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7 Attorneys for Defendant **LE BOOK PUBLISHING, INC.**

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA-LOS ANGELES

10 **PLAYBOY ENTERPRISES**)
11 **INTERNATIONAL, INC., a California**)
12 **corporation,**)
13 **Plaintiffs,**)
14 **v.**)
15 **LE BOOK PUBLISHING, INC., a New York**)
16 **corporation; and DOES 1-10, inclusive,**)
17 **Defendants.**)

CASE NO: CV 13-9349 AGR

**ANSWER OF DEFENDANT LE BOOK
PUBLISHING, INC. TO PLAINTIFF'S
UNVERIFIED COMPLAINT, WITH
AFFIRMATIVE DEFENSES AND DEMAND
FOR JURY TRIAL**

Trial date: None

18 TO THE COURT, AND TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

19 COMES NOW defendant LE BOOK PUBLISHING, INC., a New York corporation ("LBP"), for itself
20 alone, (collectively "Defendant"), and in Answer to the unverified Complaint ("CP") of plaintiff PLAYBOY
21 ENTERPRISES INTERNATIONAL, INC., enumerated paragraph by paragraph, as follows.

22 1. Defendant LBP has insufficient information on which to admit or deny the allegations in this
23 paragraph, which is a legal contention and foundation paragraph, and so, on that basis of lack of
24 information, is unable to admit or deny the whole of this paragraph.

25 2. Defendant LBP has insufficient information on which to admit or deny the allegations in this
26 sentence, and so, on that basis of lack of information, denies the whole of this sentence and paragraph.

27 3. Defendant LBP denies the allegations in this paragraph, as phrased, both on knowledge of the subject
28 matter of most of the sentences therein, and on information and belief.

- 1 4. Defendant LBP denies the prolix and numerous allegations in this paragraph.
- 2 5. Defendant LBP has insufficient information on which to admit or deny the allegations in this
3 paragraph, which is a legal contention and foundation paragraph, and so, on that basis of lack of
4 information, is unable to admit or deny the whole of this paragraph.
- 5 6. Admit.
- 6 7. Objection: Compound; lacks foundation; calls for speculation. Defendant LBP has insufficient
7 information on which to admit or deny the allegations in this paragraph, and so, on that basis of lack
8 of information, is unable to admit or deny the whole of this paragraph.
- 9 8. Objection: Compound; lacks foundation; calls for speculation. Defendant LBP has insufficient
10 information on which to admit or deny the allegations in this paragraph, and so, on that basis of lack
11 of information, is unable to admit or deny the whole of this paragraph.
- 12 9. Objection: Compound; lacks foundation; calls for speculation. Defendant LBP has insufficient
13 information on which to admit or deny the allegations in this paragraph, and so, on that basis of lack
14 of information, is unable to admit or deny the whole of this paragraph.
- 15 10. Objection: Compound; argumentative; calls for speculation; irrelevant as to 2010 references which
16 do not exist today. Without waiving said objections, and subject thereto, defendant LBP is unable
17 to admit or deny the allegations in this paragraph, as the source of their reference in quotations is
18 not divulged in the CP. Defendant is not allowed to guess at where the quotes came from, if
19 anywhere.
- 20 11. Objection: Compound; argumentative; calls for speculation. Without waiving said objections, and
21 subject thereto, defendant LBP is unable to admit or deny the allegations in this paragraph, as the
22 source of their reference in quotations is not divulged in the CP. Defendant is not allowed to guess
23 at where the quotes came from, if anywhere
- 24 12. Deny.
- 25 13. Objection: Compound; argumentative. Without waiving said objections, and subject thereto,
26 defendant LBP denies any "high resolution" copying, as alleged in this paragraph.
- 27 14. Objection: Compound; argumentative; vague and ambiguous (no date, person, or location of any act
28 is alleged). Without waiving said objections, and subject thereto, defendant LBP denies any "high
resolution" copying, as alleged in this paragraph, and LBP has committed no infringement on

1 plaintiff's alleged copyright..

2
3 15. Objection: Compound; argumentative; lacks foundation; calls for speculation, as to plaintiff's alleged
4 copyright of photos; vague and ambiguous (no date, person, or location of any act is alleged).
5 Without waiving said objections, and subject thereto, defendant LBP denies the substance alleged
6 in this paragraph, and that any copyright infringement has taken place.

7 16. Objection: Compound; argumentative; vague and ambiguous (no date, person, or location of any act
8 is alleged). Without waiving said objections, and subject thereto, defendant LBP denies any wanton
9 or wilful disregard of plaintiff's rights, whatever they may be, and that Playboy is unaware of how
10 long its own photos were utilized, with Playboy's tacit permission, before the instant lawsuit was
11 filed.

12 17. As set forth above, defendant LBP denies the sum of the allegations in this paragraph.

13 18. Objection: Compound; argumentative; lacks foundation. Without waiving said objections, and subject
14 thereto, defendant LBP has insufficient information on which to admit or deny this paragraph.

15 19. Objection: Compound; argumentative; lacks foundation; vague and ambiguous (no date, person, or
16 location of any act is alleged). Without waiving said objections, and subject thereto, defendant LBP
17 denies the several allegations in this paragraph.

18 20. Objection: Compound; argumentative; lacks foundation; vague and ambiguous (no date, person, or
19 location of any act is alleged). Without waiving said objections, and subject thereto, defendant LBP
20 denies the several allegations in this paragraph.

21 21. Objection: Compound; argumentative; lacks foundation; vague and ambiguous (no date, person, or
22 location of any act is alleged). Without waiving said objections, and subject thereto, defendant LBP
23 denies the several allegations in this paragraph.

24 22. Deny.

25 23. Objection: Compound; argumentative; vague and ambiguous (no date, person, or location of any act
26 is alleged). Without waiving said objections, and subject thereto, defendant LBP denies the
27 allegations in this paragraph.

28 24. Objection: Compound; argumentative; lacks foundation; vague and ambiguous (no date, person, or
location of any act is alleged). Without waiving said objections, and subject thereto, defendant LBP

1 denies the several allegations in this paragraph.

2
3 25. Objection: Compound; argumentative; lacks foundation; vague and ambiguous (no date, person, or
4 location of any act is alleged). Without waiving said objections, and subject thereto, defendant LBP
5 denies the several allegations in this paragraph.

6 Responding defendant LBP further asserts the following affirmative defenses to the CP allegations.

7 **AS AND FOR A FIRST, SEPARATE AND AFFIRMATIVE DEFENSE,**

8 **DEFENDANT ALLEGES:**

9 **(Failure to State a Claim for Relief)**

10 All purported claims in the Complaint, and each and every allegation contained therein, fail to state
11 facts sufficient to constitute a claim upon which relief can be granted against this responding defendant.

12 **AS AND FOR A SECOND SEPARATE AND AFFIRMATIVE DEFENSE,**

13 **DEFENDANT ALLEGES:**

14 **(Dishonest Conduct)**

15 Plaintiff is barred from the recovery sought in the Complaint based upon the dishonest and/or
16 fraudulent conduct of the Plaintiff and/or its employees, and their unclean hands.

17 **AS AND FOR A THIRD, SEPARATE AND AFFIRMATIVE DEFENSE,**

18 **DEFENDANT ALLEGES:**

19 **(Laches)**

20 At all times and places herein mentioned in the Complaint, and with respect to each and every Claim
21 and prayer for Relief in the Complaint against this responding defendant, plaintiff's Complaint is barred by
22 the doctrine of laches.

23 **AS AND FOR A FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE,**

24 **DEFENDANT ALLEGES:**

25 **(Waiver)**

26 At all times and places herein mentioned in the Complaint, and with respect to each and every
27 Claim and prayer for Relief in said Complaint against this responding defendant, Plaintiff is barred by
28 the doctrine of waiver.

AS AND FOR A FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE,

DEFENDANT ALLEGES:

(Estoppel)

At all times and places herein mentioned in the Complaint, and with respect to each and every Claim and prayer for Relief in said Complaint against this responding defendant, Plaintiff is barred by the doctrine of estoppel

AS AND FOR A SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE,

DEFENDANT ALLEGES:

(Mitigation of Damages)

With respect to each alleged cause of action, defendant LBP is informed and believes and thereupon alleges that Plaintiff has failed to fulfill its duty to mitigate any damages caused by any violations of duty or law which might be found as against defendant LBP.

AS AND FOR AN SEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE,

DEFENDANT ALLEGES:

(Allocation of Fault to Third Persons)

If it should be found that this responding defendant is in any manner legally responsible for any damages sustained by Plaintiff, which supposition is not admitted but merely stated for the purpose of this affirmative defense, then any such damages found to have been incurred or suffered by the Plaintiff in this action were proximately contributed to by other persons or entities; therefore, it is necessary that the proportionate degree of fault of each such person or entity be determined and prorated so that responding defendant pay only that amount of damages which were caused by the acts or omissions of responding defendant, if any.

AS AND FOR AN EIGHTH, SEPARATE AND AFFIRMATIVE DEFENSE

DEFENDANT ALLEGES:

(Lack of Subject Matter Jurisdiction)

The Court lacks the requisite subject matter jurisdiction over the subject matter of this action.

AS AND FOR A NINTH, SEPARATE AND AFFIRMATIVE DEFENSE

DEFENDANT ALLEGES:

(First Amendment)

Plaintiff's claims and/or remedies sought in the Complaint are barred, not actionable, or subject to

1 dismissal, according to the First Amendment to the United States Constitution and all appellate opinions
2
3
4 annotated thereunder or based thereon.

5 **AS AND FOR A TENTH, SEPARATE AND AFFIRMATIVE DEFENSE**

6 **DEFENDANT ALLEGES:**

7 **(Copyright Statute of Limitations)**

8 Some or all of Plaintiff's claims and/or remedies sought are barred, not actionable or subject to
9 dismissal because Defendant LBP's alleged use or permission for use of the images and magazine content
10 that are allegedly the subject of Plaintiff's copyright infringement claims is subject to one or more of the
11 limitations of 17 U.S.C. section 106 set forth in 17 U.S. C. sections 107-122.

12 **AS AND FOR AN ELEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE**

13 **DEFENDANT ALLEGES:**

14 **(Bar by Statutory Requirements)**

15 Some or all of Plaintiff's claims are barred, not actionable or subject to dismissal because Plaintiff
16 lack valid copyright registrations for the alleged copyrights in suit asserted, or have not properly or timely
17 registered the subject disputed copyright material and/or have failed to comply with notice, renewal and
18 registration requirements, and other required procedures including without any limitation the requirements
19 set forth in 17 U.S.C. sections 410 and 412.

20 **AS AND FOR A TWELFTH, SEPARATE AND AFFIRMATIVE DEFENSE**

21 **DEFENDANT ALLEGES:**

22 **(Failure of Performance of Conditions)**

23 At all times mentioned in the Complaint on file herein, and as to each and every Claim for Relief
24 and prayer therein, Plaintiff has failed to perform all duties and obligations on its part of any agreement
25 with this responding defendant, which duties and obligations operated as a contingency and condition for
26 performance of any obligations on the part of defendant LBP, and such failure bars plaintiff's recovery
27 herein.

28 **AS AND FOR A THIRTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE**

DEFENDANT ALLEGES:

(Forfeiture or Abandonment)

Some or all of Plaintiff's claims and prayers are barred, not actionable or subject to dismissal, because some or all of the copyrights on which Plaintiffs rely have been forfeited or abandoned, if ever valid.

AS AND FOR A FOURTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE

DEFENDANT ALLEGES:

(Not Original Works)

Some or all of Plaintiff's claims and prayers are barred, not actionable or subject to dismissal, because some or all of the works, and/or portions of same, to which Plaintiffs claim copyrights are not original.

AS AND FOR A FIFTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE

DEFENDANT ALLEGES:

(Public Domain)

Some or all of Plaintiff's claims are barred, not actionable or subject to dismissal, because some or all of the works, and/or portions of same, to which Plaintiff claims copyrights are in the public domain.

AS AND FOR A SIXTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE

DEFENDANT ALLEGES:

(Merger Doctrine)

Some or all of Plaintiff's claims and prayers are barred, not actionable or subject to dismissal, because some or all of the works, and/or portions of same, to which Plaintiff claims copyrights are barred by the merger doctrine.

AS AND FOR A SEVENTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE

DEFENDANT ALLEGES:

(Unprotectable Ideas and Works)

Some or all of Plaintiff's claims are barred, not actionable or subject to dismissal because some or all of the works, and/or portions of same, to which Plaintiff claims copyrights constitute unprotectable ideas, procedures, processes, systems, methods of operation, concepts, principles and/or discoveries.

AS AND FOR AN EIGHTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE

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DEFENDANT ALLEGES:

(Scenes a Faire)

Some or all of Plaintiff's claims and prayers are barred, not actionable or subject to dismissal because some or all of the works, and/or portions of same, to which Plaintiff claims copyrights constitute scenes a faire.

AS AND FOR A NINETEENTH, SEPARATE AND AFFIRMATIVE DEFENSE

DEFENDANT ALLEGES:

(Improper Joinder)

Some or all of Plaintiff's claims and prayers are barred, not actionable or subject to dismissal, because the Complaint improperly joins different defendants and/or plaintiffs and/or fails to join necessary defendants and/or plaintiffs.

AS AND FOR A TWENTIETH, SEPARATE AND AFFIRMATIVE DEFENSE

DEFENDANT ALLEGES:

(Plaintiff's Copyright Misuse)

Some or all of Plaintiff's claims and prayers are barred, not actionable or subject to dismissal, because Plaintiff has engaged in copyright misuse with respect thereto.

AS AND FOR A TWENTY-FIRST, SEPARATE AND AFFIRMATIVE DEFENSE

DEFENDANT ALLEGES:

(Authorization)

Some or all of Plaintiff's claims and prayers are barred, not actionable or subject to dismissal, because Plaintiff authorized, impliedly or explicitly, Defendant LBP's allegedly wrongful use of the copyright works in issue.

AS AND FOR A TWENTY-SECOND, SEPARATE AND AFFIRMATIVE DEFENSE

DEFENDANT ALLEGES:

(License)

Some or all of Plaintiff's claims and prayers are barred, not actionable or subject to dismissal, because Defendant LBP has a license entitling it to copy, display, duplicate, publish and/or otherwise use the disputed photos, magazine text, and/or layout.

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4 **AS AND FOR A TWENTY-THIRD, SEPARATE AND AFFIRMATIVE DEFENSE**

5 **DEFENDANT ALLEGES:**

6 **(Plaintiff's Failure to Comply With Copyright Law)**

7 Some or all of Plaintiff's claims and prayers are barred, not actionable or subject to dismissal,
8 because Plaintiff's alleged copyright registrations that were allegedly wrongfully used by LBP are invalid for
9 Plaintiff's failure to timely and properly comply with the requirements for copyrightable subject matter
10 pursuant to 17 U.S.C. section 102.

11 **AS AND FOR A TWENTY-FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE**

12 **DEFENDANT ALLEGES:**

13 **(Plaintiff Does Not Own Copyrights)**

14 Some or all of Plaintiff's claims and prayers are barred, not actionable or subject to dismissal,
15 because Plaintiff does not own or hold the copyrights to the disputed photos and/or article text on which
16 Plaintiff has premised its Complaint.

17 **AS AND FOR A TWENTY-FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE**

18 **DEFENDANT ALLEGES:**

19 **(Plaintiff's Failure to Timely Register Copyrights)**

20 Some or all of Plaintiff's copyright Claims for Relief, claims for statutory damages, attorney fees
21 and/or other relief are barred, not actionable or subject to dismissal because some, if not all, of Plaintiff's
22 copyright registrations which form the basis of Plaintiff's copyright infringement claims were not made
23 within three months after first publication of the allegedly infringing works, as required by 17 U.S.C. 412.

24 **AS AND FOR A TWENTY-SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE**

25 **DEFENDANT ALLEGES:**

26 **(Fair Use Doctrine)**

27 Some or all of Plaintiff's claims are barred, not actionable or subject to dismissal, pursuant to the
28 doctrine of "fair use," including, but not limited to, Title 17 U.S.C. section 107.

AS AND FOR A TWENTY-SEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE

DEFENDANT ALLEGES:

(Plaintiff's Failure to Timely Register Copyrights)

Some or all of Plaintiff's copyright claims, claims for statutory damages, attorney fees and/or other relief are barred, not actionable or subject to dismissal, because some, if not all, of Plaintiff's copyright registrations which form the basis of Plaintiff's copyright infringement claims were not made before or within five years after first publication of the respective works, as required by 17 U.S.C. 410.

AS AND FOR A TWENTY-EIGHTH, SEPARATE AND AFFIRMATIVE DEFENSE

DEFENDANT ALLEGES:

(Illusory, Non-quantified Damages)

Some or all of Plaintiff's claims and prayers are barred, not actionable or subject to dismissal, because Plaintiff's alleged damages, which have not been quantified anywhere in the Complaint, are illusory, unaccounted-for, not actually incurred by the named plaintiff, and not capable of being generated in the future as a result of any alleged act or omission in the Complaint.

AS AND FOR A TWENTY-NINTH, SEPARATE AND AFFIRMATIVE DEFENSE

DEFENDANT ALLEGES:

(Adequate Remedy at Law)

Plaintiff is not entitled to injunctive or declaratory relief because any alleged injury to Plaintiff is not immediate or irreparable, and Plaintiff has an adequate remedy at law available to it through its ongoing lawsuit.

AS AND FOR A THIRTIETH, SEPARATE AND AFFIRMATIVE DEFENSE

DEFENDANT ALLEGES:

(Acquiescence)

At all times and places herein mentioned in the Complaint, and with respect to each and Claim for Relief in said Complaint against this responding defendant, Plaintiff is barred by the doctrine of acquiescence.

AS AND FOR A THIRTY-FIRST, SEPARATE AND AFFIRMATIVE DEFENSE

DEFENDANT ALLEGES:

(Lack of Standing to Sue)

1 At all times and places herein mentioned in the Complaint, and with respect to each and every
2 Claim for Relief in said Complaint against this responding defendant, Plaintiff is barred from any
3
4 recovery because Plaintiff, by its own allegations, lacks the necessary standing to sue defendant LBP and
5 to recover any judgment therefrom.

6 **AS AND FOR A THIRTY-SECOND, SEPARATE AND AFFIRMATIVE DEFENSE**

7 **DEFENDANT ALLEGES:**

8 **(*De Minimus* Copyright Infringement)**

9 At all times and places herein mentioned in the Complaint, and with respect to each and every
10 claim and prayer of said Complaint against this responding defendant, Plaintiff is barred from any
11 recovery because any such alleged infringement of any copyright was *de minimus* and thus non
12 actionable.

13 **AS AND FOR A THIRTY-THIRD, SEPARATE AND AFFIRMATIVE DEFENSE**

14 **DEFENDANT ALLEGES:**

15 **(Licensed Use per Statute)**

16 At all times and places herein mentioned in the Complaint, and with respect to each and every
17 Claim for Relief in said Complaint against this responding defendant, Plaintiff's claims for copyright
18 infringement are statutorily barred, including under the provisions of 17 U.S.C. § 109(a), as Defendant were
19 licensed, and any copies alleged to be infringing were therefore lawfully made and used.

20 **AS AND FOR A THIRTY-FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE**

21 **DEFENDANT ALLEGES:**

22 **(Insufficient Copyright Infringement)**

23 At all times and places herein mentioned in the Complaint, and with respect to each and every
24 Claim for Relief in said Complaint against this responding defendant, Plaintiff's claims fail because
25 Plaintiff lacked sufficient ownership or entitlement to use or retention of the allegedly copyrighted
26 materials to be allowed by statutory or appellate laws to sue thereon.

27 **AS AND FOR A THIRTY-FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE**

28 **DEFENDANT ALLEGES:**

(Failure to Apprise of Copyrighted Works and Wrongful Acts)

At all times and places herein mentioned in the Complaint, and with respect to each and every Claim for Relief in said Complaint against this responding defendant, Plaintiff's claims fail because plaintiff has failed to formally apprise Defendant LBP of which plaintiff inherited any right to use or domain of any photos or texts, which specific photos or texts were purportedly used and permitted for use, unlawfully or improperly, by defendants, and when any such use or permission for use was engaged in by any defendant, such that further affirmative defenses could be set forth, and defenses prepared, depriving defendant LBP of its minimal rights of due process and effective assistance of counsel guaranteed thereto under the Fifth and Fourteenth Amendments to the United States Constitution.

AS AND FOR A THIRTY-SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE

DEFENDANT ALLEGES:

(Statutes of Limitation)

At all times and places herein mentioned in the Complaint, and with respect to each and every Claim for Relief in said Complaint against this responding defendant, Plaintiff's claims are barred because plaintiff filed its initial Complaint after expiration of the limitation periods set forth in the applicable statutes of limitation.

AS AND FOR A THIRTY-SEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE

DEFENDANT ALLEGES:

(Right to Assert Further Affirmative Defenses)

Defendant LBP asserts the right to later raise other affirmative defenses to the allegations of the Complaint or any subsequent iteration of the Plaintiff's allegations herein, as they become ascertained, under Rule 8(c) of the Federal Rules of Civil Procedure.

WHEREFORE, these responding defendants pray that:

1. The Court dismiss the subject Complaint for lack of subject matter jurisdiction, lack of standing to sue, statute of limitations bar, and failure to state a claim upon which relief can be granted;
2. The Court deny plaintiff's claim for injunctive or declaratory relief;
3. Plaintiff recover nothing by its pleading, *i.e.*, the Complaint;
4. The Court declare that plaintiff does not own the copyrights to those works and photos ultimately identified by plaintiff as those upon which the instant lawsuit was filed;

- 1 5. Plaintiff be enjoined from filing other lawsuits based on the same materials and law identified in the
2 instant lawsuit, as against this defendant,
- 3 6. The litigation fees and costs eventually incurred by LBP to defend itself from plaintiff's allegations,
4
5 including reasonable attorney and expert witness fees, be recovered by LBP as against Plaintiff
6 pursuant to 17 U.S.C. section 505, California Code of Civil Procedure section 425.16, and/or any
7 other statutory or appellate law vehicle for recovery of such fees and costs; and
- 8 7. For such other and further relief to defendant LBP as the Court deems just and proper.
9

10 **DEMAND FOR JURY TRIAL**

11 **DEFENDANT LE BOOK PUBLISHING, INC. HEREBY DEMANDS A JURY TRIAL ON**
12 **THIS LAWSUIT.**

13 Dated: January 24, 2014

SOLTMAN, LEVITT, FLAHERTY & WATTLES LLP

14
15
16 By: 

GARTH M. DROZIN

Attorney for Defendant **LE BOOK PUBLISHING, INC.**
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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF VENTURA

3 I am employed in the County of Ventura, State of California. I am over the age of eighteen (18)
4 and not a party to the within action. My business address is 2535 Townsgate Road, Suite 307, Westlake
Village, California 91361.

5 On **January 31, 2014**, I served the foregoing document(s) described as **ANSWER OF**
6 **DEFENDANT LE BOOK PUBLISHING, INC. TO PLAINTIFF'S UNVERIFIED COMPLAINT**
7 **WITH AFFIRMATIVE DEFENSES AND DEMAND FOR JURY TRIAL** on the interested parties
in this action by placing a true and correct copy thereof, enclosed in sealed envelopes, and caused to be
delivered to the addressees, as follows:

8 Peter R. Afrasiabi
9 ONE LLP
4000 MacArthur Blvd.
East Tower, Ste. 500
10 Newport Beach, CA 92660
Telephone: (949) 502-2870
11 Fax: (949) 258-5081

12
13 XX (MAIL)

14 By placing a true copy of the foregoing document(s) in a sealed envelope addressed as set forth
15 above. I placed each such envelope for collection and mailing following ordinary business
16 practices. I am readily familiar with the business' practice for collection and processing of
17 correspondence for mailing. Under that practice, the document(s) would be deposited with the
United States Postal Service on the same day, with first class postage thereon fully prepaid at
Westlake Village, California, in the ordinary course of business. I am aware that on motion of
the party served, service is presumed invalid if postal cancellation date or postage meter date is
more than one day after date of deposit for mailing in affidavit.

18 _____ (CERTIFIED MAIL - RETURN RECEIPT REQUESTED)

19 I placed such envelope(s) with first-class postage thereon, fully prepaid, including the additional
20 postage needed for Certified Mail, Return Receipt Requested, and with the proper United States
Post Office forms for Certified Mail, Return Receipt Requested affixed thereon, in the United
States mail at 2535 Townsgate Road, Suite 307, Westlake Village, California 91361.

21 _____ (NORCO OVERNITE)

22 I placed such envelope(s), with fees fully prepaid for next business day delivery, in a Norco
Overnite box located in Westlake Village, California, that is regularly maintained by Norco
Overnite and has a daily weekday pick-up schedule.

23 _____ (FEDERAL EXPRESS)

24 I placed such envelope(s), with fees fully prepaid for next day delivery, in a Federal Express
25 box located in Westlake Village, California that is regularly maintained by Federal Express
and has a daily pick-up schedule.

26 _____ (U.S. Postal Service - EXPRESS MAIL)

27 I caused such envelope(s) to be delivered, with fees fully prepaid for next business day
28 delivery, to an Express Mail box located at the U.S. Post Office in Thousand Oaks,
California, that is regularly maintained by the U.S. Postal Service and has a daily weekday
pick-up schedule.

PROOF OF SERVICE

1
2 (VIA FACSIMILE)

3 I caused such documents to be faxed from a facsimile transmission machine whose telephone
4 number is (805) 497-1147 to the above-identified recipient and fax telephone number as
5 shown. The above-described transmission was reported as complete without error by a
6 transmission report issued by the facsimile transmission machine upon which the said
7 transmission was made immediately following the transmission. CCP §1010.6.

8
9 (VIA E-MAIL)

10 Based on a court order or an agreement of the parties to accept service by e-mail or electronic
11 transmission, I caused such documents to be e-mailed to each of the aforementioned
12 electronic mail addresses. I did not receive, within a reasonable time after the transmission,
13 any electronic message or other indication that the transmission was unsuccessful. C.C.P.
14 §1010.6.

15
16 (PERSONAL SERVICE)

17 I caused such documents to be personally delivered to the addressee at the referenced address
18 shown above.

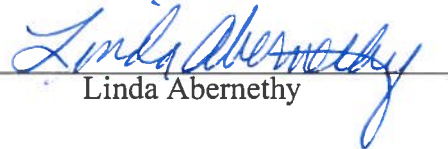
19
20 STATE

21 I declare under penalty of perjury, under the laws of the State of California, that the foregoing
22 is true and correct.

23
24 XX FEDERAL

25 I declare that I am employed in the office of a member of the bar of this court at whose
26 direction the service was made.

27
28 EXECUTED this 31st day of January, 2014, at Westlake Village, California.

29
30 
Linda Abernethy