup>[22]</sup> Killmonger's bumpy, ritualistic tribal markings on his chest and torso resemble the scar tattoos of the Mursi and Surma tribes,<sup>[23]</sup> and consisted of 90 individually sculpted silicone molds that took two-and-a-half hours to apply.<sup>[16]:21</sup> Jordan would have to sit in a sauna for two hours at the end of the day to remove the prosthetics.<sup>[24]</sup> Killmonger's dreadlocks hairstyle was a modern take on the character's long hair in the comics.<sup>[21]</sup> To prepare for the role, Jordan examined Malcolm X, Marcus Garvey, Huey P. Newton, Fred Hampton, and Tupac Shakur.<sup>[14]</sup> He also cited Heath Ledger's portrayal of the Joker in *The Dark Knight* as an influence.<sup>[25]</sup> Corey Calliet served as Jordan's trainer on the film, after also doing so on *Creed*.<sup>[26]</sup> Seth Carr plays a young Stevens.<sup>[16]:i</sup>
- **Lupita Nyong'o as Nakia:**  
 T'Challa's former lover and a War Dog, an undercover spy for Wakanda, from the River Tribe.<sup>[10][27][19]</sup> Nyong'o called Nakia a "departure" from her comic counterpart.<sup>[19]</sup> She begins the film fighting for enslaved women in Nigeria. Nyong'o learned to speak Hausa for the film, and also trained in judo, jujitsu, silat, and Filipino martial arts.<sup>[10]</sup>
- **Danai Gurira as Okoye:**  
 An "extremely proud" Wakandan traditionalist from the Border Tribe who is the head of the Dora Milaje, Wakanda's all-female special forces and T'Challa's bodyguards.<sup>[28][29][30]</sup> Director Ryan Coogler cast Gurira based on her performance in *Mother of George* (2013), rather than her popular role of Michonne in the television series *The Walking Dead*, which Coogler had not seen. Gurira said that the fighting skills she learned playing Michonne complemented the skills of Okoye,<sup>[31]</sup> but noted that the Dora Milaje are a secret service, which covers intel as well as fighting. She explained that though the character is stoic, "she also has an unexpected sense of humor. She has a heart, but for her country and for her people."<sup>[30]</sup> Gurira's head was re-shaved every day to have her head tattoos applied, which took two-and-a-half to three-and-a-half hours.<sup>[24]</sup>
- **Martin Freeman as Everett K. Ross:**  
 A member of the Central Intelligence Agency<sup>[32][33]</sup> who Freeman described as having an "uneasy peace" with T'Challa. He added that the character goes on an "enlightening journey to Wakanda" in the film.<sup>[32]</sup> Freeman and the filmmakers sought to depict Ross as a capable agent rather than just comic relief as he is in the comics.<sup>[10][34]</sup>
- **Daniel Kaluuya as W'Kabi:** A confidant to T'Challa and his best friend who is the head of security for the Border Tribe, serving as the first line of defense for Wakanda.<sup>[35][19]</sup>
- **Letitia Wright as Shuri:**  
 T'Challa's 16-year-old sister who designs new technology for the country.<sup>[36][10]</sup> Wright described Shuri as innovative of spirit and mind, wanting to take Wakanda to "a new place", and felt she was a good role model for young black girls.<sup>[36]</sup> Executive producer Nate Moore called Shuri the smartest person in the world, even more so than Tony Stark.<sup>[10]</sup>
- **Winston Duke as M'Baku:**  
 A powerful, ruthless warrior who is the leader of Wakanda's mountain tribe, the Jabari, who protest T'Challa being the new king.<sup>[37]</sup> Duke described the Jabari as people who "strongly believe that to move forward, you have to have a strong adherence and respect for the past. So they have a deep moral conscience."<sup>[38]</sup> Character elements from Christopher Priest's 1998–2003 *Black Panther* series were adapted for M'Baku's portrayal in the film.<sup>[37]</sup> M'Baku is not



(L:R) Producer Kevin Feige, director Ryan Coogler, and actors Lupita Nyong'o, Michael B. Jordan, Danai Gurira, and Chadwick Boseman promoting *Black Panther* at the 2016 San Diego Comic-Con International.



referred to in the film by his comics alter ego "Man-Ape", since Marvel felt there were "a lot of racial implications that don't sit well" in having a black character dress up as an ape. This aspect of the character was instead reworked to have the Jabari tribe worship the gorilla gods, with M'Baku still wearing elements of fur on his arms and legs and a chest-plate that hints at the gorilla. Moore continued, "Man-Ape is a problematic character for a lot of reasons, but the idea *behind* Man-Ape we thought was really fascinating ... It's a line I think we're walking, and hopefully walking successfully."<sup>[37]</sup> To further differentiate the Jabari, Duke spoke a version of the Nigerian Igbo language rather than the Xhosa language spoken by other Wakandans.<sup>[16]:23</sup>

- **Angela Bassett as Ramonda:**

T'Challa and Shuri's mother, the Queen Mother of Wakanda.<sup>[39]</sup> Ramonda serves as an adviser to T'Challa for when he would otherwise have turned to his father.<sup>[19]</sup> Bassett wore a silver, waist-length wig for the role that was made from 120 pieces of hair hand-rolled into dreadlocks.<sup>[16]:22</sup> Calliet also served as Bassett's trainer before and during filming, creating high-intensity interval training circuits and helping to craft her diet.<sup>[26]</sup>

- **Forest Whitaker as Zuri:**

An elder statesman of Wakanda and the keeper of the heart-shaped herb.<sup>[19][35]</sup> Coogler called Zuri a religious and spiritual figure, referencing the spirituality of Wakanda from the comics, and compared him to Obi-Wan Kenobi from the *Star Wars* series. Zuri is also a "major tie back" to T'Chaka for T'Challa.<sup>[40]</sup> Denzel Whitaker, who is not related to Forest, plays a young Zuri.<sup>[18]</sup>

- **Andy Serkis as Ulysses Klaue:**

A South African black-market arms dealer, smuggler and gangster,<sup>[10][41]</sup> who is allied with Killmonger.<sup>[13][19]</sup> He uses a piece of advanced Wakandan mining equipment as a sonic disruptor arm-cannon, replacing his left arm, which he lost in *Avengers: Age of Ultron* (2015).<sup>[42]</sup> Boseman described Klaue as a threat to Wakanda, one of the few outsiders to enter the country, and someone with access to vibranium. He compared the character to Osama bin Laden.<sup>[43]</sup> Serkis added that in addition to his desire for vibranium, Klaue is motivated by a "personal" vendetta against T'Challa, and "to expose what he thinks is the hypocrisy of Wakanda".<sup>[44]</sup>

Additionally, John Kani and Florence Kasumba reprise their respective roles of T'Chaka and Ayo from *Captain America: Civil War*.<sup>[35][45]</sup> Kani's son Atandwa portrays a young T'Chaka,<sup>[18]</sup> and Sterling K. Brown plays his brother N'Jobu, who is Killmonger's father.<sup>[46][18]</sup> Wakandan elders in the film include Isaach de Bankolé for the River Tribe,<sup>[47][16]:i</sup> Connie Chiume for the Mining Tribe,<sup>[48][16]:i</sup> Dorothy Steel for the Merchant Tribe, and Danny Sapani for the Border Tribe.<sup>[16]:i</sup> Sydelle Noel appears as Xoliswa, a member of the Dora Milaje.<sup>[49][50]</sup> Marija Abney, Janeshia Adams-Ginyard, Maria Hippolyte, Marie Mouroum, Jénel Stevens, Zola Williams, Christine Hollingsworth, and Shaunette Renée Wilson also play Doras.<sup>[16]:i</sup> Nabiyah Be initially announced that she was playing criminal Tilda Johnson,<sup>[51]</sup> but her character was simply named Linda in the final film due to Gabrielle Dennis being cast as Johnson in the second season of *Luke Cage*.<sup>[52][53][16]:i</sup> Comedian Trevor Noah voices Griot, a Wakandan ship A.I.,<sup>[54]</sup> Black Panther co-creator Stan Lee has a cameo as a patron in the South Korean casino,<sup>[55][18]</sup> and Sebastian Stan makes an uncredited appearance in the post-credits scene reprising his role as Bucky Barnes.<sup>[56]</sup>

## Production

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### Development

In June 1992, Wesley Snipes announced his intention to make a film about Black Panther,<sup>[57]</sup> and began work on it by that August.<sup>[58]</sup> Snipes felt that Africa had been portrayed poorly in Hollywood films previously, and that this film could highlight the majesty of the continent due to the character being noble and "the antithesis of [African] stereotypes".<sup>[59]</sup> The next July, Snipes planned to begin *The Black Panther* after starring in *Demolition Man* (1993),<sup>[60]</sup> and a month later he expressed interest in making sequels to the film as well.<sup>[61]</sup> In January 1994, Snipes entered talks with Columbia Pictures to portray Black Panther,<sup>[62]</sup> and Black Panther co-creator Stan Lee joined the film by March;<sup>[63]</sup> it entered early development by May.<sup>[64]</sup> Snipes had discussions with several different screenwriters and directors about the project, including Mario Van Peebles and John Singleton.<sup>[59]</sup> When the film had not progressed by January 1996, Lee explained that he had not been pleased with the scripts for the project.<sup>[65]</sup> Snipes said that there was confusion among those unfamiliar with the comics, who thought that the film was about the Black Panther Party.<sup>[59]</sup>

We've yet to have a major black comic book hero on the screen. Especially the Black Panther, which is such a rich, interesting life. It's a dream come true to originate something [like] that.

–Actor Wesley Snipes, who worked on early iterations of *Black Panther*.<sup>[61]</sup>

In July 1997, *Black Panther* was listed as part of Marvel Comics' film slate,<sup>[66]</sup> and in March 1998, Marvel reportedly hired Joe Quesada and Jimmy Palmiotti, who at the time were editors of the Black Panther comics, to work on it;<sup>[67][59]</sup> Quesada and Palmiotti have both denied this.<sup>[59]</sup> That August, corporate problems at Marvel put the project on hold.<sup>[68]</sup> A year later, Snipes was set to produce, and possibly star, in the film,<sup>[69]</sup> while Artisan Entertainment announced a deal with Marvel in May 2000 to co-produce, finance, and distribute the film.<sup>[70]</sup> In March 2002, Snipes planned to make the film or *Blade 3* (2004) over the next year.<sup>[71]</sup> In July 2004, *Blade 3* director David S. Goyer felt Snipes starring as Black Panther in addition to Marvel's *Blade* "might be overkill".<sup>[72]</sup>

In September 2005, Marvel chairman and CEO Avi Arad announced *Black Panther* as one of ten films being developed by the new Marvel Studios.<sup>[73]</sup> In June 2006, Snipes said he hoped to have a director for the project soon,<sup>[74]</sup> and Marvel Studios president Kevin Feige reiterated in February 2007 that *Black Panther* was in development.<sup>[75]</sup> By that July, John Singleton had been approached to direct the film.<sup>[76]</sup> In March 2009, Marvel hired writers to help come up with creative ways to launch its lesser-known properties, including Black Panther;<sup>[77]</sup> Nate Moore, the head of the writers program, was overseeing the development of *Black Panther* specifically.<sup>[78]</sup> Snipes' involvement stalled at this time, as he was convicted of failing to file a tax return, serving his sentence from June 2010 to April 2013.<sup>[79]</sup> In January 2011, Marvel Studios hired documentary filmmaker Mark Bailey to write a script for *Black Panther*, to be produced by Feige.<sup>[80]</sup> By October 2013, the metal vibranium, which comes from Black Panther's home nation Wakanda, was introduced in the Marvel Cinematic Universe;<sup>[81]</sup> Marvel had considered showing Wakanda itself as early as *Iron Man 2* (2010), but were waiting until they had "a full idea" of how to depict it.<sup>[10]</sup>

In October 2014, Feige announced that *Black Panther* would be released on November 3, 2017, with Chadwick Boseman cast as T'Challa / Black Panther.<sup>[7][8]</sup> Boseman did not audition for the role, instead discussing what he wanted to do with the part with Marvel,<sup>[82]</sup> and earned \$2 million for appearing in the film.<sup>[83]</sup> The actor was set to first portray the character in *Captain America: Civil War*.<sup>[8]</sup> Snipes gave his support for the project, despite no longer being involved.<sup>[59]</sup> Feige said that Marvel was considering minority writers and directors for the film, but would prioritize "the best filmmakers, the best writers, the best directors possible. So I'm not going to say for sure that we're going to hire from any one demographic". He added that they had met with former *Black Panther* comics writer Reginald Hudlin.<sup>[84]</sup> In January 2015, Boseman said that the film was going through a "brainstorming phase",<sup>[85]</sup> and the next month Marvel pushed back the release date to July 6, 2018.<sup>[86]</sup> Further casting was underway, and Feige was set to meet with directors after the release of *Avengers: Age of Ultron* at the end of April.<sup>[87]</sup>

By May 2015, Marvel had discussions with Ava DuVernay to direct this film or *Captain Marvel* (2019).<sup>[88]</sup> In June, Feige confirmed that he had met with DuVernay alongside a number of other directors, and said that he expected a decision to be made by mid- to late 2015.<sup>[89]</sup> By early July, DuVernay had passed on directing the film,<sup>[90]</sup> explaining that she had been drawn to the cultural importance of depicting a black hero to the whole world, but disagreed with Marvel on the story and did not want to compromise her vision.<sup>[90][91]</sup> By October 2015, F. Gary Gray and Ryan Coogler had been considered as directors for the film,<sup>[92][93]</sup> though negotiations with Coogler had cooled,<sup>[93]</sup> and Gray had chosen to direct *The Fate of the Furious* (2017) instead.<sup>[94]</sup> Joe Robert Cole, a member of the Marvel writers program, was in talks to write the screenplay,<sup>[95]</sup> and Marvel changed the release date once again, moving it to February 16, 2018.<sup>[96]</sup> By December, discussions with Coogler were reignited after the successful opening of his film *Creed* (2015).<sup>[93]</sup>

## Pre-production

Coogler was confirmed as director in January 2016,<sup>[97]</sup> and said that the film was his "most personal movie to date" in part because he grew up reading comics,<sup>[98][99]</sup> adding, "I feel really fortunate to be able to work on something I'm this passionate about again."<sup>[99][100]</sup> After being "wooded" by Feige for months, Coogler agreed to direct the film if he could bring collaborators from his previous films to differentiate the film from other MCU films that are often "shot, composed, and edited by the same in-house people". This included *Fruitvale Station* (2013) cinematographer Rachel Morrison,<sup>[101]</sup> as well as production designer Hannah Beachler and composer Ludwig Göransson, who both worked with Coogler on *Fruitvale Station* and *Creed*.<sup>[101][102]</sup> Coogler felt *Black Panther* would be unique while still fitting within the MCU's overall narrative.<sup>[98]</sup>

In April 2016, Feige said that Coogler was working on the script with Cole, and that filming would begin at the beginning of 2017.<sup>[104]</sup> He added that the film would be the first Marvel Studios production to feature a "primarily African-American cast":<sup>[105][106]</sup> Lupita Nyong'o soon entered negotiations to star as T'Challa's love interest,<sup>[27]</sup> and Michael B. Jordan joined in an undisclosed role, after previously working with Coogler on *Fruitvale Station* and *Creed*.<sup>[17]</sup> Nate Moore, serving as a producer on the film by the end of May, stated that filming would occur in Atlanta, Georgia, with Marvel "definitely investigating shooting in Africa" as well.<sup>[78]</sup>

At San Diego Comic-Con 2016, Nyong'o was confirmed for the film, in the role of Nakia, while Jordan's role was revealed to be Erik Killmonger. Also announced was Danai Gurira as Okoye. Coogler confirmed that filming would begin in January 2017.<sup>[28][29]</sup> Additional casting occurred from September 2016 until the start of filming, with Winston Duke cast as M'Baku, a role that Yahya Abdul-Mateen II had also tested for;<sup>[107]</sup> Forest Whitaker as Zuri; Daniel Kaluuya as W'Kabi;<sup>[35]</sup> Angela Bassett as T'Challa's mother, Ramonda;<sup>[39]</sup> Sterling K. Brown as N'Jobu;<sup>[46]</sup> and Letitia Wright in an unspecified role.<sup>[108]</sup> Florence Kasumba was revealed to be reprising her role as Ayo from *Captain America: Civil War*.<sup>[35]</sup> Amandla Stenberg, who is bi-racial and light skinned, was considered for a role in the film but was not comfortable taking the place of a dark-skinned actor, and described her decision to pass on the role as "really challenging".<sup>[109]</sup> By January 2017, Marvel received permission from the Oakland, California-based public transit agency AC Transit to use their logo in the film for the opening flashback sequence. The setting was chosen due to Coogler growing up in that area.<sup>[110]</sup>

What's so great about Panther is he's a superhero who ... sees himself as a politician, as a leader in his country. It just so happens that the country is a warrior-based nation where the leaders have to be warriors, as well, so sometimes he has to go fight.

–Ryan Coogler, director of *Black Panther*<sup>[103]</sup>

## Writing

The production team was inspired by Ta-Nehisi Coates' run on *Black Panther*, who was writing the comic at the same time as they were working on the film. Of particular inspiration was Coates' poetic dialogue, Brian Stelfreeze's art, and "some of the questions that it's asking".<sup>[103]</sup> The film was also inspired by the comic runs of Jack Kirby, Christopher Priest (which Coogler felt most influenced the film), Jonathan Hickman, and Hudlin. Characters for the film were picked from throughout the comics based on what worked for the film's story.<sup>[38]</sup> The ceremonial betrothal aspect of the Dora Milaje was not adapted from the comics for the film.<sup>[10]</sup> Coogler had hoped to include Spider-Man villain Kraven the Hunter early in the process because of a scene in Priest's run that had T'Challa fighting Kraven, but the rights to the character were not available.<sup>[111]</sup> Donald Glover and his brother Stephen made some minor contributions to an early draft of the script, developing the relationship between T'Challa and his younger sister Shuri.<sup>[112]</sup> Moore noted that an early script had more scenes outside of Wakanda to explore "what it means to be African and African-American in the world a bit more", and hoped these could be revisited in a later film, particularly a "super cool" sequence that was storyboarded before being cut.<sup>[113]</sup>



Coogler promoting *Black Panther* at the 2016 San Diego Comic-Con International

Feige described *Black Panther* as "a big geopolitical action adventure" that focuses on family and T'Challa learning to be king,<sup>[105]</sup> with *Civil War* laying the groundwork for T'Challa's morality and establishing the geopolitical landscape that he would have to deal with on returning to Wakanda.<sup>[114]</sup> Moore compared the politics and humor of the film to *Captain America: The Winter Soldier* (2014), saying that the former would be inherent but not "preachy", and that the latter would avoid the tones of *Guardians of the Galaxy* (2014) and *Ant-Man* (2015).<sup>[110]</sup> He also said the film would be a cross between *The Godfather* (1972) and the James Bond films as a "big, operatic family drama centered around a world of international espionage".<sup>[19]</sup> Coogler was influenced by 1970s films such as the works of Francis Ford Coppola in that decade, as well as crime fiction. He also watched the film *A Prophet* (2009) for inspiration.<sup>[115]</sup> Feige called the film's story "rich in culturally relevant ideas", with Boseman indicating there were parallels to "pull from" in the film in relation to Donald Trump becoming President of the United States after Barack Obama, though Feige added that "these are conversations we were having two years ago because that is inherently the story within the comics."<sup>[43]</sup> Moore said the film does not depend on the plots of any other MCU films, but it does affect the wider MCU moving forward,<sup>[10]</sup> with Feige stating the film was "a very important" link to *Avengers: Infinity War* (2018) and *Avengers: Endgame* (2019).<sup>[116][105]</sup> *Civil War* did introduce the Wakandan language, based on the Xhosa language, which Boseman was taught by John Kani who portrays T'Challa's father King T'Chaka.<sup>[117]</sup>

## Design

Cole called the film an historic opportunity to depict a black superhero "at a time when African-Americans are affirming their identities while dealing with vilification and dehumanization". It was important to root the film in the actual cultures of Africa, with the filmmakers consulting with experts on the region of Africa that Wakanda is supposed to be located in,<sup>[118]</sup> rooting the film "in reality first and then build[ing] out from there".<sup>[6]</sup> Coogler's vision for Wakanda was inspired by the southern African country Lesotho, a country which has historically been "an enclave, able to protect its independence because of its terrain" and was only lightly colonized by the British;<sup>[119][120]</sup> the country's traditional blankets are also featured in the film.<sup>[119]</sup> Coogler compared the rarity of vibranium existing only in Wakanda to the real-life mineral coltan that can almost only be found in Congo.<sup>[121]</sup> He wanted Wakanda to feel like a full country with multiple distinct tribes,<sup>[37]</sup> and created a project bible that detailed each Wakandan tribe to guide the design process. Special care was taken to create a futuristic look that was not alien,<sup>[10]</sup> as some of Jack Kirby's original comic designs appeared.<sup>[122]</sup>

## Sets

Beachler wanted to honor the comic designs, but fill in the gaps with research concentrated on Sub-Saharan Africa, pulling inspiration from Uganda, Rwanda, Burundi, Congo-Kinshasa, and Ethiopia,<sup>[123]</sup> as well as the designs of Zaha Hadid. Moore described this approach as a love letter to Africa.<sup>[10]</sup> Beachler looked at the architecture of existing tribes, and then tried to advance the technology naturally rather than if Wakanda had been colonized.<sup>[123]</sup> Circular motifs, signifying the transmission of energy, were an important theme throughout the film. Older locations depicted in the film, such as Warrior Falls, the City of the Dead, and the Hall of Kings, were juxtaposed with the more modern Afro-punk style of the Golden City, the capital.<sup>[10]</sup> Rondavels were incorporated into the tops of Wakanda's skyscrapers, inspired by the look of mountains at Blyde River Canyon in South Africa.<sup>[123]</sup>



Beachler created different sigils and architecture for each of the Wakandan tribes, with the Border Tribe inspired by Lesotho, the Merchant Tribe having a sigil based on Nigerian writing, and the Golden Tribe using a sun symbol found throughout Africa. Gorilla City, home to the Jabari Tribe, was originally set in a rain forest, but Coogler suggested that it be found up a mountain in snow.<sup>[10]</sup> Beachler based the written form of the Wakandan language on an old Nigerian language. She consulted with mining and metallurgy experts for the vibranium technology,<sup>[16]:15</sup> including for the vibranium mine where the substance is depicted as glowing blue rocks before it is refined into the stainless steel look previously seen in the MCU. The film also adapts the kimoyo bead technology from the comics, and features sand-based technology. Beachler wanted futuristic elements of the film to be consistent with projections of what real world technology may be like in 25 or 30 years, such as the maglev and hovercraft technology used in vehicles. The Wakandan vehicles include a maglev train for carrying vibranium; the king's Royal Talon Fighter, which looks like a mask from the top and bottom; and the Dragon Flyer, inspired by the Congo peafowl.<sup>[10]</sup>

The majority of Beachler's sets were constructed on sound stages in Atlanta, including the Tribal Council, Shuri's design space, and the Hall of Kings. The Tribal Council set was built with a glass floor through which an old ruin can be seen. The exterior set for Warrior Falls was built on a backlot north of Atlanta, and was inspired by the Oribi Gorge. The set was 36 feet (11 m), made up of a 6 feet (1.8 m) high pool, and then 30 feet (9.1 m) high cliff faces that were designed to be extended to 100 feet (30 m) with visual effects. A framework for the cliffs was hand-sculpted from industrial styrofoam, with a system of tunnels built-in to the design to allow extras to climb up to different areas of the cliffs. The framework was then covered with 25,000 cubic feet (710 m<sup>3</sup>) of foam that was sculptured to match rocks found at Oribi Gorge. Six large pumps were used to fill the pool at the base of the set, and create a waterfall over the ledge at the bottom. The base of the pool was made from padding so stunts could safely be carried out on the set, but designed to look like rocks and to have enough grip that the actors would not fall over in the water. The set took four months to complete, and was used for two weeks of filming.<sup>[16]:16</sup>

## Costumes



The Maasai people of Kenya (top) inspired about 80% of the design of the Dora Milaje, Wakanda's all-female special forces (bottom).<sup>[24]</sup>

Costume designer Ruth E. Carter referenced the Maasai, Himba, Dogon, Basotho, Tuareg, Turkana, Xhosa, Zulu, Suri and Dinka people in her designs.<sup>[124][125]</sup> She also examined appropriate works by Japanese fashion designer Issey Miyake, French fashion designer Yves Saint Laurent, and American fashion designer Donna Karan.<sup>[125]</sup> Winnie Mandela provided inspiration to Carter for Angela Bassett's costumes.<sup>[10]</sup>

The Dora Milaje costumes primarily used red to reflect different African cultures, and included beaded tabards that feature talismans that would be passed down from mother to daughter. Carter wanted to avoid the "girls in the bathing suits" look, and instead have the Dora Milaje wear full armor that they would practically need for battle. She also had to take actors' stunt work into consideration.<sup>[10]</sup> Anthony Francisco, the Senior Visual Development Illustrator, noted the Dora Milaje costumes were based 80 percent on the Maasai, five percent on samurai, five percent on ninjas, and five percent on the Ifugao people from the Philippines. The arm band and neck rings were a reference to the Southern Ndebele people and denote stature. As such, General Okoye has gold bands and rings while the other Dora Milaje wear silver.<sup>[24]</sup>

The costumes for T'Challa combined his role as king and as the head of the military, including combining a kente cloth cloak with military boots.<sup>[10]</sup> Carter also used distinct colors and patterns for each of Wakanda's tribes, such as green with shells for the River Tribe based on the Suri; blue with wood for the Border Tribe; black with royal purple for the Black Panther and the Royal Palace;<sup>[10][24]</sup> plums and purples for the Merchant Tribe in reference to the Tuareg; and ochre for the Mining Tribe inspired by the Himba.<sup>[24]</sup> Three out of every five people in Wakanda go barefoot. The Wakandans wear "normal" clothes outside of the country, with the colors of their costumes kept consistent.<sup>[10]</sup> Overall, Carter created 700 costumes for the film, working with "an army" of illustrators, designers, mold makers, fabric dyers, jewelry makers and more.<sup>[125]</sup>

Hair department head Camille Friend referenced traditional African art, fabrics, hair, and textures, and the current-day natural hair movement in her designs. Friend strived to keep the actors' hair natural, using "braids, locs and twists", and when necessary, extensions and wigs. As with Carter, Friend designed each tribe to have their own identifiable aesthetic, such as the Jabari Tribe having hair styled with "very straight, clean lines" and war-paint detail, inspired by Senegalese warriors.<sup>[24]</sup>

## Filming

Principal photography had begun by January 21, 2017,<sup>[126]</sup> at EUE/Screen Gems Studios in the Atlanta metropolitan area,<sup>[127][128]</sup> under the working title *Motherland*.<sup>[129][130]</sup> Filming also took place in the Sweet Auburn neighborhood in Atlanta, which doubled as Oakland; the High Museum of Art, which served as the fictional Museum of Great Britain in London; and Atlanta City Hall, which served as a United Nations building.<sup>[127][131]</sup> Cinematographer Rachel Morrison, who was eager to work on *Black Panther* after working with Coogler on *Fruitvale Station*,<sup>[132]</sup> first watched all of the other MCU films to understand the established "language". She wanted to "push" that language and feature more contrast in color. Visual effects supervisor Geoff Baumann provided Morrison with before-and-after shots of scenes from *Civil War* so she could understand what elements are captured on set and what is created digitally.<sup>[133]</sup> She filmed in 3.4K ArriRaw with Arri Alexa XT Plus cameras and Panavision Primo lenses,<sup>[134]</sup> primarily using a two-camera set-up with a third or fourth camera on occasion. Morrison said that lighting was her biggest challenge, the magnitude of which "was much bigger than I'd experienced before", and made extensive use of Arri SkyPanel LED light fixtures, which she could preprogram from an iPad. Some sets were completely surrounded by SkyPanels.<sup>[132]</sup>

Shortly after filming started, Kani's son Atandwa stated that he would appear in the film alongside his father, the latter reprising the role of T'Chaka,<sup>[45]</sup> while on-set photographs revealed that Martin Freeman would reprise his role as Everett K. Ross.<sup>[126]</sup> Marvel announced that production was underway on January 26, and confirmed the casting of Freeman, Wright, and John Kani, while revealing that Andy Serkis would reprise his role as Ulysses Klaue from *Avengers: Age of Ultron*.<sup>[135][41]</sup> Atandwa portrays a younger version of his father's character, and also served as a cultural consultant during filming. Dialect coach Beth McGuire worked to ensure there was continuity between the various actors who had to use "Wakandan accents".<sup>[16]:22</sup> Jordan joined the production later than the rest of the core cast. He felt that this aided his performance, since his character is separate from and in conflict with the other characters. Because of this, Jordan kept to

himself while he was on set.<sup>[10]</sup> Since *Black Panther* and *Avengers: Infinity War* were filming simultaneously in Atlanta, both production teams worked together closely to ensure a unified presentation of Wakanda in the films, as the country also plays a large role in *Infinity War*.<sup>[128]</sup>

Additional filming took place in South Korea,<sup>[135]</sup> with the city of Busan serving as the setting of a car chase scene that involved 150 cars and over 700 people.<sup>[130][136]</sup> Coogler and Morrison referenced the car chase sequences from *Bullitt* (1968), *Drive* (2011), and *The French Connection* (1971), taking the best elements from each for *Black Panther*'s sequence.<sup>[133]</sup> Filming in Busan began on March 17,<sup>[137]</sup> at the Jagalchi Fish Market.<sup>[138]</sup> Filming moved to Gwangalli Beach on March 21,<sup>[137]</sup> with other South Korean filming locations including Marine City in the Haeundae District and at the Gwangandaegyo Bridge.<sup>[136]</sup> The production crew hired hundreds of current and former film students from local universities as staff or assistant staff during the South Korea filming.<sup>[137]</sup> Filming in the country wrapped on March 27,<sup>[136]</sup> with additional location shooting also taking place at the Rwenzori Mountains and Bwindi Impenetrable National Park in Uganda.<sup>[139][134]</sup> John Marzano served as cinematographer for aerial footage of South Africa, Zambia, Uganda, and South Korea.<sup>[140][134]</sup> At CinemaCon 2017, Wright was revealed to be portraying Shuri in the film.<sup>[141]</sup> Filming concluded on April 19, 2017.<sup>[102]</sup>

## Post-production

### Editing

*Black Panther* was edited by Michael Shawver and Debbie Berman, with Shawver spending time on set during filming as well as at an editing suite near the Atlanta production base.<sup>[142]</sup> Berman joined the film after an initial director's cut had been produced, two weeks after she completed work on Marvel's *Spider-Man: Homecoming* (2017),<sup>[143]</sup> because Coogler likes to have both a male and female editing his films.<sup>[142]</sup> She believed that she was chosen by Marvel because she is South African, and had been expressing interest in *Black Panther* throughout the editing process for *Homecoming* after first seeing the character in *Civil War*.<sup>[143]</sup> Shawver said that a lot of their time editing was spent discussing how their work was affecting the audience. For instance, Shawver felt that initial versions of the first Warrior Falls fight fell "flat" and used techniques he learned working with Coogler on *Creed* to have the editing move back-and-forth to mimic the back-and-forth of the fighters. He also felt that adding more reaction shots to the crowd during the fight gave more weight to T'Challa's victory at the end.<sup>[144]</sup> During work on the final battle, Berman pointed out to Coogler that the female Dora Milaje are rescued by the all-male Jabari tribe, which she felt undermined the focus on female characters leading up to that moment. Coogler agreed, and subsequently added female Jabari fighters to the scene through additional photography, including the first onscreen Jabari fighter in the scene. Berman felt that this was an important change that would not have been made if only men were editing the film.<sup>[143]</sup>

As first hinted by Coogler in January 2018,<sup>[115]</sup> the film includes two post-credit scenes: one showing T'Challa address the United Nations; and one featuring Sebastian Stan reprising his role as Bucky Barnes.<sup>[156]</sup> The first scene was originally intended to be part of the actual ending of the film, but was moved to during the credits so the film could conclude in Oakland, where it begins. Coogler felt having this symmetry was important.<sup>[145]</sup> In the scene, T'Challa says "The foolish build barriers, while the wise build bridges." Some felt this was a reference to the political climate of the presidency of Donald Trump, but Coogler stated that the line was added before Trump's election and was simply an African proverb that his wife had found. His intention with the scene was to inspire the audience by making T'Challa seem like a real person in a familiar, real-world environment, similar to how Tony Stark was treated in *Iron Man* (2008).<sup>[146]</sup> Coogler was not mandated by Marvel to feature connections to other films, but was interested in addressing the fact that Barnes was in Wakanda (per the end of *Civil War*) because it would be fun for the audience. He did not feel the character fit in the body of the film, but felt that an end-credits scene was appropriate.<sup>[145]</sup>

## Visual effects

Visual effects for the film were created by: Industrial Light & Magic (ILM) with help from Virtuos, Stereo D, and Scanline VFX; Double Negative; Luma Pictures; Mammal Studios; Method Studios; Perception; Rise Visual Effects Studios; Torm Studios; Trixter; Cantina Creative; Lola VFX; Capital T; Exceptional Minds; Technicolor VFX; Rodeo FX; Imageloom VFX; Anibrain; Method Pune; Bot VFX; Pixstone Images; Futureworks; Vertigo Visual; FX3X; and Yannix Thailand Co.<sup>[147][16]:xii-xx</sup> Previsualization was completed by Digital Domain and The Third Floor.<sup>[16]:xi</sup> Geoffrey Baumann served as visual effects supervisor.<sup>[144]</sup>

Comparing *Black Panther* to other MCU films, Baumann noted that the visual effects department often have free rein when creating otherworldly science fiction designs, but had to be more specific with this film due to the need to be authentic to African culture and geography. For the Warrior Falls environment, the amphitheater-like cliff walls had to be populated with digital spectators that could not simply be copy-and-pasted around the set due to the precise costume designs created by Carter for each tribe and character.

Instead, the visual effects department had to work with the costumers to individually model each digital extra for the sequence. Additionally, visual effects were also used to adjust the opening sequence after test audiences were confusing the characters of T'Chaka and T'Challa, both dressed as the Black Panther. Artists digitally added some grey to T'Chaka's beard and gold trimmings to his suit to help differentiate the characters.<sup>[144]</sup>

ILM was primarily responsible for creating the digital urban environments of Wakanda. ILM VFX supervisor Craig Hammack compared this work to his time on *Tomorrowland* (2015), but noted the additional challenge of not just building a futuristic city, but also one that was culturally appropriate. He explained that African culture has a "certain amount of earthy material qualities that make things difficult to design as a futuristic city," which would typically use lots of steel and glass. ILM looked to real life examples that blend modern architecture with natural environments like One Central Park in Sydney and The Pearl of Africa Hotel in Kampala, but also had to "depart from a strict understanding of physics and go into a movie cheat world" at times to produce the desired look. Hammack was also inspired by the architecture of Uganda, where he spent time while aerial footage for the film was being shot. 60,000 individual buildings were designed and modeled for the city, which Hammack said was the first thing ILM began work on and also the last thing they were doing when the film was completed. Other things that ILM worked on during the production included set extensions and blue-screen replacements for interior sets, and the first rhinoceros shown in the film. For T'Challa's ancestral plane scenes, ILM replaced the basic set that was used with a full CG environment including an acacia tree and animated panthers. The sky was based on the Northern Lights, with this first designed for nighttime scenes before being replicated for daytime scenes in which the animators had to work hard to keep the effects visible. ILM also added additional sand for the burial sequences so Boseman could breathe during filming, and additional flames when Killmonger burns the heart-shaped herb.<sup>[134]</sup>

Method Studios created many of the natural environments of Wakanda. The company built a 3,600 square kilometers (1,400 sq mi) landscape that is visible in various aerial shots in the film, which was based on multiple landscapes from across Africa. Method was also responsible for creating Black Panther's and Killmonger's digital suits, including developing the look of the nanotechnology they use. They created many of the film's digital characters, vehicles, and weapons, with some of those digital creatures being rhinoceroses for the final battle, a sequence that Method did the majority of the work for. Because these rhinoceroses did not have to be seen on screen with the one designed by ILM, only basic structures, scale, and details of the character models had to be shared between the two companies. Much of the work



Previsualization (top) and completed visual effects shot of Wakanda by Industrial Light & Magic (bottom)



for the final fight included crowd simulation, with Method working alongside the stunt coordinators in motion capture sessions to give each fighter a unique style. In addition to randomizing the height and weight of each digital fighter, the models had to incorporate specific design elements from the costumers. Method also worked on the vibranium mine and Shuri's laboratory, including animating the gadgets seen in the latter.<sup>[134]</sup>

Luma Pictures worked on the Busan car chase sequence, digitally creating the cars featured in the sequence based on CAD models and on-set reference. Multiple digital versions of the same car were created, so the production could have the actual cars crash and do various stunts with them, with Luma then inserting the digital versions to augment these moments. Luma also created the sonic forces from Klaue's cannon, while Scanline VFX worked on digitally removing Serkis' left arm for the London museum heist sequence.<sup>[148]</sup> Several companies worked on the vibranium sand effects used in Wakandan technology, including ILM for the beginning of the film.<sup>[134]</sup> Perception spent 18 months researching real-world technologies, phenomena, and visual themes to aid them in their work on the film. Their designs for the vibranium sand were based on research being done with ultrasonic transducers for the purpose of mid-air haptics and acoustic levitation. They integrated this research into the kimoyo beads worn by Wakandans and as a working interface on the royal talon fighter. Perception also created the traditional displays on the talon fighter and in Shuri's lab. For the talon fighter, the company "experimented with parallax, depth, and volume in the information being displayed, as well as developing a unique color palette to brand the Wakandan tech". In Shuri's lab, Perception adjusted the hues on the wall to match her attire, and for her healing room "proposed that the hexagonal pattern seen on the wall actually reveal itself to be articulating panels" that "pulse and ripple". The company also created the function of Black Panther's suit with nano technology and "layering the suit with different patterns as well as adding 'sub-dermal' luminescent tattoos", the virtual car chase with Shuri and T'Challa, and designed the opening prologue, with the final version created by Storm VFX. Perception also created the main-on-end title sequence.<sup>[149]</sup>

## Music

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After reading the script, composer Ludwig Göransson decided to go to Africa to do research for the film.<sup>[150]</sup> He spent a month in Senegal, first traveling around with musician Baaba Maal on his tour,<sup>[150][151]</sup> and then spending several weeks working with local musicians to form the "base" of his score.<sup>[152][153]</sup> Göransson was particularly drawn to the talking drum and the tambin, or Fula flute, to use in his character themes,<sup>[150][154]</sup> along with horns.<sup>[153]</sup> Nate Moore compared the work Göransson did in defining the sound of the film to the use of music by James Gunn in the *Guardians of the Galaxy* films,<sup>[155]</sup> with the composer pushing Marvel out of their comfort zone.<sup>[156]</sup>

Kendrick Lamar produced the film's curated soundtrack, *Black Panther: The Album*, along with Top Dawg Entertainment founder Anthony Tiffith, after Coogler wanted to include original songs from Lamar in the film because his "artistic themes align with those we explore in the film".<sup>[157][158]</sup> The soundtrack features songs that are heard in the film as well as others that are inspired by it, with the other artists featured the majority of "top-billing names" under Top Dawg Entertainment.<sup>[158]</sup> Göransson collaborated with Lamar and producer Sounwave on the soundtrack.<sup>[159]</sup> Three singles from the album were released throughout January and February 2018: "All the Stars",<sup>[157]</sup> "King's Dead",<sup>[160]</sup> and "Pray for Me".<sup>[161]</sup> *Black Panther: The Album* was released on February 9, 2018,<sup>[162]</sup> while a soundtrack of Göransson's score was released on February 16.<sup>[163]</sup> An extended play titled *Black Panther: Wakanda Remixed*, featuring remixes of five cues from Göransson's score, was released on August 16, 2018. Göransson worked with several other artists to create the remixes.<sup>[164]</sup>

## Marketing

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Marvel debuted early footage and concept art from the film at a press event in April 2017. Kyle Buchanan at Vulture.com praised the cinematography, costume and production design, and black cast, saying "*Black Panther* doesn't look like any of the other Marvel movies ... If this is what the future of superhero movies looks like, deal me in."<sup>[102]</sup> The screened footage was the first time Marvel had shown raw dailies, which Feige said they did to show off the "highest-class cast we've had" despite editing having not yet begun.<sup>[165]</sup> A poster was released ahead of the first teaser trailer, which premiered during Game 4 of the 2017 NBA Finals.<sup>[166][167]</sup> Fans on Twitter felt the poster was poorly photoshopped,<sup>[168]</sup> and it was compared to a real-life picture of Black Panther Party co-founder Huey P. Newton.<sup>[166]</sup> The trailer received a much more positive response, with Peter Sciretta of /Film finding it unexpected and refreshing,<sup>[169]</sup> io9's Charles Pulliam-Moore calling it "every bit as intense as you were hoping it would be",<sup>[170]</sup> and Andrew Husband for Uproxx feeling the single teaser outshone the entire *Homecoming* marketing campaign.<sup>[167]</sup> It was viewed 89 million times in 24 hours, generating 349,000 mentions (second only to the amount the *Star Wars: The Last Jedi* (2017) teaser received) and "dominated the conversation on social media" over Game 4.<sup>[171][168]</sup> Per comScore and its PreAct service, the film was the subject of the most new social media conversations for the rest of the week,<sup>[172]</sup> and the second-most for the week ending June 18, behind *Homecoming*.<sup>[173]</sup>



(L:R) Moderator Chris Hardwick, Feige, Coogler, and the cast of *Black Panther* at the 2017 San Diego Comic-Con

Costumes from the film were on display at D23 Expo 2017 and the 2017 San Diego Comic-Con,<sup>[174][175]</sup> with Coogler, Boseman, and other members of the cast presenting exclusive footage of the film at the latter event, to a standing ovation from the audience.<sup>[176]</sup> In September, Coogler, Gurira, and Moore participated in a panel at the Congressional Black Caucus Foundation's Annual Legislative Conference, where exclusive footage from the film was also shown and met with a positive response.<sup>[121]</sup> On October 16, 2017, a full trailer was released. Dave Trumbore for Collider praised the trailer for showing an "unmistakable sense of style" unique to the character,<sup>[177]</sup> while BamSmackPow's Brendan Day felt the trailer "does everything right".<sup>[178]</sup> Writing for Rolling Stone, Tre Johnson felt the trailer showed T'Challa as "someone with the arrogance of [John] Shaft, the coolness of [Barack] Obama and the hot-headed impulsiveness of Kanye West".<sup>[179]</sup> A few days later,

Marvel Comics published a prelude tie-in comic focusing on one of T'Challa's first missions as the Black Panther set around the time of *Iron Man*.<sup>[180]</sup> The first College Football Playoff National Championship halftime show was organized by Disney for the 2018 championship game, with Kendrick Lamar performing to promote *Black Panther: The Album* and the beginning of ticket sales for the film.<sup>[181]</sup>

By February 12, *Black Panther* was the most-tweeted about film of 2018 with more than 5 million tweets globally,<sup>[182]</sup> and in mid-March it became the most-tweeted about film ever with 35 million.<sup>[183]</sup> When the hashtag #BlackPanther is used on Twitter a custom emoji appears.<sup>[182]</sup> During New York Fashion Week, designers Cushnie et Ochs, Ikiré Jones, Tome, Sophie Theallet, Fear of God, Chromat, and LaQuan Smith created custom pieces that were inspired by the film for an event titled "Welcome to Wakanda: Fashion for the Black Panther Era".<sup>[181][184]</sup> Marvel Studios formed a partnership with Lexus on the film, with the 2018 Lexus LC being featured in it.<sup>[185]</sup> The partnership produced a graphic novel, *Black Panther: Soul of a Machine*, which was released in December 2017 from writers Fabian Nicieza, Geoffrey Thorne, and Chuck Brown;<sup>[185][186][187]</sup> a concept coupe from Lexus inspired by the character;<sup>[187]</sup> and a Super Bowl LII commercial featuring Boseman, Gurira and Wright,<sup>[188]</sup> which had 4.3 million views on social media after its Super Bowl airing, according to RelishMix.<sup>[189]</sup> Other marketing partners included shoe manufacturer Clarks creating a film-inspired variant of their Originals' Trigenic Evo shoe;<sup>[190]</sup> PepsiCo and Unilever launching an arts program for young people in urban areas to be mentored by established artists; Brisk created an interactive *Black Panther* installation at the 2018 NBA All-Star

Game; Lancôme highlighted a line of makeup that Nyong'o and Wright used at the film's premiere; and Synchrony Financial with Marvel awarded the Ghetto Film School Fellows program with a \$50,000 grant, with Coogler speaking to the school's students.<sup>[189]</sup>

Overall, *Black Panther* had the most expansive advertising budget and biggest line of merchandise of any Marvel non-sequel.<sup>[191]</sup> Deadline Hollywood estimated that budget to be \$150 million.<sup>[3]</sup> Asad Ayaz, Executive Vice President of Marketing for Marvel films, said the campaign was about "super-serving" black audiences while still trying to appeal to all, in order to make the film "feel like a cultural event".<sup>[181]</sup> Disney and Marvel created a "synergy program" with the College Football Playoffs on ESPN, the ABC television series Black-ish, Grey's Anatomy, Scandal, and How to Get Away With Murder, the Freeform series Grown-ish, and the Bravo franchise The Real Housewives.<sup>[189]</sup> Marketing outside the United States was "fairly uniform", though in the Middle East the focus was kept on Black Panther in-costume as superhero films "just keep working" there according to Gianluca Chakra of Middle East distributor Front Row. This was the same for Asian territories. A Wakanda exhibit was featured in malls in seven Chinese cities, along with displays showing Black Panther with other MCU characters. A special trailer created for China had Boseman explain the character's connection to other MCU films. Weibo attended the Los Angeles premiere to take pictures and videos with the cast and crew in real time for China, the first time the company has partnered with a foreign studio for this type of engagement.<sup>[192]</sup>

## Release

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### Theatrical

*Black Panther* had its world premiere at the Dolby Theatre in Los Angeles on January 29, 2018.<sup>[193]</sup> The premiere featured a purple carpet that was flanked by women dressed as the Dora Milaje,<sup>[194]</sup> while Coogler, cast members, and other guests wore African clothing at the request of Marvel for attendees to wear "royal attire", honoring the African setting of the film.<sup>[194][2]</sup> Ahead of the premiere screening, Coogler received an extended standing ovation before he announced the cast of the film.<sup>[194]</sup> *Black Panther* was released in the United Kingdom, Hong Kong, and Taiwan on February 13,<sup>[195]</sup> in South Korea on February 14,<sup>[196]</sup> and the United States on February 16.<sup>[196]</sup> In the United States, the film opened in 4,020 theaters,<sup>[189]</sup> with over 3,200 of those in 3D,<sup>[197]</sup> 404 in IMAX,<sup>[189]</sup> over 660 in premium large format, and over 200 D-Box locations. In addition, *Black Panther* was the first MCU film to be converted to ScreenX, a 270-degree wraparound format, that played in over 101 locations in eight countries.<sup>[197]</sup> The film opened in most markets in its first weekend of release including a "cross-nation release" in Africa, a first for a Disney film.<sup>[195][121][139]</sup> *Black Panther* was originally scheduled for release on November 3, 2017,<sup>[7]</sup> before moving to July 6, 2018 to accommodate Spider-Man: Homecoming (2017).<sup>[86]</sup> It was then moved to the final February date to accommodate Ant-Man and the Wasp (2018).<sup>[96]</sup>

*Black Panther* was set to premiere in Riyadh, Saudi Arabia on April 18, 2018, making it the first public film viewing since cinemas were outlawed in the kingdom in the early 1980s when highly conservative religious regulations were introduced in 1979. The ban was lifted in December 2017 by Crown Prince Mohammed bin Salman. The premiere was set to take place in a 620 leather seat cinema, owned by AMC Theatres, in the King Abdullah Financial District of Riyadh that was planned at first to be a symphony hall.<sup>[198][199]</sup> Disney's regional distributor Italia Film revealed that 40 seconds of the film had been removed, which was in line with cuts made to the film across the region. Awwad Alawwad, Saudi Arabia's Minister of Culture and Information, and Adam Aron, CEO of AMC Entertainment, were in attendance for the premiere along with other diplomats and industry experts; no one from the cast or production team was in attendance.<sup>[200]</sup> Men and women sat together at the screening, after the Saudi government relaxed enforcement of laws banning co-mingling between unrelated men and women.<sup>[201]</sup> *Black Panther* screened there for five days before *Avengers: Infinity War* premiered on April 26.<sup>[199]</sup>

# **EXHIBIT 6**

[CHARACTERS \(/CHARACTERS\)](#)[COMICS \(/COMICS\)](#)[MOVIES \(/MOVIES\)](#)[TV \(/TV\)](#)[GAMES \(/GAMES\)](#)[COLLECTIBLES \(/COLLECTIBLES\)](#)[VIDEOS \(/VIDEOS\)](#)[FANS \(/DC-FANS\)](#)[NEWS \(/NEWS\)](#)[SHOP \(HTTP://WWW.SHOPDCENTERTAINMENT.COM/HOME.DO\)](http://www.shopdcenterertainment.com/home.do) ▾

Fan News

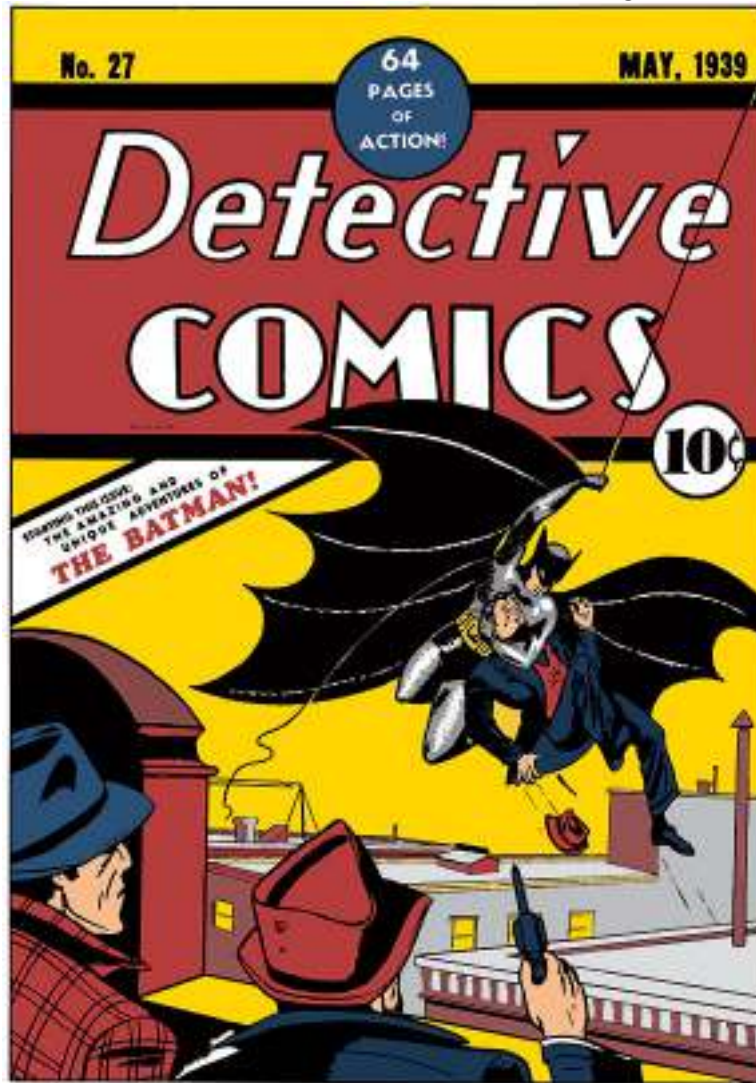
## Batman at 75: Highlights in the Life of the Caped Crusader

By [DCE Editorial \(user/129\)](#)

Tuesday, July 22nd, 2014

It's Batman's 75 Anniversary, and between his upcoming adventures on the big screen (in the now filming *Batman v Superman: Dawn of Justice*), small screen (as a young boy in this fall's *Gotham*), video game consoles (in *Batman: Arkham Knight* and *LEGO Batman 3: Beyond Gotham*), animation (*Batman: Assault on Arkham*) and multiple ongoing comic books (including his very first weekly, *Batman Eternal*), it's going to be a big couple of years for the Dark Knight. But that's okay, he's used to it. In fact, his entire history has been full of big moments!

In honor of this year's milestone anniversary, as well as this week's upcoming "Batman Day," join us as we journey through generations, with a look at a few highlights from a truly remarkable life.



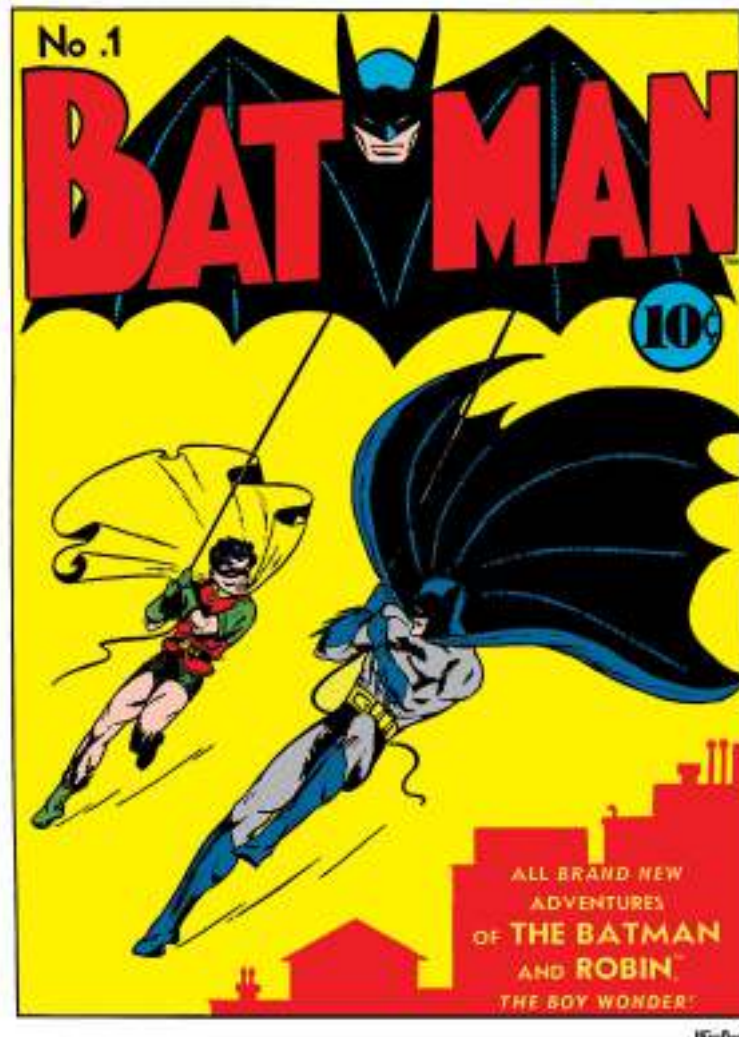
## 1939

In 1939, National Comics (later to become DC Comics), was looking for a new super hero—a character who could build on the success of Superman. Editor Vin Sullivan turned to what appeared to be an unlikely creative source, gag cartoonist Bob Kane, and asked him to design a new hero. Kane conceived one of the most popular and enduring characters of the twentieth century—The Batman. The first Batman story, "The Case of the Chemical Syndicate," was written by Bill Finger and drawn by Kane. It was published in *Detective Comics* #27, which hit newsstands on March 30, 1939 (cover date: May 1939).

In his first story, Batman was introduced as bored socialite Bruce Wayne. Donning his iconic costume, he became a ruthless crime-fighter who dispatched thugs with grim satisfaction. "A fitting end for his kind," Batman announced, after knocking a criminal into a vat of acid.

Batman utilized his Utility Belt for the first time to remove a glass pellet filled with deadly gas in *Detective Comics* #29 (July 1939). The first boomerang-like Batarang and the first bat-themed vehicle, the Batplane, made their debuts in *Detective Comics* #31 (September 1939).





## 1940s

The Dynamic Duo was born in *Detective Comics* #38 (April 1940) with the introduction of Batman's trusty sidekick, Robin the Boy Wonder. Dick Grayson was a circus performer who was orphaned when a gangster murdered his parents. After Batman teamed up with Robin, the tone of the stories changed. No longer a grim avenger who talked to himself, Batman evolved into a lighthearted father-figure trading wisecracks with his young partner.

Originally, Bob Kane agreed to try out Robin for just one issue, as DC's publisher Jack Liebowitz was against the idea of having a youngster fighting gangsters. After sales doubled on the first issue to feature the Boy Wonder, Liebowitz sheepishly agreed to keep Robin in future stories.

Batman earned his own self-titled comic book in 1940, while continuing to be featured in *Detective Comics*. *Batman* #1 (Spring 1940) was notable not only for introducing two of his most formidable antagonists, the Joker and Catwoman (here referred to as "The Cat"), but for a story in which Batman used a machine gun to shoot monsters. That story prompted editor Whitney Ellsworth to decree that Batman would no longer kill or use a gun.

City was first named in *Detective Comics* #48 in 1940, and the Batcave was introduced in *Batman* #12 in 1942. Batman's first car was an ordinary red sedan, but in *Batman* #5 (Spring 1941) the new Batmobile roared into action sporting its own bat-headed battering ram.

Batman and Robin declared that they didn't need a butler, but when Alfred Beagle (later changed to Pennyworth) discovered their secret identities and thwarted a gang of international crooks in 1943, he became one of their most loyal allies.

During the 1940s, the tone of the Batman stories grew more fanciful. The Joker became less of a sinister killer and more of a dangerous prankster. Batman and Robin journeyed to ancient Rome in their first time-travel adventure in 1944. Batman even found an enduring love interest when photo-journalist Vicki Vale was introduced in 1948.

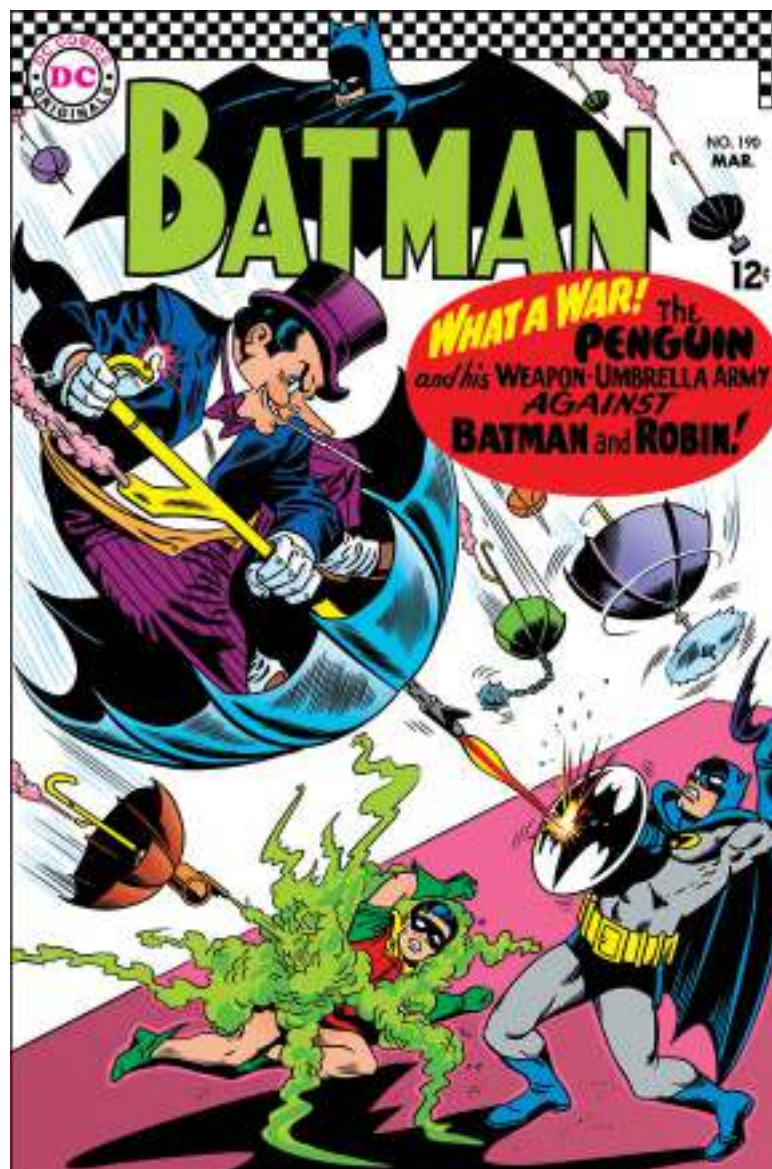




fiction star, regularly battling space-alien and robots. In one unusual transformation, he even became "Zebra Batman," a radioactive, black-and-white-striped menace to Gotham City. An entire Bat-Family of characters was added to the comics, including Batwoman, Bat-Girl, a magical imp named Bat-Mite, and even Ace the Bat-Hound, a crime-fighting dog that wore a mask.

A popular 1954 book called *Seduction of the Innocent* linked comic books and juvenile delinquency, leading to calls for censorship. DC's comics were far tamer than the gory horror comics from other publishers, but there was a clean-up campaign at DC for some of the characters. Catwoman, whose dress had been slit up to her thigh, stopped appearing in Batman stories in 1954 and didn't return in a new story until 1966.

Batman and Superman had been honorary members of the Justice Society of America in the 1940s, but it wasn't until the 1952 story "The Mightiest Team in the World" that they joined together in an unofficial partnership to fight crime. In that first story, Batman and Superman fought for the attention of Lois Lane—a competition won by Robin, to the surprise of both heroes.



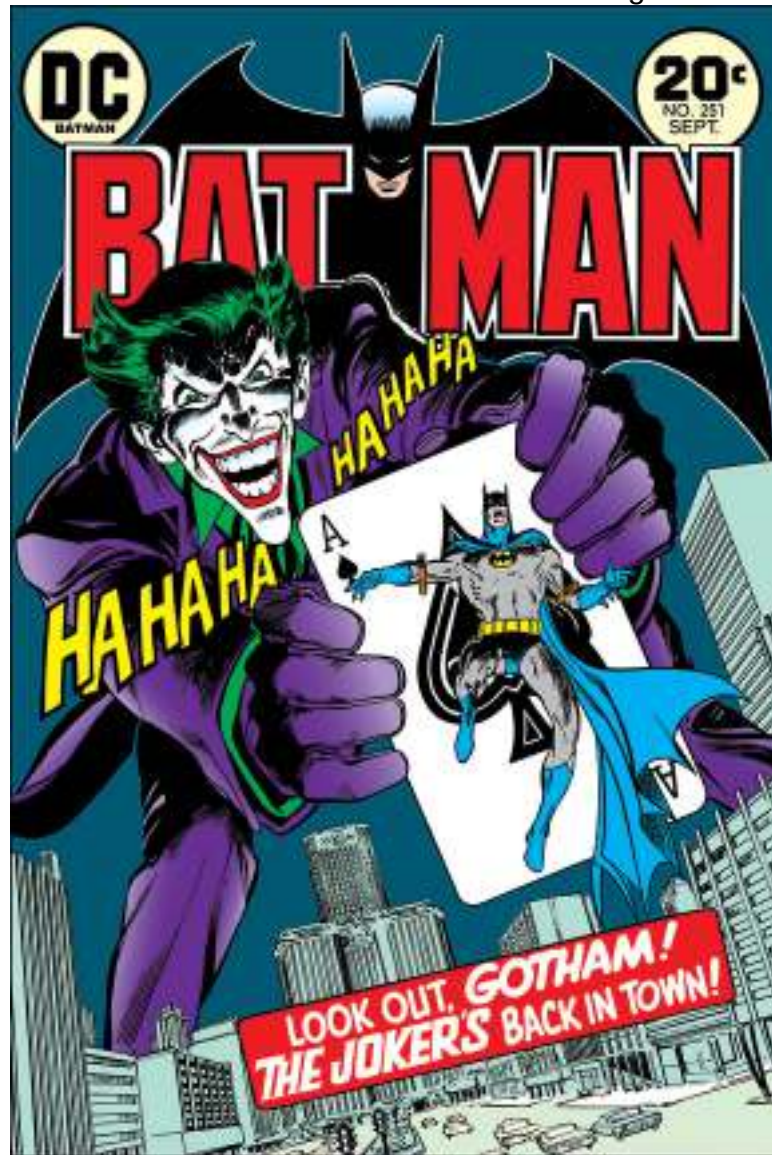
*Brave and the Bold* #28 (February 1960), fighting alongside team members Wonder Woman, Flash, Superman, Aquaman, Martian Manhunter, and Green Lantern.

By 1964, sales of *Batman* and *Detective Comics* were sinking, and they were in danger of being canceled. To stem the slide in sales, the books were assigned to editor Julie Schwartz, who ushered in a “New Look” for Batman. Changes included a yellow oval around the bat on the hero’s chest, a new Batmobile, and a hotline to police headquarters. Batwoman, Ace, and Bat-Mite were retired, and the focus turned to detective stories. Faithful butler Alfred was killed off, and Dick Grayson’s Aunt Harriet came to live with Bruce and Dick.

The campy, colorful *Batman* television series starring Adam West and Burt Ward made its debut on January 12, 1966. A huge ratings success that aired with two new episodes every week, the show spawned an unprecedented number of tie-in toys and merchandise, and it also inspired a new generation of Batman fans. Sales of the Batman comics soared.

Created at the request of the *Batman* TV show producers, a new Batgirl made her debut in *Detective Comics* #359 in 1967. She was revealed as the teenage daughter of Gotham City’s police commissioner James Gordon, who never knew that Barbara snuck out every night to fight crime. Luckily, she always made it home in time to pursue her studies in forensic psychology.

After the *Batman* TV series was canceled in 1968, sales of the comics fell again. In *Batman* #217 in 1969, Dick Grayson left for college, and Bruce Wayne closed Wayne Manor in favor of a penthouse apartment, the first step in a move to reestablish a “back-to-basics” atmosphere for the character.



### 1970s

In the early 1970s, the Joker and the rest of the Rogues Gallery were out of the picture, at least for a while. Batman operated alone and relied on his wits, solving mysteries and fighting street thugs in back alleys. He had returned to his original incarnation: a shadowy figure haunting Gotham by night and striking fear into the hearts of criminals.

1971 saw the arrival of the mysterious and all-knowing villain Ra's al Ghul in *Batman* #232, written by Dennis O'Neil and drawn by Neal Adams. Over the next years, Ra's al Ghul would develop into a world-class threat.

Batman returned to television when *The New Adventures of Batman* animated series premiered on February 10, 1971, featuring the voices of Adam West and Burt Ward as the Dynamic Duo. The series continued airing under different names until 1981.





### 1980s

*Detective Comics* #526 in 1981 saw the introduction of an orphan named Jason Todd. One year later, in *Batman* #368, Dick Grayson retired as Robin, and Jason Todd adopted the name.

In 1986, the four-issue series *Batman: The Dark Knight*, by Frank Miller and Klaus Janson, redefined the hero as an older, tougher warrior coming out of retirement to reclaim Gotham City from criminals who had overtaken it. It also introduced the first female Robin. As *Batman: The Dark Knight Returns*, it became the first DC story arc to be collected in book form and has remained continuously in print.

Also in 1986, Frank Miller and artist David Mazzucchelli collaborated to update Batman's origin story in *Batman* #404-407. The book collecting those stories, *Batman: Year One*, was another best-selling title.

Tragedy and death touched Batman in 1988. Alan Moore and Brian Bolland's *Batman: The Killing Joke* was a nightmarish story about the Joker shooting Barbara Gordon and leaving her for dead. That same year, DC allowed readers to vote on the fate of Jason Todd, the second Robin. The readers voted

Batmania hit the public again when Tim Burton's *Batman* movie premiered in 1989 with Michael Keaton in the title role and Jack Nicholson as the Joker.

In the comics, Batman began exhibiting an excessive, reckless approach fighting crime, a result of the pain of losing Jason Todd. Batman worked solo until the decade's close, when Tim Drake became the third Robin.



### 1990s

In 1992, *Batman Returns* featured the return of Michael Keaton as the Dark Knight, facing off against Danny DeVito and Michelle Pfeiffer as the Penguin and Catwoman. That same year, *Batman: The Animated Series* made its debut on TV. A critical and popular success, the series continued under a variety of names for most of the decade.



Batman and Gotham City faced catastrophe in the decade's closing crossover arcs. In the "Cataclysm" storyline, Gotham City was devastated by an earthquake and cut off from the United States Government. Deprived of many of his technological resources, Batman fought to reclaim the city from gangs of criminals during the 1999 "No Man's Land" storyline.



## 2000s

The 12-part "Hush" story in 2003 by writer Jeph Loeb and artist Jim Lee brought new energy and a huge audience to the *Batman* title. The story featured an array of the Dark Knight's worst foes and introduced the bandaged Hush, revealed to be a figure from Bruce Wayne's childhood.

In 2005, Christian Bale starred in *Batman Begins*, a film directed by Christopher Nolan. The film explored the origins of the Dark Knight and his emergence as a force for good in Gotham City. The 2008 follow-up, *The Dark Knight*, featured an Oscar-winning performance by Heath Ledger and

From the 1980s onward, DC published special crossover events that often had “crisis” in the title. The 2008-2009 crossover *Final Crisis* shocked readers by offering up what appeared to be the death of Batman after he fought the godlike villain Darkseid. With Bruce Wayne presumed dead, Dick Grayson became the new Batman.

In 2009, the *Batman: Arkham Asylum* video game became one of the best-selling and best-reviewed console games of all time.

In 2010, it was revealed that Darkseid had not killed Batman; instead, Bruce Wayne had become lost in time. Although Wayne eventually returned to the present day and reclaimed the mantle of Batman, he also allowed Dick Grayson to continue being Batman as well.

DC Comics hit the “reset” button in 2011 on *Batman*, *Detective Comics* and all the super-hero titles, starting them over as #1 issues in the company’s “New 52” relaunch.

In 2014, writer Scott Snyder and artist Greg Capullo updated Batman’s origin story for the first time in 25 years in the new *Batman: Zero Year* storyline.

Oh, and remember that comic, *Detective Comics* #27? The one that introduced Batman to the world and kickstarted 75 years of amazing comic book, movie, TV and video game adventures? A copy of it sold for \$1.07 million in 2012.

*If you’re a Batman fan, you’re in for a good week. This week, hundreds of comic shops, bookstores and libraries will celebrate “Batman Day,” a celebration of all things Dark Knight.*

(<http://www.dccomics.com/blog/2014/07/18/batman-day-a-celebration-of-all-things-dark-knight>)

*Then if you’re going to Comic-Con, you can look forward to not one, not two, but **three** special Batman 75<sup>th</sup> Anniversary panels.*

*Join Frank Miller, Jim Lee, Scott Snyder, Greg Capullo, Geoff Johns, Grant Morrison, Denny O’Neill and Neal Adams in an in-depth discussion of the Dark Knight’s life on the comic page in **Batman 75: Legends of the Dark Knight**, taking place on Thursday, July 24 from 3:30-4:30 pm in Room 6BCF.*

*Saturday morning, your Bat-knowledge will get put to the test in the ultimate Batman trivia contest: **Batman 75: Riddle Me This!**, taking place on July 26 from 10-11 am in Room 6DE. Oh, and did we mention prizes are on the line?*

*Finally, don’t miss the once-in-a-lifetime chance to witness Jim Lee, Geoff Johns, Ralph Garman, Kevin Conroy, Paul Dini and Senior Vice President, Creative Affairs, Warner Bros Animation Peter Girardi all together on stage to discuss the Dark Knight’s legacy in pop culture in **Batman 75<sup>th</sup> Anniversary**, happening on Saturday, July 26 from 4-5 pm in Room 6BCF.*

*And that’s just the start! Click here (<http://www.dccomics.com/blog/2014/07/10/dc-entertainment-celebrates-75-years-of-batman-with-all-star-panels-at-comic-con>) for even more Batman events taking place at Comic-Con.*

**TAGS**

[sdcc](#) ([tags/sdcc-0](#)), [batman](#) ([tags/batman-1](#)), [comic-con](#) ([tags/comic-con](#)), [dc comics](#) ([tags/dc-comics-1](#)), [san diego comic-con](#) ([tags/san-diego-comic-con-1](#)), [batman 75](#) ([tags/batman-75](#)), [batman 75th anniversary](#) ([tags/batman-75th-anniversary](#)), [batman day](#) ([tags/batman-day](#)), [highlights](#) ([tags/highlights](#))

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Tuesday, July 22nd, 2014

loading

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

DAVID LOUIS WHITEHEAD,

Plaintiff,

v.

NETFLIX, INC., ET AL.,

Defendants.

Case No. 2:18-cv-00460-RWS-RSP

**ORDER**

Before the Court is Defendants' Motion to Dismiss and Supporting Brief (Dkt. No. 67) ("Motion"). Being well advised, and having fully considered the Motion, the Court is of the opinion that the Motion should be **GRANTED**. It is therefore

**ORDERED** that Plaintiff's Claims against the Defendants are hereby dismissed with prejudice.