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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

LENHOFF ENTERPRISES, INC., a California corporation dba LENHOFF & LENHOFF,

Plaintiff,

vs.

UNITED TALENT AGENCY, INC., a California corporation; INTERNATIONAL CREATIVE MANAGEMENT PARTNERS LLC, a Delaware limited liability company; and DOES 1 through 5, inclusive,

Defendants.

Case No. 2:15-cv-1086-BRO (FFMx)

THIRD AMENDED COMPLAINT FOR VIOLATIONS OF THE SHERMAN ACT, UNFAIR COMPETITION LAW, INTENTIONAL INTERFERENCE WITH CONTRACT, AND INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE

DEMAND FOR JURY TRIAL

Plaintiff LENHOFF ENTERPRISES, INC. (hereinafter sometimes referred to as "Plaintiff") hereby alleges as follows:

PARTIES

1. Defendant United Talent Agency, Inc. ("UTA") is, and at all material times was, a corporation existing under the laws of the State of California and licensed to do and doing business in the State of California.

2. Defendant International Creative Management Partners LLC ("ICM") is, and at all material times was, a limited liability company existing under the laws of the State of Delaware and licensed to do and doing business in the State of California.

3. UTA, ICM, and two other large agencies, William Morris/Endeavor ("WME") and Creative Artists Agency ("CAA") constitute the only major talent agencies in the scripted television market and exercise substantial, if not sole, control over the elements necessary for effective competition. Together, these agencies are referred to herein as the 4 "Uber Agencies."

4. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as Does 1 through 5, inclusive, and therefore sues these Defendants by such fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes and thereon alleges that each of the fictitiously named Defendants is responsible in some manner for the occurrences alleged in this complaint, and that Plaintiff's damages as alleged were proximately and legally caused by the Defendants' conduct. At all times material herein, each Defendant was the agent, servant and employee of each of the remaining Defendants, and acting within the purpose, scope and course of said Agency, service and employment, with the express and/or implied knowledge, permission and consent of the remaining Defendants, and each of them, and each of said Defendants ratified and approved the acts of Defendants.

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JURISDICTION AND VENUE

5. This court has subject matter jurisdiction, pursuant to 15 U.S.C. § 2, and Sections 4, 4C, 12, and 16 of the Clayton Act, 15 U.S.C. §§ 15, 15c, 22, and 26. This court has pendent jurisdiction over the California State law claims. Venue is proper pursuant to 28 U.S.C. § 1400(a), because the defendants or their agents reside or may be found within this district and because defendants transact business, including the alleged tortious acts, within this district.

SUMMARY OF THE CASE

6. Defendants UTA and ICM, together with the two other "Uber" talent agencies, have engaged in a conspiracy to monopolize and to restrain trade in the scripted television relevant market, including the scripted television packaging submarket. This restraint/control was accomplished in part by the elimination of Rule 16(g) of the franchise agreement between the Association of Talent Agents ("ATA") and the Screen Actors' Guild ("SAG"), which dramatically altered the business landscape of the entertainment industry by allowing, for the first time, investments from outside investors, private equity hedge funds, and wealthy individuals in exchange for a financial stake in talent agencies. The removal of Rule 16(g), which had been in place since 1939, was possible only through collaboration and agreement between influential representatives from each of the Uber Agencies. These heavy hitters agreed behind the closed doors of the Association of Talent Agents ("ATA") Board of Directors and/or Strategy Planning Committee meetings to induce the removal of the funding prohibitions in Rule 16(g). Once they succeeded in suspending Rule 16(g), the largest agencies received a massive influx of money from private investors—a whopping $6.5 billion—after which they continued their successful campaign by boycotting non-Uber (smaller talent agencies), the effect of which, particularly cumulatively, has been to foreclose competition, to achieve a monopoly, and to protect Defendant/Uber agencies against competition. As a result of this collusive conduct, the 4 Uber Agencies now control

1 over 94% of the scripted series packaging market and can and do effectively refuse
2 to deal with non-Uber Agencies by refusing to work with or split fees with them. At
3 the same time, these Uber Agencies have continued to work intensively and almost
4 exclusively with each other by using their collective pools of well-known talent to
5 mutually staff or "package" scripted television series. These "packages" result in
6 horizontal integration between the Uber Agencies, who, by virtue of the packages,
7 essentially own overlapping "stock" in each other's packaging products. This, in
8 combination with the billions of dollars in private equity capital, has allowed the
9 Uber Agencies to stockpile and poach in-demand writing, acting, producing and
10 directing talent to the detriment of the smaller agencies. Ultimately, the Uber
11 Agencies' collusive and multifaceted scheme has resulted in and induced a group
12 boycott of all smaller non-Uber agencies, like Plaintiff, and has resulted in their
13 exclusion from the scripted series packaging market, a loss of diversity in market for
14 scripted television series and a loss of choice in available representation for talent.

15 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

16 **A. Background - Lenhoff & Lenhoff**

17 7. Lenhoff & Lenhoff ("Plaintiff") is a talent agency that was established
18 in 1997. Plaintiff is franchised with the Screen Actors Guild, Writers Guild of
19 America, and the Directors Guild of America. Plaintiff's principals have been
20 representing talent since 1988.

21 8. Plaintiff represents writers, directors, producers and cinematographers.
22 In addition to this representation, Charles Lenhoff has been active within the ATA
23 and vocal about the merits of adopting a Code of Ethics by ATA franchise members
24 and the adverse effect of "poaching" on talent agents and, particularly, the talent
25 they represent.

26 9. Plaintiff is a boutique agency consisting of two agents, with a roster of
27 clients that it has cultivated and nurtured over the years. All of Plaintiff's clients are
28 represented by Plaintiff on an exclusive basis.

10. In 2008, Plaintiff successfully packaged a TV project entitled "The Circuit" which was exhibited on the ABC Family Channel. Accordingly, it is and has been engaged in the scripted TV packaging market.

B. Background - UTA and ICM

11. Defendant UTA is a large talent agency, ranked behind only CAA and WME. On information and belief, UTA employs two hundred (200) agents and services 3,000 plus clients. Plaintiff is informed and believes that UTA is controlled by over thirty partners.

12. Defendant ICM is also a large talent agency. Plaintiff is informed and believes that Defendant ICM was renamed "ICM Partners" sometime in 2012. On information and belief, ICM employs two hundred plus (200+) agents and is controlled by forty (40) partners. On information and belief, ICM services 4,500 plus clients.

13. The Uber Agencies have been growing and consolidating in power and size in recent years. For example, in 2005 or 2006, ICM purchased Broder/Kurland/Webb/Uffner. In 2009, William Morris Agency and Endeavor merged. Since 2002, there has also been a consolidation of media power and agency representation whereby the Uber Agencies, who are the brokers of scripted series packaging, are packaging/selling scripted series only to a handful of buyers. Based on clients and staff, the Uber Agencies have more than tripled in size in recent years.

C. Background - Industry

14. "Packaging" is the process by which talent agencies initiate new projects for their clients, as opposed to simply securing work for their clients on projects that are already in the development pipeline. Bigger talent agencies are uniquely and advantageously situated to participate in packaging because of their large, exclusive, and in-demand talent rosters. As a result, the Uber Agencies are able to package together top acting, writing, producing and directing talent for a

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given project and have more influence and ability to develop new series for broadcast and cable networks. In this process, talent agencies act as the suppliers of TV programming and/or packages to the studios, and the studios then act as the buyers and distributors. Thus, the Uber Agencies are the gatekeepers in the television development/production process.

15. According to the Writers Guild of America ("WGA"), the fee, commission, or compensation that may be earned by an artist's manager/agent of a television program or series is termed a "package commission." When package representation agreements are entered into, the WGA Basic Agreement calls for annual franchise fees (referred to as "Negotiator's Fees") to be deposited into a "Negotiator's Fund" established by the WGA and ATA.

16. Historically, there has been a dearth of gender, racial and ethnic diversity in film and television both in front of and behind the camera. As a result, minorities are underrepresented by a factor of 7 to 1 among lead roles in scripted series, minority show creators in scripted television are underrepresented by factor of 9 to 1, and minority writing staffs on scripted series are 10% or less.

17. With the elimination of smaller agencies due to unfair competition, an increasing number of writers, actors, directors, etc., especially in the diversity category, are finding it more difficult to obtain adequate representation. Specifically, although there are presently 611 licensed talent agencies, Plaintiff is informed and believes that approximately thirty-nine (39) of the fifty-three (53)[1] agencies which serve the defined relevant market have either been consolidated (bought/sold/or merged) into a larger talent management entity or have simply disappeared. This is a seventy-one percent (71%) reduction in agencies serving the relevant market. As a result, many talented individuals within the State of

[1] The Second Amended Complaint alleged a 55 agency market. Recent information published by the FX Network and other sources states that market has decreased by 2 agencies.

1 California, and elsewhere, are either not working or they find their work is being
2 stifled where they are not the "marquee" element driving the package. In fact, since
3 2002, the Uber Agency packaging monopoly has risen by twenty (20) points to a
4 dominating 94% of the market, while diversity packaging has only risen by 2.3
5 percentage points. Ultimately, the consumer suffers because of the lack of diversity
6 and creativity.

7 18. The Uber Agencies possess complete control of the talent and can
8 therefore make demands to the studios, networks and producers as to their own fees.
9 The studio, network or producer must acquiesce to have access to the talent.
10 Similarly, if artists want their idea to get financed, produced, or distributed, they
11 must agree to the agency receiving a packaging fee or the agency packaging team
12 will not put the package out to market for the studios and networks to buy. On or
13 about May 5, 2014, Tom Rothman, Chairman of Sony Pictures stated in an e-mail,
14 "They [Uber Agencies] are demanding and getting fees now on these from the
15 financiers (they call it a "packaging fee") and are keeping as many emerging high
16 end filmmaker projects off the market until they have full control." (Emphasis
17 added.)

18 **D. 2002 Expiration of the SAG Franchise Agreement with**
19 **the Association of Talent Agents ("Rule 16(g)")**

20 19. SAG's Agency Financial Interests Regulations (a/k/a "Rule 16(g)")
21 were originally created in 1939.

22 20. Rule 16(g) was part of the franchise agreement between SAG and the
23 Association of Talent Agents ("ATA") until 2002, as more fully set forth below.

24 21. The ATA is a non-profit trade association comprised of approximately
25 101 of the 611 California state licensed talent agencies, including Defendants UTA
26 and ICM, as well as WME and CAA. On information and belief, Plaintiff alleges
27 that the 4 "Uber Agencies" exercise effective control over the ATA Board of
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Directors ("ATA Board"), and these 4 Agencies substantially cover the overhead costs of the ATA.

22. ATA's Strategic Planning Committee has at all relevant times consisted of representatives from the largest agencies, including UTA's Jim Berkus, ICM's Jeff Berg, CAA's Bryan Lourd, William Morris' Walt Zifkin, Endeavor's Rick Rosen, and Boder/Kurland/Webb/Uffner's Bob Broder. The Strategic Planning Committee was formed in 1999 with the objective of removing the prohibitions on outside investments and funding for Uber Agencies that were embodied in Rule 16(g).

23. Berkus, Berg, Lourd, Zifkin, Rosen, and Broder had ample opportunity to form, design and implement their collusive plan to eliminate Rule 16(g). They engaged in in-person meetings at the ATA offices in West Hollywood, California or conference calls and e-mail communications on at least the following dates:

- February 18, 1999
- March 10, 1999
- August 12, 1999
- December 2, 1999
- December 8, 1999
- December 11, 1999
- January 12 & 20, 2000
- February 2000
- April 20, 2000
- August 20, 2000
- September 6 & 7, 2000
- October 10, 2000
- October 20, 2000
- November 2, 2000
- November 7, 2000
- November 8, 2000
- Monthly meetings between November 2000 and January 15, 2002
- January 16, 2002
- February 22, 2002
- April 3, 2002

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- April 19, 20002
- April 25, 2002
- April 26, 2002
- April 29, 2002
- May 10, 2002
- May 14, 2002
- October 12, 2002
- October 15, 2002
- November 20, 2002
- December 3, 2002
- December 10, 2002
- January 6, 2002
- January 7, 2003
- January 14, 2003
- February 8, 2003
- February 11, 2003
- Monthly meetings between February and July 2003
- September 22, 2004
- October 19, 2004
- October 29, 2004

24. Prior to April 2000, Rule 16(g) clearly prohibited an agency from possessing any financial interest in a production or distribution company and vice versa. The 1991 SAG/ATA Basic Contract, Section XVI ("Agents To Be Independent"), provided, in pertinent part: "A. Other than as herein permitted, no person, firm or corporation engaged or employed in the production or distribution of motion pictures or owning any interest in any company so producing or distributing, shall own any interest in an agent, directly or -indirectly, nor shall any such person, firm or corporation own or control any indebtedness of the agent or of any of its owners, nor shall any such person, firm or corporation share in the profits of the agent."

25. Beginning in in the late 1990's and continuing to 2002, the objective of ATA's Strategic Planning Committee was to force the termination of Rule 16(g). Unbeknownst to the other members of the ATA during the negotiations with SAG,

1 the largest agencies existing at that time, including Defendants UTA and ICM,
2 conspired and agreed amongst themselves that it was in their best interests to
3 proceed without Rule l 6(g). The expiration, they realized, would generate a
4 financial windfall to the Uber Agencies allowing them to enjoy unfettered, vertical
5 integration of their businesses, more concentration of economic power, and more
6 control over production and distribution. The strategy of allowing Rule 16(g) expire
7 was explicitly raised by the ATA Board to its general membership at a meeting on
8 December 10, 2002.

9 26. During this time, the ATA Board made patently false or misleading
10 representations to its smaller members that the removal of Rule 16(g) was to create
11 "new strategic alliances" with small, independent agencies, create "more
12 opportunities" and benefit *every* talent agency, large or small.

13 27. Contrary to their representations, the true intentions of the ATA Board,
14 the Strategic Planning Committee, and Defendants UTA and ICM, was to destroy
15 competition and to build a cartel of Uber Agencies by removing the prohibition of
16 outside funding and investments in Rule 16(g). Plaintiff is informed and believes
17 that the members of ATA's Strategic Planning Committee were interested in
18 changing the business model of their agencies (the Uber Agencies) from a "service
19 based" business to an "asset based" receivables business in which the packages, of
20 which the 4 Uber Agencies presently control over 94% of the market, could be
21 factored and leveraged. Plaintiff is informed and believes that the members of the
22 Strategic Planning Committee—Berkus, Berg, Lourd, Zifkin, Rosen, and Broder—
23 shared a prophetic vision that involved vast sums of capital that would be available
24 to them and the Uber Agencies, through their packages, once the SAG Franchise
25 Agreement imploded.

26 28. As a result of the conspiracy, between February 18, 1999, and April 20,
27 2000, the ATA opened up negotiations with SAG, demanding loosening of the
28 "financial interest restrictions," i.e., the right to invest in, or be invested in, by

1 outside/offshore investors, private equity hedge funds, ad agencies, advertisers and
2 independent producers, etc.
3 29. SAG opposed the ATA's demand, viewing the financial interest to be
4 self-dealing, self-serving, and a conflict of interest (contrary to the agent's
5 uncompromised fiduciary duties).
6 30. Despite opposition from SAG, on or about April 20, 2000, ATA
7 membership voted to serve the required six-month notice on SAG requesting to
8 renegotiate the franchise agreement, specifically stressing the critical issue of
9 financial interest restrictions of Rule 16(g).
10 31. On or about May 3, 2001, ATA made an inflammatory threat at the
11 behest of the larger agencies, claiming that "about 20% of SAG's 98,000 members
12 are represented by franchised agents. Unless meaningful amendments are made in
13 the financial interest and commission prohibitions, the actor/agent ratio will further
14 decline as agents abandon the agency business to better compete for their clients
15 outside the guilds' jurisdiction."
16 32. In February 2002, SAG, under new President Melissa Gilbert's
17 leadership, and the ATA made a deal to loosen—but not remove— the restrictions
18 under Rule 16(g), allowing agents to take up to a 20% stake in production and
19 distribution companies, and advertising firms and independent (non-studio)
20 producers to take up to 10% and 20% stakes, respectively, in talent agencies.
21 33. On April 20, 2002, the provisional agreement was submitted to SAG's
22 members for approval. However, the internal fighting, under former SAG President
23 William Daniels and anti-agent SAG Treasurer Kent McCord, divided the
24 membership and the deal to alter Rule 16(g) was voted down.
25 34. By this time the required six-month notice from ATA to SAG to
26 renegotiate had expired and all past proposals were off the table. Therefore, on
27 April 21, 2002, the SAG National Board unanimously voted to temporarily suspend
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1 enforcement of Rule 16(a), so that its members are not subjected to disciplinary
2 proceedings, in light of the expiration of Rule 16(g).

3 35. On April 25, 2002, SAG posted on its website a memo to all SAG
4 Agents that "ATA and NATR have terminated the Basic Contract between them and
5 the Screen Actors Guild. Independent talent agencies continue to be regulated by
6 SAG franchise agreements. With respect to ATA/NATR agents, SAG shall
7 maintain the status quo."

8 36. On October 12, 2002, SAG passed a resolution stating the Guild should
9 attempt to reopen negotiations with ATA because of SAG members' opposition to
10 changes in financial interest rules. A brief period of discussion between SAG and
11 the ATA about possible negotiations followed but nothing came to fruition.

12 37. The ATA, led by the Strategic Planning Committee, knew it was
13 unlikely that SAG members would vote to let agencies have ownership in
14 production companies, but, if it did, it benefitted the ATA. The ATA Strategic
15 Planning Committee also knew that the dysfunctional leadership of SAG would not
16 be able to force the ATA back to the negotiating table and, indeed, the ATA actually
17 did refuse. Either way, the ATA would win: either SAG would agree on its own, or
18 SAG's dysfunctional leadership would lead to an inability to reach an agreement,
19 meaning there would no longer be restrictions for agencies to own production
20 companies or be barred from any other venture that previously had been a conflict of
21 interest.

22 38. Once Rule 16(g) was suspended, there was an enormous influx of
23 outside funding (primarily, private equity) that flooded into the Uber Agencies.
24 This funding was made possible only by the expiration of Rule 16(g). Plaintiff is
25 informed and believes that, since 2002, the amount of money that the largest talent
26 agencies have received from private equity sources, in return for a stake in those
27 agencies, is over $\$$<u>6.5</u> <u>billion</u>.
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1 39. This huge influx of money has allowed the 4 Uber Agencies to, among
2 other things, consolidate their power over and restrict competition in the television
3 market, as more fully set forth herein.
4 40. The Strategic Planning Committee disbanded in 2004, shortly after it
5 had achieved its objective of eliminating Rule 16(g). Within months of the removal
6 of Rule 16(g), Berg, Zifkin and Broder had consolidated their companies and were
7 in the process of personally cashing out of the business.
8 **E. The Relevant Market and Oligopoly**
9 41. The "scripted series market" is considered those TV series produced by
10 employers who are members of the Alliance of Motion Picture and Television
11 Producers ("AMPTP"), such as Sony, Fox, NBC-Universal, CBS, ABC, Warner
12 Brothers, Lionsgate, etc., and the talent (actors, writers, directors and producers),
13 employed on those series who are members of recognized unions (like the Screen
14 Actor Guild, the Writer Guild of America, the Director Guild of America and the
15 International Alliance of Theatrical Stage Employees). The Scripted Series Market
16 does not include unscripted programming like sports, news, reality shows like "The
17 Voice," nor game shows like "Jeopardy."
18 42. "Scripted series packaging" is a submarket of the scripted series
19 market. Tying two or more talent elements together forms a packaged product tying
20 agreement. For example, Uber Agency UTA coercing AMC Network to renew their
21 extremely low rated series "Halt And Catch Fire" in order to get a different and
22 higher rated series, "Better Call Saul," or ICM cajoling ABC to renew the ratings
23 challenged "Private Practice" series in order to keep their package of "Grey's
24 Anatomy" going, and CAA coaxing Fox into renewing the hit "American Horror
25 Story" on the condition they reorder the fatally infirmed and likely to be cancelled
26 "Scream Queens."
27 43. Since 2002, Defendants UTA and ICM have engaged and continue to
28 engage in exclusive co-packaging contracts with the other two Uber Agencies

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1 (WME and CAA), which defeats and lessens competition, encourages oligopoly
2 behavior, horizontal price fixing, and restrains trade in the scripted series
3 marketplace. Because "packaging" has become the dominant mode of producing
4 and selling TV scripts and series, talent must be represented by agencies having
5 access to the packaging market. By reason of Defendants' boycott, the smaller
6 agencies have and are being denied such access.
7 44. In 2001/2002, 157 scripted series were packaged by 15 agencies that
8 controlled 96% of the scripted series packaging market.
9 45. By 2014/2015, the 4 Uber Agencies controlled over 94% of the scripted
10 series packaging market[2] and effectively refused to deal with non-Uber Agencies
11 except in exceptional cases. This is detailed by **Exhibit A** attached hereto, which
12 shows of 353 packaged scripted series in the 2014/2015 market, only 2 of 53
13 agencies serving the packaging market were able to co-package with any one of the
14 4 Uber Agencies, while the 51 other smaller agencies were excluded from the co-
15 packaging market entirely. By contrast, out of the 353 packaged scripted series in
16 the 2014/2015 market, 85 were co-packaged together by and among Uber Agencies.
17 This is detailed in **Exhibit B** attached hereto. Given the substantial amount of talent
18 represented by non-Uber agencies, these numbers defy coincidence and could not
19 have occurred but for an agreement between and among the Uber Agencies.
20 46. In addition to a group boycott of non-Uber Agencies, the Uber
21 Agencies also have an agreement to not split packaging fees with non-Uber
22 Agencies. As a result, the scripted series packaging market is dominated by the 4
23 Uber Agencies (including Defendants), who, in essence, own "stock" in each other's
24 packaging assets. By virtue of the this agreement and practice, the 4 Uber Agencies
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26 [2] The Second Amended Complaint alleged a 93% market share for the Uber
27 Agencies in the scripted series packaging market. Recent information published by
the FX Network and other sources states that the Uber Agencies' market share has
28 increased by 1.2% to approximately 94% in this market.

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have formed a "cartel" that controls the market and all other smaller agencies face an extremely high, if not impossible, barriers to compete while new market entrants are essentially shut out.

47. In October 2014, principals from each of the Uber Agencies gave a joint interview to the Hollywood Reporter. These principals included Matt Rice (UTA), Ted Chervin (ICM), Ari Greenburg (WME), and Adam Berkowitz (CAA). In the interview, they revealed that they had each worked closely with each other or other high level executives at the competing Uber Agencies. Indicative of the Uber Agencies' one-for-and-all-and-all-for-one spirit, UTA's Matt Rice stated, "We'll create a new monetary system. We'll hunker down and come up with a system of mathematics, in which the four of us [UTA, ICM, WME and CAA] will judge what everything's worth."[3]

48. Another one of the ways the Uber Agencies implement the exclusion of non-Uber Agencies is to deny smaller agencies the ability to attend agency screenings <u>even if</u> the smaller agency represents talent in the relevant show/series being screened. On or about September 14, 2014, Plaintiff offered to a client, Client #1, to host a reception for the cast and crew prior to the show's October 2, 2014 premier broadcast on NBC. Plaintiff represented Client #1, had a valid contract with her, and had procured her involvement in the show. Client #1 nonetheless declined the offer, stating that UTA, which packaged the show, would be having their own VIP screening a week before the airdate at their offices and that she would be attending. As detailed more fully herein, UTA then poached Client #1 from Plaintiff at this screening. Studios and networks allow such private VIP screenings only for the Uber Agencies.

49. Because of the cartel formed by the Uber Agencies, competition between Licensed Talent Agencies for the representation of diversified talent and

[3] The entire unedited video interview can be viewed at: http://www.hollywoodreporter.com/news/tv-agents-smackdown-four-top-739321

1 shows has been significantly and artificially restrained. Despite being the
2 gatekeepers in the television development process, the Uber Agencies have not
3 produced scripted series packages that promote significant advances in television
4 diversity, and indeed, representation of minorities in between the 2001-2002 and
5 2014-2015 television seasons has fallen even further. This dismal record with
6 respect to diversity can be attributed to the Uber Agencies shifting their focus from
7 representing the artist/person to "the package," in part to further their co-packaging
8 agreements and fee splitting with each other and to further the exclusion of non-
9 Uber Agencies from the market. Consequently, today's scripted series staffing,
10 production, and end-user programming fundamentally deprives the consumer
11 freedom of choice of a truly balanced and diversified scripted series market that is
12 representative of society and reflects today's demographic realities. Even though
13 there was a nearly 300% increase in the amount of scripted series produced between
14 2001/2002 and 2014/2015, there has been a continued, and perhaps even
15 exacerbated, lack of diversity in these offerings. The reduction of diversity talent
16 and packages in television "output" is quantifiable in the market, and will only self-
17 equalize with a healthy and competitive market. Accordingly, there has been a
18 reduction in the choice, quality, selection and output of packaged scripted series.
19 50. The Uber Agencies' domination of the market would not be possible
20 without the ability to package, and co-package, groups of major talent or star
21 components of a television program or series. Moreover, the monopolization of the
22 television market has been made possible by Defendants' choreographed "planned
23 implosion" of Rule 16(g) and the substantial financial investment opportunities that
24 Defendants UTA and ICM received thereafter.
25 **F. Predatory Practices: Poaching and Pricing**
26 51. Defendants UTA and ICM have also been engaged in a willful and
27 wanton policy and practice of poaching top-tiered clients of smaller agencies
28 earmarked as "low hanging fruit" under the guise of the "right to compete" in order

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to stockpile talent for packaging. The Uber Agencies poach clients from smaller agencies as a means of avoiding the need to co-package or split fees with a smaller agency.

52. UTA and ICM regularly make misleading representations to prospective clients who are already under contract with smaller agencies in order to poach or induce them to leave the smaller agencies. These misrepresentations often include that UTA and ICM are in the "process of packaging a TV series" or are representing an "executive producer/show runner." In the business, this is generally "code" for "we can offer you work, and you will be part of a package and will not have to pay the 10% commission you are paying your current agency."

53. Despite their statements, UTA and ICM still receive a packaging fee or commission to the detriment of the client/talent. The packaging Uber Agency receives a guaranteed fee of three percent (3%) of the budget—which is often already more than the talent receives—in addition to a three percent (3%) deferred fee and a ten percent (10%) gross profit participation *before* the talent's net profit participation. Because the agency is first in line on the back end of a deal, the talent's profit participation is dramatically reduced by the very party (the packaging Uber Agency) who purportedly represents them. Meredith Stiehm, creator of the hit show *Cold Case,* once commented that "it wasn't until year seven of my show when I was tasked with slashing the budget that I finally noticed that my agency was making $75,000 per episode – more than I was . . . When I suggested to the studio that we slash that episodic expense [the agency packaging fee] they wouldn't hear of it. Again I was stunned, and confused. I have since come to understand how the studios and agencies collude to keep packaging as a norm, securing money for them that belongs in our pockets."

54. The smaller agencies, who charge a ten percent (10%) commission are undercut by the largest/Uber Agencies, including UTA and ICM, who can offer to

1 charge prospective clients zero. The Uber Agencies have been able to poach the
2 vast majority of top-tiered talent by engaging in this predatory pricing scheme.
3 55. As previously alleged, the Uber Agencies have an agreement with each
4 other to not split packaging fees with non-Uber Agencies. Because scripted series
5 packaging is dominated by the cartel of Uber Agencies, which controls more than
6 94% of the packaging market, the statements and inducements made by the Uber
7 Agencies to talent concerning waiving their commissions is also part of their
8 strategy intended to drive smaller competitors out of the market and to create
9 barriers to entry for potential new competitors.
10 56. The Uber Agencies also earn packaging fees in perpetuity, regardless of
11 whether they continue to represent the client driving the package. Meanwhile, the
12 smaller agencies are capped at a ten percent (10%) commission of fees received
13 from procuring employment for the client and/or they are restricted by California's
14 "7 Year Rule," pursuant to California Labor Code Section 2855.
15 **G. Anticompetitive Conduct and Effects**
16 57. A talent agency cannot effectively compete or service without fair
17 competitive access to talent.
18 58. Packaging agreements or understandings (expressed or implied) allow
19 the dominant Uber Agencies to use their market power to sign and stockpile talent,
20 despite the fact that such talent representation agreements are not in the independent
21 economic best interest of the talent coerced or induced to grant such rights.
22 59. These packaging agreements therefore function as devices for stifling
23 competition and for diverting the best talent to the Uber Agencies.
24 60. By virtue of, inter alia, their high market share and packaging power,
25 the Uber Agencies, including Defendants UTA and ICM, have oligopolistic market
26 power in the scripted series product packaging market, as demonstrated by their
27 94% plus market share of scripted series packaging, coupled with their actual
28 exclusion of competition and control over production, and the high barriers to entry

1 into the marketplace. The Uber Agencies' market power is further evidenced by
2 their ability to poach or force talent to exclude other agencies from the market.
3 61. UTA and ICM's poaching activities essentially have the effect of
4 denying, at least in part, the revenue Plaintiff needs to stay in business. Defendants
5 UTA and ICM's poaching activities also have the effect of lowering the overall
6 quality of agency representation by forcing talent to be represented by a packaging
7 agency or else not at all. Before 2001/2002, small agencies were able to compete
8 with the Uber Agencies because they promised greater individual attention to their
9 clients or had more specialized areas of expertise. This ability to meaningfully
10 compete in an open market and on a level playing field changed with the elimination
11 of Rule 16(g) and the huge amount of money that poured into the Uber Agencies
12 thereafter.
13 62. The Uber Agencies represent the world's largest pool of talent. The
14 Uber Agencies have used their worldwide and national market and oligopoly power
15 in a substantial number of non-competitive manners to coerce Hollywood networks,
16 studios, and other production companies to deny their competitors, like Plaintiff, fair
17 and competitive access to talent, with the intent of driving their competitors out of
18 business, preventing their competitors from earning the revenues needed for
19 expansion, and foreclosing competition.
20 63. UTA and ICM have used their power to coerce studio employers to
21 buy their packages and to employ their talent, or else not have access to top-tier
22 talent later. This denies Plaintiff and non-Uber Agencies the opportunity to compete
23 fairly and on the merits for talent.
24 64. Plaintiff offers the same, or higher, quality individual agency
25 representation experience per commission dollar paid as UTA or ICM do.
26 Therefore, for every artist of which Plaintiff is deprived—not on the merits but as a
27 result of UTA and ICM's leveraging its oligopolistic power to strong-arm studios,
28 production companies, and their own clients into not hiring Plaintiffs' clients—

talent and buyers are left with only the choice between Uber Agencies. The Uber Agencies cajole the studios into spending all of the studios' allocated budged for development on the Uber Agencies' packages and talent, leaving very little, if anything, available for non-Uber Agencies.

65. UTA and ICM' s conduct has no pro-competitive benefit or justification. The anticompetitive effects of their behavior outweigh any purported pro-competitive justifications. Talent has been deprived of the freedom to choose where to be represented for fear of not being validated by their peers and the buyers, or not being considered packageable. The public has been deprived of the freedom to choose what will be seen and has been forced to consume only what is packaged. Consumers of TV programming have also been adversely impacted by a lack of diversity in talent and TV programming, as well as a declining overall quality of TV packaging.

66. UTA's and ICM' s disregard for other agencies' client contracts is an abuse of power and anticompetitive scheme that has had a direct and adverse effect on competition and, at a minimum, has a dangerously high probability of success.

67. Over the years and continuing today, the Uber Agencies, including Defendants UTA and ICM, have engaged in a course of conduct that amounts to exclusive dealing in violation of the Sherman Act by engaging in exclusive co-packing and fee splitting agreements between and among the Uber Agencies only and inducing a boycott of all other non-Uber agencies in this regard.

68. In addition to exclusive co-packaging agreements amongst the Uber Agencies, the Uber Agencies have exerted pressure on buyers (studios/networks/producers) not to deal with smaller or non-Uber agencies and the talent they represent, despite the fact that such decision means that the buyer has opted to pay a higher price for talent by agreeing to pay a packaging fee, as more fully set forth herein.

69. Other packaged productions from smaller or non-Uber agencies cannot easily be substituted for the Uber Agencies' packaged products since the Uber Agencies poach, contract and stockpile the majority of top-tiered and in-demand talent.

70. UTA and ICM's poaching, packaging and oligopoly campaign has injured, and will continue to injure, Plaintiff, talent, consumers and public unless enjoined.

H. Interstate Commerce

71. Defendants' conduct substantially affects interstate commerce throughout the United States and has caused and continues to cause antitrust injury throughout the United States.

I. Statute Of Limitations/Conspiracy: Continuing Violation

72. Defendants' conspiracy, combination, and/or agreement, has been a continuing and ongoing violation of the Sherman Act that continues to cause injury to the present day and from which no Defendant has withdrawn. Because there are only four (4) major sellers in such a large and lucrative industry, the Uber Agencies are able to dictate prices, bids, buyers and territories and have conspired to induce a boycott of non-Uber agencies in terms of co-packaging, fee splitting and talent. Injury is suffered each time an Uber Agency, including Defendants UTA and ICM, poaches talent, interferes in a contractual relationship between talent and another agency, boycotts non-Uber agencies from packages or screenings, or refuses to split fees with a non-Uber agency.

<u>FIRST CAUSE OF ACTION</u>

(For Violations Under Section 1 of the Sherman Act)

73. Plaintiff hereby adopts, incorporates, and reiterates all the preceding allegations of this complaint.

1 74. Defendants UTA and ICM have agreed and conspired with WME and
2 CAA to form a "cartel" or oligopoly and restrain competition in the relevant market,
3 as more fully set forth herein.
4 75. The conspiracy was hatched by the ATA's Strategic Planning
5 Committee consisting of UTA's Jim Berkus, ICM's Jeff Berg, CAA's Bryan Lourd,
6 William Morris' Walt Zifkin, Endeavor's Rick Rosen, and
7 Boder/Kurland/Webb/Uffner's Bob Broder. The Strategic Planning Committee was
8 formed in 1998 with the specific goal and intent of eliminating the prohibitions on
9 outside investments and funding for Uber Agencies embodied in Rule 16(g), and
10 was disbanded after it had achieved its objectives. With new capital flowing into
11 the Uber Agencies from the removal of Rule 16(g), the Uber Agencies, including
12 Defendants UTA and ICM, engaged in a continued conspiracy to bolster their
13 dominant market positions by co-packaging almost exclusively with and among
14 only each other (the Uber Agencies), by inducing a boycott of non-Uber agencies by
15 talent and studios, by poaching talent from non-Uber agencies, by engaging in
16 predatory pricing, and by refusing to split co-packaging fees with non-Uber
17 agencies. Because the Uber Agencies control the majority of the in-demand talent
18 and packaging, they have successfully pressured or intimidated studios, networks
19 and producers not to deal with smaller or non-Uber agencies and the talent they
20 represent. Instead of risking losing future access to the talent controlled by the Uber
21 Agencies, these studios, networks and producers agree to pay a higher price for
22 talent by agreeing to pay a packaging fee to the Uber Agencies.
23 76. Defendants UTA and ICM have agreed and conspired with the intent to
24 form an oligopoly for the unlawful purpose of allocating amongst themselves the
25 scripted TV relevant market and, particularly, the scripted TV packaging submarket,
26 and with the specific, unlawful intent to exclude and deny entry to non-Uber talent
27 agencies (including Plaintiff) into the scripted TV market and the scripted TV
28 packaging submarket. Plaintiff is informed and believes that this boycott is

supported by: i) agreements between UTA and ICM to restrict co-packaging scripted deals to each other and/or with WME and CAA, but to the exclusion of non-Uber agencies; and by (ii) the use of veiled threats by UTA and ICM (together with WME and CAA) against studios, networks and producers not to deal with non-Uber talent agents in the scripted TV market or else face the loss of future packages and, therefore, the loss of TV programming.

77. Gavin Polone, seven-time Emmy nominee and executive producer of *Curb Your Enthusiasm,* recently reported his experience with packaging fees in the Hollywood Reporter after selling a project. He pitched the project idea to several network executives, telling them that he wanted to work with a specific writer. The network executives liked the idea, as well as the writer, and eventually the show was bought, after which the agency asked for a packaging fee. He refused, saying he "would not go along with them getting a fee because they had nothing to do with the show." The writer then had the same experience with his agent and his lawyer—both of whom refused to close the deal unless the agency got a fee. The network ultimately told Mr. Polone that it would rather pay the fee, even if it was millions of dollars, instead of jeopardizing its relationship with a major agency. Mr. Polone concludes: "100 percent of the broadcast network scripted TV shows generate package fees for the talent agencies. And I promise you, the only reason those fees are paid is out of fear that the agency will kill a deal if its agents don't get to wet their beaks, rather than because they did any extra work or 'packaging.'"[4]

78. Defendants' conduct has caused injury to competition in at least two respects: i) the cartel or oligopoly, of which Defendants UTA and ICM are members, allocates the scripted TV market amongst only the Uber Agencies by their horizontal and tying agreements, including but not limited to co-packaging

[4] The full text of this article is available at:
http://www.hollywoodreporter.com/news/gavin-polone-tvs-dirty-secret-783941

agreements that are exclusive to the cartel, to set the price or the packaging fee paid by the studios, producers or networks who purchase the packages; and ii) UTA and ICM have acted and continue to act, in concert with WME and CAA, to exclude non-Uber talent agencies from either participating in co-packaging and/or from dealing directly with buyers, thereby eliminating price competition from non-Uber agencies. The buyers' refusal to deal with non-Uber agencies and pay less for talent (by not paying a packaging fee) is not based on reasonable, independent business judgment. Rather, the inflated price paid by buyers in the form of the packaging fee, as well as the refusal to deal with non-Uber agencies, is motivated by the fear that TV packages/product and/or talent will be later withheld by the Uber Agencies.

79. As set forth more fully herein, the oligopoly formed by Defendants UTA and ICM, together with WME and CAA, harms both choice and selection because the talent represented by non-Uber agencies have limited access to the market and reduced choice in representation. Consumers of TV programming have also been adversely impacted by a lack of diversity in talent and TV programming, as well as a declining quality in TV packaging because of the increased fee for each TV episode paid to the packaging Uber Agency, which reduces the money available for production quality and talent.

80. By such acts, practices, and conduct, UTA and ICM, along with CAA and WME, have directly insulated themselves from competition with Plaintiff for talent, and have thereby restrained competition and have forcefully maintained and/or expanded their oligopoly power in the scripted series marketplace to a dominating 94%. Plaintiff, talent and consumers have been harmed as a direct and proximate cause of Defendants' anticompetitive combination or conspiracy to restrain competition in the market for scripted TV series in an amount according to proof. Specifically, Plaintiff's harm has and continues to flow from Defendants' anticompetitive practices, including but not limited to talent poaching, inducing a boycott of non-Uber Agencies by talent and studios or production companies, and

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1 the maintenance of exclusive co-packaging and fee splitting arrangements among
2 and between Uber Agencies.
3 81. The oligopoly formed by the Uber Agencies cannot exist without
4 packageable elements such as talent. Thus, relationship with and acquisition of top-
5 tiered talent that can either "drive" a package or form a package is the lifeblood of
6 the scripted TV series market and essential to competition. As a result, Defendants'
7 coordinated and focused anticompetitive conduct has cumulatively, incrementally,
8 and unreasonably restricted competition and devastated Plaintiff's business.
9 Plaintiff has been deprived of revenues and profits it would have otherwise made,
10 suffered diminished market growth and sustained a loss of goodwill and going
11 concern value. The loss of Plaintiff's clients is the direct result of the appetites of
12 Defendants UTA and ICM and their unlawful conspiracy to control the relevant
13 market and exclude non-Uber Agencies. Plaintiff has not yet calculated the precise
14 extent of its past damages and cannot now estimate with precision the future
15 damages that continue to accrue, but will seek leave of the Court to insert the
16 amount of the damages sustained herein when they become ascertainable.
17 **SECOND CAUSE OF ACTION**
18 **(For Unlawful/Unfair Business Practices)**
19 82. Plaintiff hereby adopts, incorporates, and reiterates all the preceding
20 allegations of this complaint.
21 83. Defendants entered into and engaged in an unlawful trust in restraint of
22 the trade and commerce prohibited by and contrary to the public policy of California
23 under California Business and Professions Code section 16720 *et seq*.
24 84. During all relevant periods, Plaintiff and Defendants conducted a
25 substantial volume of business in California. California is Plaintiff's place of
26 incorporation and principal place of business. As a result of Plaintiff's business
27 operations and substantial contacts in California, Plaintiff is entitled to the
28 protection of the laws of California and the Cartwright Act.

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85. Defendants' acts were unfair, unlawful, and/or unconscionable, both in their own right and because they violated the Sherman Act.

86. Plaintiff has the requisite standing to assert claims under California Business and Professions Code section 16720 *et seq.* because it is a participant and competitor in the market for scripted TV series, and the submarket for scripted series TV packaging, and has suffered injury by reason of Defendants' unlawful restraints.

87. The coordinated and collective actions of Defendants have the purpose and effect of eliminating or substantially restricting competition, which has injured Plaintiff. Plaintiff is a "person" that has suffered an injury in fact and that has lost money or property as a result of unfair and/or unlawful competition, pursuant to California Business and Professions Code§ 17204.

88. Because of Defendants' anticompetitive actions, Plaintiff has suffered the loss of reasonably anticipated sales and profits, an increase in expenses, and other damages to be proven at trial. Pursuant to California Business and Professions Code section 16750, Plaintiff is entitled to recover compensatory and treble damages, injunctive relief, and reasonable attorneys' fees and costs of suit. Plaintiff is also entitled to disgorgement of Defendants' unlawful gains and restitution, pursuant to California Business and Professions Code § 17203.

THIRD CAUSE OF ACTION

(For Intentional Interference With Contract)

89. Plaintiff hereby adopts, incorporates, and reiterates all the preceding allegations of this complaint.

90. Plaintiff has existing and valuable contractual relationships with its talent/clients. Specifically, Plaintiff had valid and exclusive contracts with two clients identified herein as Client #1 and Client #2.

91. Plaintiff and Client #1 had a verbal contract with an unspecified term. This verbal contract commenced on or about September 28, 2010. On the date of

1 breach (on or about November 4, 2014), Client #1 was a member of the Directors
2 Guild of America ("DGA"). Plaintiff was, at all material times, a member of the
3 ATA, which, in turn, had in place an agreement with the DGA ("ATA/DGA
4 Agreement").

5 92. The ATA/DGA Agreement contains, and contained during all relevant
6 times, Rider "D," which terms apply to agency agreements with DGA members,
7 including the subject agreements with Clients #1 and #2. Rider "D" contains a "90
8 Day Clause." The 90 Day Clause provides, in pertinent part: "If during any period of
9 ninety (90) consecutive days immediately preceding the giving of notice of
10 termination herein described, the Director (1) fails to be employed or (2) fails to
11 receive a bona fide offer then either Director or Agent may terminate the
12 employment of Agent hereunder by giving written notice of termination to the other
13 party, subject to the following provisions: . . . C. Actual employment of or contracts
14 or bona fide offers for the employment of the Director in any field whatever in
15 which the Director is represented by the Agent shall be deemed to be employment.
16 If the Director has been employed or has had contracts or bona fide offers for
17 employment in any field in which Director is represented by Agent the Director may
18 not terminate so long as Director is entitled to an amount equal to his last
19 compensation at a pro rata equivalent to 3 weeks of services." *See* **Exhibit C**
20 attached hereto, which is incorporated herein by reference (at para. 3, p. 2).

21 93. Client #1 gave notice of termination to Plaintiff on or about November
22 4, 2014 during her employment on a TV show entitled "A to Z." This employment
23 had been procured by Plaintiff, and the final payment for Client #1's services on "A
24 to Z" was dated on or about January 7, 2015, several months after Client #1's notice
25 of termination. Further, pursuant to Rider "D" (subparagraph "C"), Client #1
26 received an amount equal to her last compensation at a pro rata rate equivalent to
27 three (3) weeks of services. Because of Rider "D," which restricts the conditions
28 under which a contract between the agent and client may be terminated and because

1 Client #1 received equivalent compensation, Plaintiff's contract with Client #1 was
2 not terminable at will. Specifically, because Client #1 was employed at the time she
3 gave notice of termination, her notice was null and void and constituted a breach of
4 contract.
5 94. Defendant UTA had actual notice of Client #1's contract with Plaintiff.
6 On or about September 14, 2014, Plaintiff offered to Client #1 to host a reception
7 for the cast and crew prior to the show's October 2, 2014 premier broadcast on
8 NBC. Client #1 declined the offer, stating that UTA, which packaged the show,
9 would be having its own VIP screening that she would be attending. Client #1
10 attended the private screening, at which UTA began the process of encouraging and
11 inducing Client #1 to break her contract with Plaintiff.
12 95. Plaintiff also had a verbal contract with Client #2. Plaintiff's
13 agreement with Client #2 commenced on or about February 10, 2009, for an initial
14 term of 2 years, with a 2-year renewal term, followed by 1-year terms, in accordance
15 with the ATA/DGA Agreement. On or about June 26, 2014, Client #2 gave notice
16 of termination to Plaintiff. Client #2 had been made an offer procured by Plaintiff
17 on or about May 1, 2014 to direct an episode of "Lottery" and had been presented
18 with a contract on June 16, 2014. Client #2 signed the contract on or about June 18,
19 2014—only eight (8) days before giving notice of termination to Plaintiff. As with
20 Client #1, Client #2 received an amount equal to his last compensation at a pro rata
21 rate equivalent to three (3) weeks of services. Again, pursuant to Rider "D" to the
22 ATA/DGA Agreement, Client #2 was unable to legally terminate his contract with
23 Plaintiff because he had signed a contract of employment just days beforehand and
24 because he received equivalent compensation. As with Client #1, Client #2's
25 contract was not terminable at will because of termination restrictions under Rider
26 "D," and Client #2's notice of termination was null and void and constituted a
27 breach of contract.
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1 96. Plaintiff alleges that Defendants' had knowledge of such contracts.
2 Pursuant to DGA practices, the DGA conducted semiannual audits of agencies,
3 including Plaintiff, requesting information on DGA members represented. In
4 response to these audits, Plaintiff provided the names of Client #1 and Client #2
5 during all times they were members of the DGA. The notice given to the DGA
6 concerning its representation of DGA members, including Clients #1 and #2, gave
7 constructive notice to Defendants UTA and ICM of Plaintiff's representation of
8 Clients #1 and #2.
9 97. Moreover, Defendant ICM had unabated access to Plaintiff's complete
10 exclusive client list. ICM had actual knowledge of Plaintiff's agreement with
11 Client #2. Plaintiff is informed and believes that ICM invited Client #2, several
12 weeks before Client #2 gave notice of termination, to a meeting at ICM to discuss
13 representation/packaging with the full knowledge that Client #2, at that time, was
14 represented by Plaintiff. ICM induced Client #2 to breach the contract with Plaintiff
15 at this meeting.
16 98. By means of the alleged actions, including but not limited to the unfair,
17 anticompetitive and/or predatory acts set herein, Defendants intended to and did in
18 fact, pressure, induce and cause Plaintiff's clients to breach, end or restrict their
19 contractual relationships with Plaintiff. As a result, Defendants' conduct has
20 prevented the performance, maintenance or completion of Plaintiff's existing and
21 valuable contracts, or has made performance more difficult.
22 99. As a direct and proximate cause, Plaintiff alleges that it has sustained
23 damage in an amount according to proof. Defendants' conduct was a substantial
24 factor in causing financial injury to Plaintiff. Plaintiff's business and goodwill has
25 been, and will continue to be, substantially injured by Defendants' wrongful and
26 unjustified conduct.
27 100. The intentional and disruptive conduct of each Defendant was willful,
28 malicious and oppressive with the intent of destroying Plaintiff's business and/or

1 ability to compete. Consequently, an award of exemplary or punitive damages in an
2 amount sufficient to punish and deter such conduct is justified.

3 **FOURTH CAUSE OF ACTION**

4 **(For Intentional Interference With Prospective Economic Advantage)**

5 101. Plaintiff hereby adopts, incorporates, and reiterates all the preceding
6 allegations of this complaint.

7 102. Plaintiff and the clients identified herein had an economic relationship
8 that would have resulted in a future economic benefit beyond the scope of the
9 contracts above.

10 103. Defendants were each aware of these prospective business contractual
11 relationships and engaged in intentional and wrongful conduct designed or
12 calculated to disrupt and interfere with those relationships. Defendants knew these
13 disruptions or interferences were substantially certain to occur as a result of their
14 conduct.

15 104. Defendants engaged in wrongful acts through their unlawful, unfair,
16 and predatory practices in violation of the Sherman Act, as more fully set forth
17 above. Defendants' wrongful conduct in interfering with such prospective business
18 contractual relations was intentional, malicious and without justification and such
19 conduct and overall scheme was undertaken solely to hinder, if not eliminate,
20 competition.

21 105. Defendants actually disrupted Plaintiff's relationships with the clients
22 identified herein. As a direct and proximate result, Plaintiff was harmed because
23 Client #1 and #2 terminated their business relationship with Plaintiff. Defendants'
24 conduct has also deterred and precluded other talent from engaging Plaintiff.

25 106. The intentional and disruptive conduct of each Defendant was willful,
26 malicious and oppressive. with the intent of destroying Plaintiff's business and/or
27 ability to compete. Consequently, an award of exemplary or punitive damages in an
28 amount sufficient to punish and deter such conduct is justified.

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WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as follows:

AS TO THE FIRST CAUSE OF ACTION FOR VIOLATIONS UNDER THE SHERMAN ACT

1. For appropriate injunctive and declarative relief pursuant to the Sherman Act and California Business and Professions Code§§ 17200 et seq. and any other extraordinary relief as this court may deem just and proper to remedy the violations and to prevent future violations of a like or similar nature, as more fully set forth below;

2. For actual damages; and

3. For treble damages for each and every violation of the Sherman Act, pursuant to 15 U.S.C. §§ 15 and 26.

AS TO THE SECOND CAUSE OF ACTION FOR UNLAWFUL/UNFAIR BUSINESS PRACTICES

1. For disgorgement and/or restitution, pursuant to California Business and Professions Code § 17203.

AS TO THE THIRD CAUSE OF ACTION FOR INTENTIONAL INTERFERENCE WITH CONTRACT

1. For general damages in an amount according to proof;

2. For special damages in an amount according to proof; and

3. For exemplary and punitive damages in an amount necessary to punish and set an example of Defendants;

AS TO THE FOURTH CAUSE OF ACTION FOR INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE

1. For general damages in an amount according to proof;

2. For special damages in an amount according to proof; and

3. For exemplary and punitive damages in an amount necessary to punish and set an example of Defendants.

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AS TO ALL CAUSES OF ACTION

1. For attorney's fees pursuant to 15 U.S.C. §§ 15 and 26, California Code of Civil Procedure Section 1021.5, and as otherwise permitted under law;

2. For costs of suit incurred herein, including without limitation prejudgment interest, pursuant to 15 U.S.C. §§ 15 and 26 and as otherwise permitted under law; and

3. For such other and further relief as this court may deem just and proper.

Dated: January 22, 2016 PHILIP J. KAPLAN

By: /s/ *Philip J. Kaplan*
Philip J. Kaplan
Attorneys for Plaintiff Lenhoff Enterprises, Inc. dba Lenhoff & Lenhoff

Dated: January 22, 2016 BLECHER COLLINS & PEPPERMAN, P.C.
MAXWELL M. BLECHER
TAYLOR C. WAGNIERE

By: /s/ *Maxwell M. Blecher*
Maxwell M. Blecher
Attorneys for Plaintiff Lenhoff Enterprises, Inc. dba Lenhoff & Lenhoff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial in this action pursuant to Federal Rules of Civil Procedure, Rules 38 and 81.

Dated: January 22, 2016

PHILIP J. KAPLAN

By: /s/ *Philip J. Kaplan*

Philip J. Kaplan
Attorneys for Plaintiff Lenhoff Enterprises, Inc. dba Lenhoff & Lenhoff

Dated: January 22, 2016

BLECHER COLLINS & PEPPERMAN, P.C.
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