

# Octavia Spencer Headed to Trial Over Weight Loss Endorsement

10:25 AM PDT 7/21/2014 by Eriq Gardner

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**A diet company claims the actress breached her contract by not using preapproved tweets and refusing to allow "before" and "after" photos.**



Octavia Spencer

**Octavia Spencer**, who won an Oscar for her role in *The Help* and who will next appear in Fox's *Red Band Society*, could soon be involved in a unique showdown spotlighting exactly how sponsors expect celebrities to use social media. The dispute concerns a \$1.25 million deal the actress made to endorse the Sensa Weight Loss System. The relationship didn't work out, and now the parties are on the verge of a trial that will determine who is at fault.

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Spencer is **suing Sensa** for allegedly scheming its way out of the last payments due under her deal.

According to Spencer's complaint, she received a termination letter last July from Sensa that blamed her for not getting a half-dozen tweets preapproved and her insistence on using "#spon," a hashtag meant to indicate a tweet that is sponsored. The actress says she went "above and beyond" her obligations to Sensa, including allowing the weigh loss company to use "before" and "after" photographs despite her reluctance.

Sensa fired back with cross-claims, alleging that it was Spencer who made an anticipatory breach of her endorsement contract.

The company said that Spencer had an obligation to consider "before" and "after" photos but that a few months into the marketing campaign, her agent refused on her part. The company also said that it provided Spencer with preapproved tweets but that the actress didn't use them. Instead, Spencer allegedly made sporadic unapproved posts that didn't support the campaign.

Sensa, whose recent troubles have included a claim **settled** with the Federal Trade Commission over misleading advertising, looked to score an early win against Spencer with a motion for summary judgment.

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Of course, Spencer resisted. Her endorsement agent **Tim Curtis** had sent an email to Sensa in July 2013, indicating that Spencer would not approve any further usage of "before" and "after" photos. Was that the same thing as Spencer not considering exceptions? The actress' lawyers argued that whether she repudiated the contract was something for the jury.

Spencer's lawyers also said that there was nothing in the endorsement contract that required her "to seek Sensa approval on a 'tweet' for 'tweet' basis or to 'tweet' only language provided to her from Sensa."

In turn, the weigh loss company pointed to a four-page section of her endorsement deal that went into such details about the maximum length of press interviews and the total length of her social media obligations. "Parties simply do not devote the kind of time and attention necessary to set forth such a level of detail for immaterial terms," argued Sensa.

L.A. Superior Judge **Michael Stern** heard the evidence and arguments on July 17, and in an order denying Sensa's motion for summary judgment, ruled that the actress had presented triable issues as to whether she repudiated the endorsement contract first, whether her refusals toward photos and social media were contract breaches and whether Sensa performed all of its own duties under the contract.

"Sensa is no stranger to creating a false reality," commented **Bryan Freedman**, attorney for Spencer. "We are pleased that the court recognized the same in denying the motion. Ms. Spencer looks forward to presenting the true facts at trial."

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