

1 **TOWER HEIST**

2 Infringement of Plaintiff's

3 Screenplay "Sunflowers"

4 The 2011 feature film, Tower Heist, infringes the Plaintiff's screenplay, "Sunflowers."
5 Tower Heist (TH) infringes the following enumerated plot and story elements of the
6 Plaintiff's work. These aspects are collectively protectable, and some of the elements may be
7 individually protectable. There are at least 2 surviving versions of Sunflowers, one version
8 from 2000 (which I mailed to my father in 2000 (which he wrote many, many notes in), and a
9 slightly modified version from 2006. For simplicity, uses the 2006 script, so the Court and the
10 Defendants aren't distracted by my late father's margin notes. However, all of the
11 infringement and similarities exist in the original 1999/2000 screenplay. The incidents in
12 which Tower Heist infringes the Plaintiff's Sunflowers script are enumerated as follows:

- 13 1. OVERARCHING GENERAL PLOT & CONCEPT. Four ordinarily law abiding men
14 conspire to break into an extremely well-guarded building to commit a robbery that
15 will benefit other good people, and punish the evil and wealthy villain. [Sunflowers'
16 protagonists' robbery/switch will benefit society, as endeavor to remove the fake art
17 that they painted for the villain, who stole the original masterpieces and replaced them
18 with fakes. Whereas, in TH, the protagonists agree to rob their boss to get back money
19 for their coworkers (and themselves) that was lost when their evil boss invested it
20 unwisely.]
- 21 2. COMPLEX CENTRAL SCENE. Both works feature a central scene in which one of
22 the 4 primary protagonists meet, and in this meeting one of primary protagonists
23 proposes that the 4 men cooperate to commit a break-in and burglary. In this same
24 scene one of the other characters points out that they are not qualified to break in to
25 the building. One character seems amenable to the plan early, while two the characters
26 are resistant. The other characters agree to commit the caper when they realize that the
27 heist is for a cause greater than themselves. [This scene is found on pages 52-56 of
28 Sunflowers; Zoe proposes they commit the heist; Noah thinks the crew is not qualified

1 ('We're not thieves"); Jason seems amenable early; they all go agree to commit the
2 heist when they realize that the world will forever lose Van Gogh's Sunflowers if they
3 fail to act. This replicated scene begins in Tower Heist at about 38:20; Josh proposes
4 the heist; Charlie thinks they are not qualified; Manuel is amenable early, everyone
5 agrees to the heist when they discover that the money will go to their co-workers who
6 lost their savings when their boss invested their money unwisely.]

7 3. PLOT STRUCTURE. Unforeseen problems alter plans, at the last minute, and cause
8 the team to execute their plan with one fewer team members. (In Sunflowers, this is
9 because Ian was arrested. In TH, this is because Charlie was promoted, thus, he
10 dropped out of the heist.)

11 4. PLOT STRUCTURE. The team member who was unexpectedly removed from the
12 plan, rejoins the capers, midway through the heist, in the climax.

13 5. SCENE: **Toy Binoculars during case/surveillance scene.** Both works feature a scene
14 in which the central protagonists monitor the building they plan to break into and one
15 of the central character watches through a pair of toy binoculars. (See Sunflowers page
16 67; See H, approx 50:30.)

17 • The Plaintiff's script called for "toy binoculars." The binoculars seen in TH are very
18 small, and appear to be for children –or toys.

19 6. Both works feature prominent jokes about lesbians. [See Sunflowers, pages 7, 8, 52;
20 see TH at 50:00, as 'Slide' (Eddie Murphy's character) jokes about lesbians' breasts.]

21 7. Both works feature jokes about the black caps the protagonist will wear on their heist.
22 (See Sunflowers page 82; see TH at 52:03.)

23 8. SCENE AND SEQUENCE: in both works, after the heist occurs, a crazy chase that
24 involves a large van or a truck ensues. (See Sunflowers 104–114; see TH 1:30:36.)

25 9. **VERY UNCOMMON CLASS DIVISION, ANTI-RICH, ANTI-CORPORATE**
26 **THEME.** Both works feature a class division, anti-rich and anti-corporate theme,
27 expressed by mainstream, Western characters who voice antipathy for the corrupt and
28 unfeeling rich). This anti-rich, class division anti-rich element is seen in Sunflowers,

1 page 55, when Jason explains that he’s in on the caper to keep “Sunflowers out of the
2 secret viewing cellar room of some corporate CEO.” This is further reinforced, a few
3 sentences later, when Jason explains “Working class kids never get close to the real
4 players. People spend their whole live being pushed around by the unseen powers that
5 be... Now I get a chance, one time, to push back, Hell yeah, I’m in.” This aspect is
6 reinforced as the Plaintiff depicts the very wealthy as addicted to stolen art and
7 seemingly without conscience (see Sunflowers, pages 40, 52, 61). This aspect is seen
8 in TH as the villain, Arthur Shaw, is portrayed as corrupt and unfeeling, thus the
9 protagonist are motivated to get even.

- 10 • This element was virtually non-existent in American mainstream film, until AFTER
11 the Defs, collectively, began wildly infringing the Plaintiff’s work and promulgating
12 derivatives.

13 10. A character describes the security system in the target building as perhaps the best in
14 the world (see Sunflowers, page 36; see TH, 30:20).

15 11. GENRE. Sunflowers and Tower Heist are both thoughtful comedies.

16 12. UNUSUAL ELEMENT: ART & MUSEUM. A substantial fraction of the Plaintiff’s
17 script is set in a museum (the National Gallery). Although there is no museum in TH,
18 the director and producers decorate the villain’s penthouse almost as if a museum and
19 filled it with many huge and prominent works of art and sculptures.

21 TOWER HEIST

22 Infringement of Plaintiff’s Screenplay

23 Butterfly Driver (Uberopolis)

24 The Defendant(s)’ 2011 feature film, Tower Heist, infringes the Plaintiff’s screenplay,
25 Butterfly Driver (AKA: Uberopolis: City of Light). The following aspects of Tower Heist
26 infringe Butterfly Driver:

- 27 1. **Character:** The villain of both works is a very wealthy older man.
- 28 2. **Character & Setting:** The villain of both works lives on the top of a beautiful

1 skyscraper. In Butterfly Driver/Uberopolis, the villain Drexler lives in the top 3 floors
2 (57th, 58th, and 59th floors) of a skyscraper (the Drexler Media building) that the
3 villain owns. The 57th floor of this building is Drexler’s “conference” floor, a part of
4 his home. One floor below the conference room is the control center of Drexler’s
5 enormous mass media company. In Uberopolis/Butterfly Driver the Plaintiff shows
6 that even Drexler’s conference floor is appointed opulently. [Butterfly Driver, page
7 87, describes: “a **BAR** in a cozy corner of the conference room (near the conference
8 table) appointed with the amenities suited to his stature.” The scene goes on to show
9 Drexler take a seat in a “cushioned leather club chair,” with an “end table’ to his side.
10 The Uberopolis script (2005) further describes the villain feeding his “tropical fish”,
11 before taking a seat on a couch.] In Tower Heist, the villain, Arthur Shaw, lives in a
12 luxury penthouse on the top (65th) floor of the Tower building. (Also see Uberopolis,
13 May 2005, page 76, as Drexler gives Arlo his location in his conference room: “I’m on
14 the 57th floor of my building, third floor from the top.”)

15 3. **Character: Wildly Famous Celebrity Villain, Covered By TV News.** Both works
16 depict a villain who is wildly famous. This is shown throughout Underopolis/Butterfly
17 Driver, such as page 36, where the TV news covers the villain’s activities, as he waves
18 to his admirers at an airport. Tower Heist infringes this aspect by showing frenzied TV
19 news coverage of the villain’s activities (see TH at 19:23.)

20 • Because the Plaintiff’s villain was the world’s richest man and the President of the
21 new world government, it was necessary to depict this celebrity status. However, the
22 Def(s)’ story had no basis for a “celebrity” villain. The Defendant(s)’ only infringed
23 this aspect because they were engaged in wholesale theft of the Plaintiff’s work and
24 ideas.

25 4. **Character and Story–telling Style:** The villain of both works, at first, appears to be a
26 good and admirable person, but is soon revealed to be a terrible, evil person.

27 5. **Unique Plot and Character Aspect.** The story includes a “how far will a devoted
28 parent go for his/her children” element and theme (this idea/expression was wholly

1 created, pioneered and introduced by the Plaintiff, and is independently
2 copyrightable). In Tower Heist this aspect is subtly expressed through two primary
3 characters (1) Charlie is motivated to join the caper and steal from the villain because
4 he lacks money to pay hospital costs for the birth of his child; (2) the character “Mr.
5 Fitzhugh” agrees to be part of the heist to get money for housing, so he can provide
6 shelter for his children and resume visitation with them (after his wife leaves him for
7 being destitute).

8 **6. Unique Setting and Prop.** Large Transport Vehicle Oddly Located In a Domestic
9 Interior Setting, Proximate to Shattered Glass. Both works feature the unusual
10 element of a large transportation vehicle that is found in villain’s lair, and shattered
11 glass occurs proximate to the vehicle in this location. In Butterfly Driver/Uberopolis,
12 Arlo drives a flying vehicle (called a sky-ranger) into the conference room of
13 Drexler’s home/penthouse, causing glass to shatter. In Tower Heist, Arthur Shaw lives
14 with a prized car in his livingroom; inevitably, the hero (Josh) beats the glass portions
15 of the car with a golf club, causing glass to shatter and scatter everywhere. (See
16 Butterfly Driver page 92; see Tower Heist at 27:34.)

17 **7. SCENE, SETTING, CHARACTER. The Powerful Villain Drinks Wine In His**
18 **Palatial Home/Lair At The Top of a Skyscraper.** In Uberopolis/Butterfly Driver the
19 Plaintiff shows Drexler, in his home’s conference room, offers a soda to a guard then
20 **pours himself a glass of wine.**

21 **8. SCENE & CHARACTER.** Both works feature a scene in which the hero infiltrates a
22 warehouse-like building and outwits the warehouse-like area’s guard(s); the guard(s)
23 then grant the hero access to an otherwise secure area where the hero should not have
24 been permitted. (See Butterfly Driver page 79, or Uberopolis pages 67-68; see TH
25 35:55, as Josh outwits security of the warehouse-like docking area, to gain access to
26 his former office.)

27 **9. PLOT, CHARACTER, SCENE, CLIMAX, THEME.** Both stories include two or more
28 scenes in which there is a central discussion about **sacrifice**, AND, in both works, the

1 final conversation about sacrifice occurs in the climax of final act when the villain and
2 hero confront each other, face to face. These scenes create and reinforces a “sacrifice”
3 theme. (See Butterfly Driver, pages 16 and 96, etc. See Tower Heist at 53:56 and
4 1:34:20.)

- 5 • The Plaintiff was first to conceive or execute this independently copyrightable
6 structure. Thus, this story structure, like others conceived by the Plaintiff, were absent
7 in Hollywood film for Hollywood’s first 90+ years of Hollywood’s existence, but
8 suddenly, after the Plaintiff’s executed this and other ideas/structures, these
9 approaches were suddenly ubiquitous, as Hollywood infringed and engaged in
10 criminal promulgation of stolen intellectual property.

11 **10. SCENE, SETTING, CHARACTER: Surveillance Monitor Room.** Both works
12 feature scenes in which a secondary heroic character, who works for the government,
13 rushes into a room full of security monitors, uses the security monitors to locate the
14 person (persons) he/she’s looking for, then rushes out of the monitor room, in pursuit
15 of the target. (See Butterfly Driver, page 81 and 98. See TH at 1:13:59. In Butterfly
16 Driver, Jerry is a federal agent; in Tower Heist Te’a Leoni’s character is a federal
17 agent.)

18 **11. VERY UNCOMMON CLASS DIVISION, ANTI-RICH, ANTI-CORPORATE**
19 **THEME.** Both works feature a class division, anti-rich and anti-corporate theme,
20 expressed by mainstream, Western characters who voice antipathy for the corrupt and
21 unfeeling rich). This anti-rich, class division anti-rich element is seen in Sunflowers,
22 page 55, when Jason explains he’s in on the caper to keep “Sunflowers out of the
23 secret viewing cellar room of some corporate CEO.” This is further reinforced, a few
24 sentences later, when Jason explains “Working class kids never get close to the real
25 players. People spend their whole live being pushed around by the unseen powers that
26 be... Now I get a chance, one time, to push back, Hell yeah, I’m in.” This is reinforced
27 as the Plaintiff depicts the wealthy as addicted to stolen art and without conscience
28 (see Sunflowers, pages 40, 52, 61). This aspect is seen in TH as the villain, Arthur

1 Shaw, is portrayed as corrupt and unfeeling, motivating the protagonists to get even.

- 2 • This class-division, ardently anti-rich theme was virtually unheard of in American
3 film, prior to the Plaintiff's work.

4 12. **Unique Story, Theme and Element.** Both stories include a very uncommon “anguish
5 and fear of living without healthcare” theme and element. In Uberopolis and Butterfly
6 Driver, this is expressed in the fact that Arlo cannot afford medical care for his
7 daughter, this causes him to resort to desperate measures and sets the entire story into
8 action. In Tower Heist, this is expressed by the fact that Charlie cannot afford to pay
9 the healthcare costs for the imminent birth of his child.

10 13. **Character.** In both stories, the hero is a common man who fights for the common man,
11 against a rich and powerful villain.

12 14. **Unique Story & Character Element: The Hero's Tremendous Guilt.** In both works
13 the hero feels tremendous guilt for his actions. (In Butterfly Driver the hero feels
14 tremendous guilty for starting a resistance and war that resulted in the deaths of tens of
15 millions of people. In TH, Josh feels tremendous guilt for giving his co-workers'
16 savings to the villain (who squandered their money and lost everything).

17 15. **Story, Scene, Character, Climax, and Unusual Element Infringement.** Final
18 Climatic Confrontation Between Villain and Hero Occurs In A Prison Transport
19 Vehicle, With Other Prisoners Present. In both stories, the villain and hero have their
20 final confrontation in a prisoner transport vehicle, in the climax of the final act. In
21 Uberopolis/Butterfly Driver, Arlo and the villain (Drexler) have their final
22 confrontation in a the back (prisoner area) of a large prison shuttle-train (a space train,
23 used to transport and execute prisoners); in Tower Heist, Josh and the villain (Arthur
24 Shaw) have their final confrontation in the back (prisoner area) of a common prisoner
25 transport truck.

26 16. **STORY, SCENE; Unusual Double Confrontation: The Hero And Villain**
27 **Confront Each Other At The Top Of The Villain's Tower And In The Back Of A**
28 **Prisoner Transport Vehicle.** In both works the hero and villain have two hostile

1 confrontations, first at the top of the villain’s tower, then in the back of a prisoner
2 transport vehicle. In Uberopolis/Butterfly Driver, Arlo and the villain have their final
3 confrontation in a prison shuttle-train (a massive train used to transport and execute
4 prisoners). (See Uberopolis, 2005, pages 100-101; or Butterfly Driver, 109-110. See
5 Tower Heist at 1:33:16.)

6 After stealing the ideas of a Black American, Tower Heist depicts Blacks, Latinos and
7 non-Whites, in every possible scene as stupid, violent, crude and immoral, and depicts Jewish
8 Americans as unfeeling.

9 Insider Note (on an inside joke): The first known work to substantial infringe the
10 Plaintiff’s work, at an actionable level, in the 1994 Disney film “The Lion King”.¹ This is
11 why, early in Tower Heist, the character “Lester” twice references The Lion King or The Lion
12 King character “Mufasa.”

13 Tower Heist also features a plot substructure in which “the hero has a hunch that the
14 villain has a safe hidden in his house.” This aspect was taken from the Plaintiff’s 1991
15 screenplay, “Cyclones,” where one of two anti-hero leading characters believes the ‘villain’
16 has a safe in his house. This is not actionable, because, independently, it is not creative
17 enough to copyright.

18 Tower Heist also features a plot substructure in which “the female romantic interest of
19 the male hero is more powerful than the hero, and she must maintain professional boundaries
20 with the hero; yet, the female romantic interest somehow finds herself drunk with the male
21 hero.” This is not actionable, because, independently, it is not creative enough to copyright.

22 There is nothing to market when the Plaintiff’s ideas are extracted from the
23 Defendant(s)’ work.

¹ The Lion King film infringes a musical work written by the Plaintiff in 1990. The Plaintiff has posted details of this and other, forthcoming, infringement online. The Plaintiff will take action on this infringement in a separate action).