UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

TIFFANY SELBY, IRINA VORONINA, and JOANNA KRUPA, Plaintiffs, - against - 109 RESTAURANT CORP., d/b/a CAFÉ ROYALE and JOHN DOXEY, Defendants.	Case No. _____ **COMPLAINT** (Jury Trial Demanded)

Plaintiffs TIFFANY SELBY ("Selby"), IRINA VORONINA ("Voronina"), and JOANNA KRUPA ("Krupa") (collectively, "Plaintiffs"), by and through their undersigned counsel, as and for their Complaint against defendants 109 RESTAURANT CORP., d/b/a CAFÉ ROYALE and JOHN DOXEY (collectively, "Defendants"), respectfully allege as follows:

BACKGROUND

1. This is an action for damages and injunctive relief relating to Defendants theft, alteration, and unauthorized publication of sexually suggestive images of Plaintiffs, each of whom are world renowned professional models, in order to promote their strip club Café Royale, located in East Farmingdale, New York.

2. As detailed below, Defendants theft and unauthorized use of Plaintiffs' images, photos and likeness (collectively, "Images"), constitutes, at minimum: a) violation of the section 43 of the Lanham Act, 28 U.S.C. § 1125(a)(1), which prohibits false or misleading use of a person's image for purposes of advertising; b) violation of New York Civil Rights Law §§ 50-51, which protects a person's right to privacy and publicity; c) violation of New York's Deceptive

Trade Practices Act (New York G.B.L. §349) which prohibits deceptive business practices; d) defamation, and; e) various common law torts.

3. In addition to the actual, punitive and exemplary damages set forth below, Plaintiffs likewise seek an Order from this Court permanently enjoining Defendants from using their Images to promote any of the Clubs, via any medium.

JURISDICTION & VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a) insofar as there is complete diversity of the parties to this action, and the amount in controversy exceeds seventy-five thousand dollars ($75,000.00). This Court also has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because Plaintiffs' have stated claims under, *inter alia*, the Lanham Act, 28 U.S.C. § 1125(a)(1).

5. As set forth immediately below, Plaintiffs are, and at all times relevant to this action have been, professional models, who reside California or Florida.

6. According to publicly available records, Defendant 109 Restaurant Corp. ("109 Restaurant") is corporation formed under the laws of the State of New York, and Defendant John Doxey ("Doxey") is the C.E.O. of 109 Restaurant Corp. Upon information and belief, 109 Restaurant Corp. operates Café Royale in Suffolk County, New York.

7. Venue is proper in the United States District Court for the Eastern District of New York because Café Royale is located in Suffolk County, New York.

8. All parties have minimum contacts with Suffolk County, and all of the alleged causes of action arose and accrued in Suffolk County, New York.

9. The center of gravity for all relevant events alleged in the complaint is predominately located in Suffolk County, New York.

PARTIES

Plaintiffs

10. Plaintiff Selby is a well known professional model, and a resident of Duval County, Florida.

11. Plaintiff Voronina is a well known professional model, and a resident of Los Angeles County, California.

12. Plaintiff Krupa is a well known professional model, and a resident of Los Angeles County, California.

Defendants

13. According to publicly available records, Defendant 109 Restaurant is a corporation organized under the laws of the State of New York, has a principle place of business at 101 Route 109, East Farmingdale, New York 11735, and operates Café Royale, a strip club located Suffolk County, New York where it engages in the business of selling alcohol and food in an atmosphere were nude and/or semi-nude women entertain the business' clientele.

14. Upon information and belief, Defendant Doxey is a resident of the State of New York and is identified by the New York Department of State - Division of Corporations, as the Chief Executive Officer of 109 Restaurant. Upon information and belief, Defendant Doxey, in his capacity as C.E.O. of 109 Restaurant, maintains operational control over Café Royale, including all advertising relating thereto.

FACTUAL ALLEGATIONS

15. As set forth immediately below, each of the Plaintiffs are extremely well known professional models who each earn their livelihood modeling and selling their Images to companies, magazines and individuals for the purpose of advertising products and services.

16. Plaintiffs' careers in the modeling industry place a high degree of value on their good will and reputation, which is critical in order to maximize their earning potential, book modeling contracts, and establish each of their individual brands. In furtherance of establishing, and maintaining, their brands, Plaintiffs are necessarily selective concerning the companies, and brands, for which they model.

17. Each of the Plaintiffs' Images was misappropriated, and intentionally altered, by 109 Restaurant in order to make it appear that they worked at Café Royale, or endorsed Café Royale.

18. In the case of each Plaintiff, such appearance was false.

19. Moreover, in each and every case, this misappropriation occurred without any of the Plaintiffs' knowledge, consent or authorization, at no point did any Plaintiff ever receive any remuneration for Defendants' improper and illegal use of their Images, and Defendants' improper and illegal use of Plaintiffs' Images have caused each Plaintiff to suffer substantial damages.

Plaintiffs' Backgrounds and Careers

20. Selby is a well known model and actress, the *Playboy* Playmate of the Month for July 2007, and has appeared on many television shows, including: *The Girl's Next Door*, *Bikini Destinations*, *Poor Man's Bikini Beach* (which she hosted), *Last Comic Standing* (model), and *Deal or No Deal* (case model). Selby has likewise appeared in commercials for brands such as Guitar Hero 5 (with Hugh Hefner), Ab Lounge, and Reflections Boutique, and has appeared in countless magazines and catalogs. Selby has also served as a spokesmodel for brands including Budweiser, Suzuki and Bang Vodka, and done additional promotional work on behalf of Skoal Promotion, Stacker 2 Promotion, Hawaiian Tropic Promotion, and Guitar Center Grand

Opening. In addition, Selby has twice been named Miss Hawaiian Tropic.

21. That we know of, Selby is depicted in the photos in Exhibit "A" in order to promote Café Royale. These photos depict Selby in a sexually suggestive Halloween costume, and were intentionally altered in order to make it appear that Ms. Selby was either a stripper working at Café Royale, or that she endorsed Café Royale. This appearance is bolstered by the copy Café Royale has put beside Ms. Selby, which advertises the Café Royale Halloween party.

22. Selby has never been employed at Café Royale, has never been hired to endorse Café Royale, and has received no remuneration for Café Royale's unauthorized use of her Images.

23. Voronina is an internationally renowned model and actress who was named *Playboy's* Playmate of the Month for September 2001. Voronina has modeled for international brands including SKYY Vodka, Miller Lite, Michelob Ultra, Bacardi, Sisley & Detour, to name but a few. In addition, Ms. Voronina has millions of visual impressions around the globe via the covers and pages of worldwide magazines including: *FHM*, *Maxim*, *Playboy* (in 20 countries), *Max* (Italy), *Ocean*, *Shape*, *944*, *Knock-Out*, *Q* (UK), *People* (Australia), and most recently *Kandy*, *Rukus*, *Vape* and *Browz* magazines. In addition to being a model, she has appeared in various television programs and films, and has more than 2.3 million followers on Facebook, Instagram, Twitter and YouTube.[1]

24. That we know of, Voronina is depicted in the photos in Exhibit "B" in order to promote Cafe Royale. These photos depict Ms. Voronina in a sexually suggestive camouflage outfit, and a sexually suggestive Halloween costume, and were intentionally altered in order to make it appear that Ms. Voronina was either a stripper working at Café Royale, or that she

[1] In the modeling industry, the number of online followers a model has is a strong indication of her popularity and, thus, earning potential.

endorsed Café Royale. This appearance is bolstered by the copy Café Royale has put beside Ms. Voronina, one of which advertises a party for returning U.S. Veterans, and the other of which advertises the Café Royale Halloween party.

25. Voronina has never been employed at Café Royale, has never been hired to endorse Café Royale, and has received no remuneration for Café Royale's unauthorized use of her Images.

26. Krupa is a world renowned model, actress, and television personality. As an actress, Krupa has appeared in the film *Max Havoc: Curse of the Dragon*, and the television show *Superstars*, and also appeared as a contestant on Season 9 of ABC's *Dancing with the Stars*. In addition, since 2010 Krupa has been head judge of *Poland's Next Top Model*, and is a cast member of Bravo's *The Real Housewives of Miami*. As a model, Krupa has twice appeared on the cover of *Playboy*, and has also appeared on numerous other magazine covers, including *Personal*, *Steppin' Out*, *Envy*, *Shape*, *FHM*, *Stuff*, *Inside Sport*, *Teeze*, and *Maxim*. Krupa has been named the "Sexiest Swimsuit Model in the World," and in 2011 Maxim ranked her #55 in its Hot 100. In 2004-2005, she was voted *Maxim's* "Model of the Year" in Germany. Krupa also models in ads for PETA.

27. That we know of, Krupa is depicted in the photos in Exhibit "C" to promote Café Royale. This Image depicts Krupa topless, and in nothing more than a thong and boots, above the copy: "THANK GOD I AM FABULOUS!" Beside the photo the copy reads: "Come to Café Royale and see why I am so Fabulous! TGIF!!" This sexually suggestive Image was intentionally altered to make it appear that Krupa was either a stripper working at the club, or that she endorsed the club, an appearance bolstered by the copy Café Royale choose to put beneath and beside Ms. Krupa.

28. Krupa has never been employed at Café Royale, has never been hired to endorse Café Royale, and has received no remuneration for Café Royale's unauthorized use of her Images.

Defendants' Business

29. Upon information and belief, Defendants operate Café Royale in East Farmingdale, New York, where they engage in the business of selling alcohol and food in an atmosphere were nude and/or semi-nude women entertain the business' clientele.

30. Upon information and belief, and in furtherance of its promotion of Café Royale, Defendants own, operate and control the Café Royale website, located at www.caferoyalenewyork.com (hereinafter, the "Café Royale website"). In addition, and upon information and belief, Defendants own, operate, and control the Café Royal Facebook, Twitter, and Instagram accounts.

31. Upon information and belief, Defendants use the Café Royale website, and Facebook, Twitter, and Instagram accounts, to promote Café Royale, and attract patrons to Café Royale.

32. Defendants do this for their own commercial and financial benefit.

33. Defendants have used, advertised, created, printed and distributed the Images of Plaintiffs, as further described and identified above, in order to create the false impression with potential clientele that these Plaintiffs either worked as a strippers at Café Royale or endorsed Café Royale.

34. Defendants used Plaintiffs' Images, and created the false impression that they worked at Café Royale, or endorsed Café Royale, in order to receive certain benefits therefrom, including but not limited to: monetary payments; increased promotional, advertising, marketing,

and other public relations benefits; notoriety; publicity; as well as an increase in business revenue, profits, proceeds, and income.

35. As Defendants were at all times aware, at no point has any Plaintiff ever been affiliated with or employed by Café Royale, and at no point have any of the Plaintiffs ever endorsed Café Royale.

36. All of Defendants activities, including its theft of Plaintiffs' Images, and publication of same, were done without the knowledge or consent of Plaintiffs, and Defendants did not compensate Plaintiffs for its use of their Images.

37. As such, Plaintiffs have never received any benefit for Defendants use of their Images.

Standard Business Practices in the Modeling Industry

38. It is common knowledge in the modeling industry that the hiring of a model for a commercial purpose involves a particularized methodology and process.

39. The fee that a professional model, such as each of the Plaintiffs, will receive is negotiated by her agency, and involves consideration of, without limitation, at least the following factors: a) the reputation, earning capacity, experience, and demand of that particular model; b) the location where the photo shoot takes place, and the length thereof; c) where and how the images are going to be used by the client (*e.g.*, company website, social media, television commercials, billboards or posters), known as "usage"; and, d) the length of time (known as the "term") the rights to use the photos will be assigned. Most licenses to use a model's image are for 1, 2, or 3 year terms; but almost never is there a "lifetime" term.

Defendant's Theft of Plaintiff's Images

40. As detailed above, Defendants knowingly, and without the prior consent of any of

the Plaintiffs, invaded Plaintiffs privacy by using Plaintiffs Images for commercial purposes in order to promote Café Royale by and through various marketing and promotional mediums including, without limitation, the Café Royale website, Twitter, Facebook, and Instagram.

41. Upon information and belief, Defendants published Plaintiffs' Images in order to create the false impression that Plaintiffs worked at Café Royale, or endorsed one or more of the Clubs.

42. Upon information and belief, Defendants did so in order to attract clientele to their Clubs, promote their Clubs, and thereby generate revenue for Defendants.

43. Upon information and belief, Defendants were aware that, by using Plaintiffs' Images, they were violating Plaintiffs' right to privacy, Plaintiffs' right of publicity, and creating a false impression to potential customers that Plaintiffs worked at and/or endorsed Café Royale.

44. Plaintiffs allege that any improper or unauthorized use of their Images substantially injures their careers. This is especially so insofar as each of Plaintiffs' Images have been associated with a strip club, and the implication of Defendants' use of Plaintiffs' Images is that they are each strippers.

45. At no point were any of the Plaintiffs ever affiliated with Café Royale, or Defendants and at no point was any Plaintiff ever contacted by Defendants, or any representative of Defendants, to request the use of any of Plaintiffs' Images.

46. Defendants never obtained, either directly or indirectly, permission or consent to use any of Plaintiffs' Images.

47. No Plaintiff was ever paid its use of her Images on any promotional materials, including the Café Royale website or social media accounts.

48. Defendants used Plaintiffs' Images without their consent, and without providing

remuneration, in order to permanently deprive each of the Plaintiffs of her right to use her Images.

49. Upon information and belief, Defendants have taken the foregoing actions with the intent of causing irreparable harm to each of the Plaintiffs.

FIRST CAUSE OF ACTION
(Violation of §43 of the Lanham Act, 15 U.S.C. §1125 *et seq*.:
False Endorsement)

50. Plaintiffs hereby repeat and reallege each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

51. The provisions of the Lanham Act, 215 U.S.C. §1125 *et seq***.** apply to Defendants and protect Plaintiffs from the conduct described herein.

52. Defendants used Plaintiffs Images in order, *inter alia*, in order to create the false impression with the public that Plaintiffs either worked at Café Royale or endorsed Café Royale.

53. This was done to promote and attract clientele to the Café Royale, and thereby generate revenue for the Defendants.

54. Thus, this was done in furtherance of Defendants' commercial benefit.

55. Despite the fact that Defendants were at all times aware that the Plaintiffs neither worked at, nor endorsed, Café Royale, Defendants nevertheless used Plaintiffs Images in order to mislead potential customers as to Plaintiffs' employment at and/or affiliation with Café Royale.

56. Defendants knew that their use of Plaintiffs' Images would cause consumer confusion as to Plaintiffs' sponsorship and/or employment at Café Royale.

57. Upon information and belief, Defendants use of Plaintiffs' Images did in fact cause consumer confusion as to Plaintiffs employment at and/or endorsement of Café Royale, and the goods and services provided by Café Royale.

58. Due to Defendants unauthorized use of Plaintiffs' Images in order to create a false endorsement prohibited by section 43 of the Lanham Act, Plaintiffs have been damaged in an amount to be determined at trial, but in all events not less than seventy five thousand dollars ($75,000), exclusive of punitive and exemplary damages.

SECOND CAUSE OF ACTION
(Violation of N.Y. Civ. Rights Law §§ 50-51)

59. Plaintiffs hereby repeat and reallege each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

60. As set forth herein, Defendants have violated N.Y. Civil Rights Law §§ 50-51 by invading Plaintiffs' privacy, misappropriating their likeness, and publishing altered Images of Plaintiffs, which made it appear as though Plaintiffs were employed at Café Royale, or endorsed the club.

61. At all relevant times, the Café Royale website and social media accounts were used and operated by Defendants for advertising and trade purposes, were designed to attract business to the Café Royale and generate revenue for Defendants and, upon information and belief, did in fact attract clientele and generate business for Café Royale.

62. At no point did Defendants ever receive permission or consent, be it written or otherwise, to use any Plaintiffs' Image on the Café Royale website or social media account.

63. Defendants were at all relevant times aware that they never received any Plaintiffs' permission or consent to use their Images on any website or social media account, or on any other medium, in order to promote the Clubs.

64. At no point did Defendants ever compensate Plaintiffs for its use of their Images.

65. No applicable privilege or authorization exists for Defendants' use of Plaintiffs' Images.

66. Due to Defendants' violation of Plaintiffs' rights of privacy and publicity under sections 50 and 51 of the N.Y. Civil Rights Act, Plaintiffs has been damaged in an amount to be determined at trial, but in all events not less than seventy-five thousand dollars ($75,000.00), exclusive of punitive and exemplary damages.

67. In addition, and pursuant to section 51 of the N.Y. Civil Rights Act, Plaintiffs hereby requests an Order permanently enjoining Defendants from violating Plaintiffs' right to privacy and publicity.

68. In addition, and likewise pursuant to section 51 of the N.Y. Civil Rights Act, Plaintiffs hereby request an award of punitive damages, in an amount to be determined at trial, due to Defendants knowing and intentional violation of their statutory rights to privacy and publicity.

THIRD CAUSE OF ACTION
(Violation of N.Y. General Business Law § 349:
N.Y. Deceptive Trade Practices Act)

69. Plaintiffs hereby repeat and realleges each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

70. Defendants operated the Café Royale website and social media accounts in order to promote Café Royale, to attract clientele to Café Royale, and to thereby generate revenue for Defendants. As such, Defendants' operation of the Café Royale website and social media accounts, and their publication of Images thereon, was consumer-oriented in nature.

71. Defendants published Plaintiffs' Images on the Café Royale website and social media accounts in order to create the false impression that Plaintiffs were either strippers working at Café Royale, or endorsed the club.

72. As such, Defendants' intent in publishing Plaintiffs' Images was to mislead the

public as to Plaintiffs' employment at and/or affiliation with Café Royale.

73. As Defendant were at all times aware, Plaintiffs never worked at Café Royale, never endorsed Café Royale, and never had any affiliation with Café Royale.

74. Defendants' publication of Plaintiffs' Images was done without any Plaintiffs' consent and was misleading in a material respect because it created the impression that Plaintiffs were strippers working at Café Royale, or endorsed Café Royale.

75. As a result of Defendants' unauthorized and misleading publication of Plaintiffs' Images on the Café Royale website and social media accounts, each of the Plaintiffs' reputations was injured, and each of the Plaintiffs' ability to market herself as a model was injured.

76. As a result of Defendants' unauthorized and misleading use of Plaintiffs' Images, Plaintiffs have been injured in an amount to be determined at trial, but in all events in an amount not less than seventy-five thousand dollars ($75,000), exclusive of punitive and exemplary damages.

FOURTH CAUSE OF ACTION
(Defamation)

77. Plaintiff hereby repeats and realleges each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

78. As detailed throughout this Complaint, Defendants have published altered Images of Plaintiffs in order to promote Café Royale to the general public and potential clientele of Café Royale.

79. Defendants' publication of said Images constitutes a representation that Plaintiffs were either employed by Café Royale, or that they endorsed or had some other affiliation with the club, and it was Defendants' intention to create this false impression with the public.

80. None of these representations were true.

81. Defendants were at least negligent in publishing Plaintiffs' Images because they knew, or should have known, that Plaintiffs were not employed by the Café Royale, had no affiliation with Café Royale, had not consented to the use of their Images, and had not been compensated for the use of their Images.

82. In the alternative, Defendants published the Images of Plaintiffs with actual malice because they knew that Plaintiffs were not employed by Café Royale, had no affiliation with the club, had not consented to the use of their Images, and had not been compensated for the use of their Images.

83. Despite Defendants' knowledge and awareness of these facts, they nevertheless made the decision to publish Plaintiffs' Images to attract clientele and generate revenue for themselves.

84. Defendants' publication of Plaintiffs' Images constitutes defamation under New York law because said publication falsely accuses each Plaintiff of having acted in a manner – *i.e.*, working as a stripper and/or endorsing a strip club - which would subject each Plaintiff to hatred, shame, obloquy, contumely, odium, contempt, ridicule, aversion, ostracism, degradation, or disgrace, and/or could induce an evil opinion of Plaintiffs in the minds of right-thinking persons, and/or could deprive each Plaintiff of confidence and friendly intercourse in society.

85. Defendants' publication of Plaintiffs' Images likewise constitutes defamation *per se* under New York law because said publication would tend to injure each Plaintiff in her trade, business, and profession as a professional model.

86. This is because any company or brand that sought to hire any of the Plaintiffs as a company or brand representative would be less likely to do so upon learning that she was a professional stripper and/or promoting as strip club, an inference which Defendants' publication

of the Images support.

87. Defendants' publication of Plaintiffs' Images likewise constitutes defamation *per se* under New York law because, insofar as said publication falsely portrays each of the Plaintiffs as a stripper, it imputes unchastity to her.

88. Defendants' publication of Plaintiffs' Image' caused Plaintiffs to suffer damages in an amount to be determined at trial, but in all events in an amount not less than seventy five thousand dollars ($75,000), exclusive of punitive and exemplary damages.

FIFTH CAUSE OF ACTION
(Negligence and *Respondeat Superior*)

89. Plaintiffs hereby repeat and reallege each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

90. Upon information and belief, Defendants were negligent in their failure to promulgate policies and procedures concerning the misappropriation of the Images of models that were used on the Café Royale website and social media accounts.

91. Said failure was the proximate cause of the harm Plaintiffs suffered when their Images were published without their authorization.

92. In the alternative, and upon information and belief, although Defendants promulgated policies and procedures concerning the misappropriation of Images, Defendants nevertheless negligently failed to enforce those policies, communicate them to employees, and/or supervise their employees in order to ensure that these policies, along with Federal and New York law, were not violated.

93. In addition, Defendants had a duty to refrain from appropriating the Images of those with whom it had not contracted, and had not paid.

94. Defendants violated said duty by its negligent hiring, screening, retaining,

supervising, and/or training of its employees and agents.

95. As a result of Defendants' negligence, Plaintiffs have suffered damages in an amount to be determined at trial, but which in all events are in excess of seventy five thousand dollars ($75,000), exclusive of punitive and exemplary damages.

SIXTH CAUSE OF ACTION
(Conversion)

96. Plaintiffs hereby repeat and reallege each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

97. Each Plaintiff is, and at all relevant times were, the exclusive owners of all right, title and interest in their Images, and have property interests therein.

98. By the conduct detailed above, Defendants converted Plaintiffs' property rights in their Images for their own use and financial gain Images for its own use and financial gain.

99. As a result of Defendants' unlawful conversion of Plaintiffs' Images, and publication of same, Plaintiffs have suffered damages in an amount to be determined at trial, but in all events in an amount not less than seventy five thousand dollars ($75,000), exclusive of punitive and exemplary damages.

SEVENTH CAUSE OF ACTION
(Unjust Enrichment)

100. Plaintiffs hereby repeat and realleges each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

101. As set forth in detail above, Defendants published Plaintiffs' Images in order to promote the Clubs to the general public and potential clientele.

102. Defendants' publication was for the purpose of creating a false impression to the general public that Plaintiffs were either strippers working at Café Royale, or endorsed the club.

103. Defendants' purpose in publishing Plaintiffs' Images was to benefit commercially due to their purported association with, employment of, and/or endorsement by Plaintiffs.

104. Upon information and belief, Defendants did in fact benefit commercially due to their unauthorized use of Plaintiffs' Images.

105. Defendants have been enriched by their unauthorized control over, and publication of, Plaintiffs' Image because said publication has assisted Defendants in attracting clientele to Café Royale.

106. Plaintiffs have not been compensated for Defendants' commercial exploitation of their Images, and thus any financial benefit which Defendants received due to said exploitation is unjust.

107. As such, Plaintiffs have been damaged in an amount to be determined at trial, but in all events in an amount not less than seventy five thousand dollars ($75,000), exclusive of punitive and exemplary damages.

EIGHTH CAUSE OF ACTION
(Quantum Meruit)

108. Plaintiffs hereby repeat and reallege each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

109. Plaintiffs are each world famous models who earn their livings appearing in, *inter alia*, commercials, advertisements, and publications on behalf of companies and brands.

110. Companies and brands that choose to hire Plaintiffs compensate them for their appearances.

111. Although Defendants have availed themselves of the benefit of being associated with Plaintiffs, and making it appear to potential customers that Plaintiffs either work at Café Royale, or endorse the club, Defendants have not compensated Plaintiffs.

112. Plaintiff is therefore entitled to reasonable compensation for Café Royale's unauthorized use of their Images to promote Café Royale.

DEMAND FOR JURY TRIAL

113. Plaintiffs demand trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request Judgment in their favor and against Defendants as follows:

(a) For actual damages, in an amount to be determined at trial, but in all events not less than seventy-five thousand dollars ($75,000.00), relating to Plaintiffs' first through eighth causes of action;

(b) For an order permanently enjoining Defendants from using Plaintiffs' Images to promote the Clubs;

(c) For punitive damages, in an amount to be determined at trial;

(d) For all costs and attorneys' fees incurred by Plaintiffs in the prosecution of this Action;

(e) For such other and further relief as the Court may deem just and proper.

Dated: New York, New York
October 13, 2015

THE CASAS LAW FIRM, P.C.

By: /s/ John V. Golaszewski
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Attorneys for Plaintiffs

EXHIBIT A

[redacted]

IRINA VORONINA

Cafe Royale LI
November 25, 2014 near Commack, NY ·

Tomorrow!!! Come celebrate Thanksgiving in the sexiest way possible. Right here at the Cafe Royale!

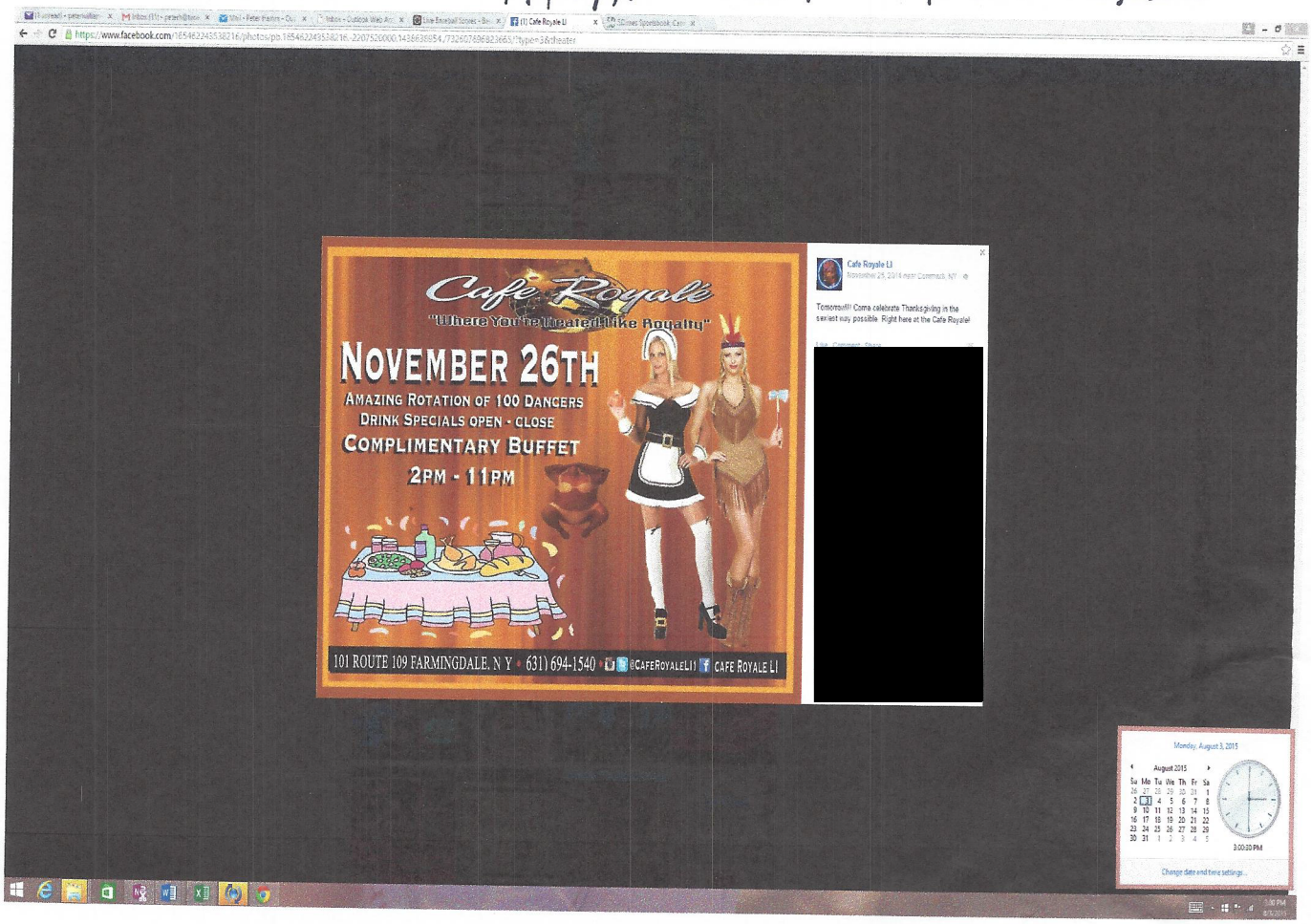
[redacted]

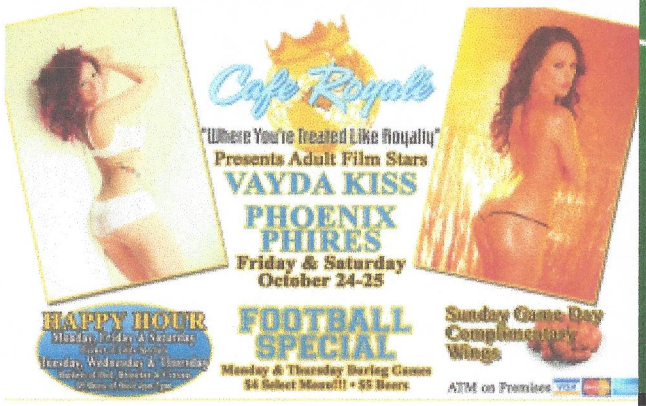
Other Albums

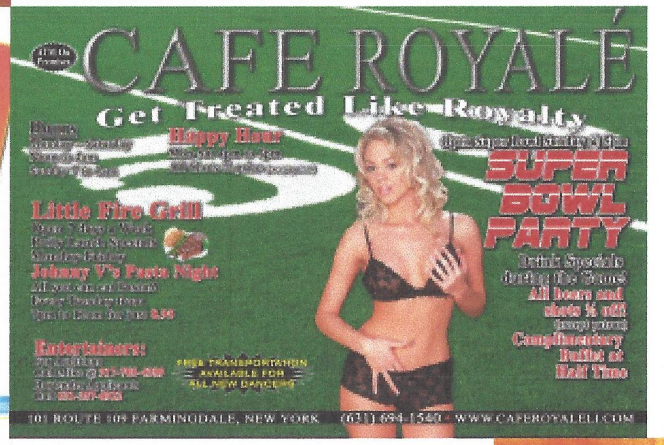
[redacted]

[redacted]

TIFFANY SELBY IRINA VORONINA







(https://caferoyalenewyork.files.wordpress.com/2015/06/january-2012.jpg)

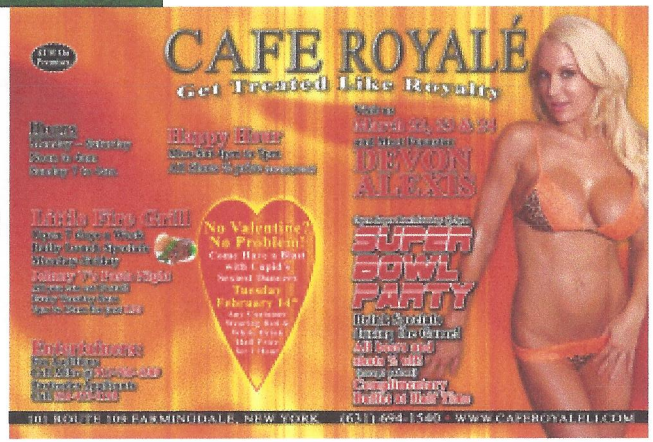


EXHIBIT B

IRINA VORONINA

Cafe Royale LI
May 22, 2013 ·

Café Royale wants to give back to the brave soldiers that have sacrificed so much for our freedom. Help us welcome home our hero's on May 30th from noon to 4am with amazing drink specials. All proceeds will be donated. Thanks in advance for your support.

[redacted]

Add Friend Follow

[redacted]

IRINA VORONINA

[redacted]

Cafe Royale LI
November 25, 2014 near Commack, NY ·

Tomorrow!!! Come celebrate Thanksgiving in the sexiest way possible. Right here at the Cafe Royale!

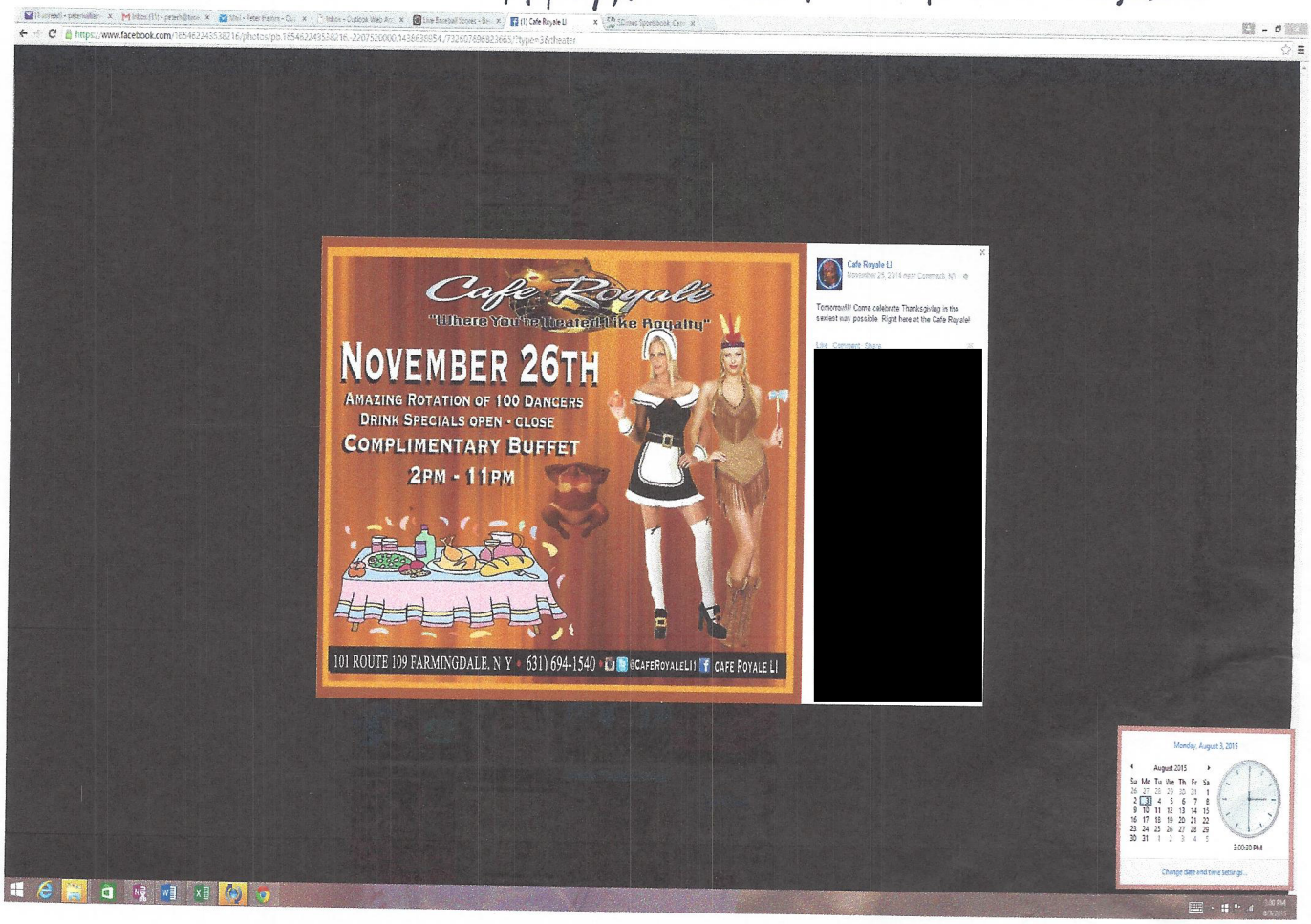
[redacted]

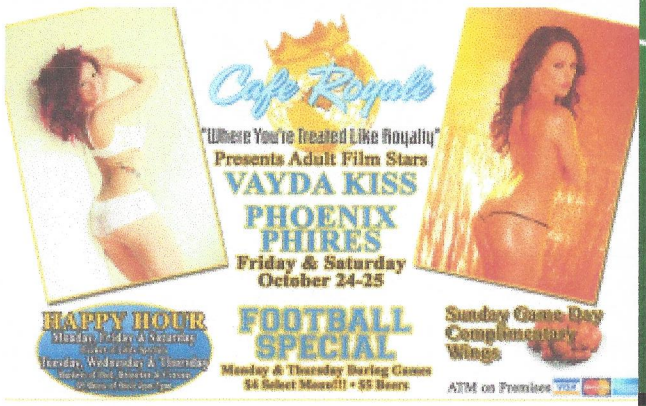
Other Albums

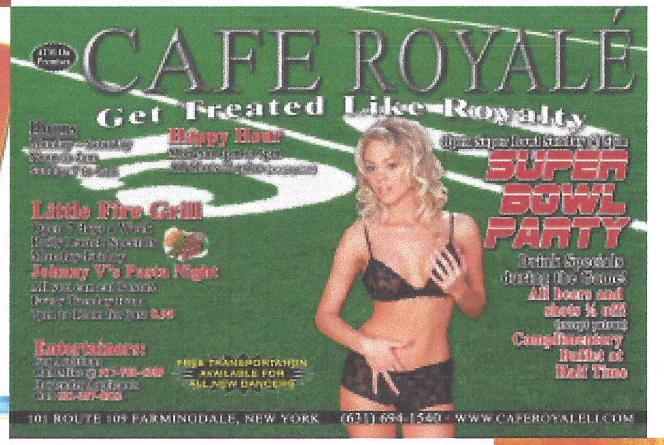
[redacted]

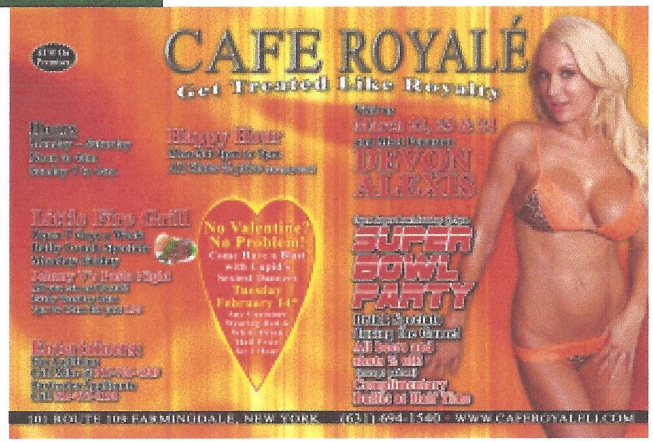
[redacted]

TIFFANY SELBY IRINA VORONINA









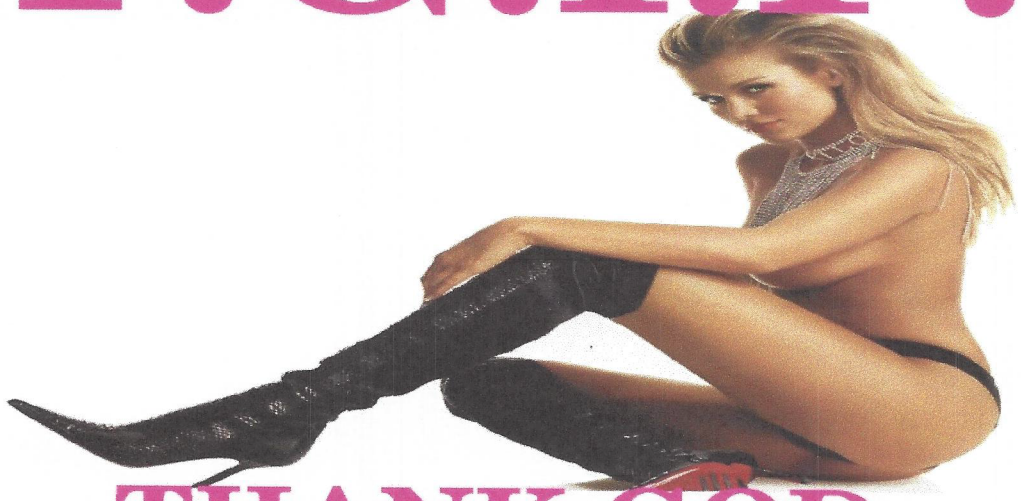
(https://caferoyalenewyork.files.wordpress.com/2015/06/january-2012.jpg)

EXHIBIT C

JOANNE KRUPA

[redacted]

T.G.I.F.



THANK GOD I AM FABULOUS!

Cafe Royale LI
February 15, 2013 ·

Come to Cafe Royale and see why I am so Fabulous! TGIF!!

Like · Comment · Share

[redacted]

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
TIFFANY SELBY, IRINA VORONINA, and JOANNA KRUPA.

(b) County of Residence of First Listed Plaintiff Duval County, Florida
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
The Casas Law Firm, P.C., 1745 Broadway, 17th Floor, New York, New York 10019, Attn: John V. Golaszewski

DEFENDANTS
109 RESTAURANT CORP., d/b/a CAFÉ ROYALE and JOHN DOXEY.

County of Residence of First Listed Defendant Suffolk County, New York
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*
- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☒ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*
☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
28 U.S.C. 1125(a)(1)

Brief description of cause:
False endorsements under the Lanham Act relating to defendants' theft and publication of Plaintiffs' Images

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND $ To be determined at trial

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY
(See instructions):
JUDGE _____ DOCKET NUMBER _____

DATE 10.13.15

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of $150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, John Golusnik, counsel for Plaintiffs, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

☒ monetary damages sought are in excess of $150,000, exclusive of interest and costs,

☒ the complaint seeks injunctive relief,

☐ the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more or its stocks:

None.

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County: No.

2.) If you answered "no" above:
a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? Yes.

b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes.

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County?

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

☒ Yes ☐ No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

☐ Yes (If yes, please explain) ☒ No

I certify the accuracy of all information provided above.

Signature:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)
Plaintiff)
)
v.) Civil Action No.
)
_____)
Defendant)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

.

My fees are $ _____ for travel and $ _____ for services, for a total of $ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

General Information

Court	United States District Court for the Eastern District of New York; United States District Court for the Eastern District of New York
Federal Nature of Suit	Property Rights - Trademark[840]
Docket Number	2:15-cv-05880