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**FILED**  
Superior Court of California  
County of Los Angeles

OCT 27 2015

Sherri R. Carter, Executive Officer/Clerk  
By M. Soto, Deputy  
Moses Soto

7 Attorneys for Plaintiff: TIMED OUT LLC

D-78 GAIL FEUER

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF LOS ANGELES - CENTRAL DISTRICT

LAW OFFICES OF HALL & LIM  
— A PROFESSIONAL LAW CORPORATION —  
16430 Ventura Boulevard, Suite 200  
Encino, California 91436

11 TIMED OUT LLC, a California company,

Case No.: **BC599207**

12 Plaintiff,

COMPLAINT FOR:

13 vs.

- 1) STATUTORY MISAPPROPRIATION OF PUBLICITY (CIV. CODE § 3344)
- 2) COMMON LAW MISAPPROPRIATION OF PUBLICITY

14 ABNER PAJOUNIA d/b/a THE PLAYPEN  
15 GENTLEMEN'S CLUB; and DOES 1 through  
16 20 inclusive,

Defendants.

17  
18 Plaintiff TIMED OUT LLC alleges as follows:

19 PARTIES

20 1. Plaintiff TIMED OUT LLC, a California corporation (hereinafter referred to as  
21 "PLAINTIFF") is, and at all times mentioned herein was, a limited liability company organized  
22 and existing under the laws of the State of California, with its principle place of business located  
23 in La Jolla, California.

24 2. PLAINTIFF has been assigned the right to bring suit for misappropriation of image  
25 against ABNER PAJOUNIA d/b/a THE PLAYPEN GENTLEMEN'S CLUB and DOES 1

CIT /CASE: BC599207  
LEA/DEF#: 4980133  
RECEIPT # CCH524980133  
DATE PAID 10/27/15 03:18 PM  
PAYMENT: \$435.00  
RECEIVED:  
CHECK: \$0.00  
CASH: \$0.00  
CHARGE: \$0.00  
TOTAL: \$435.00

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1 through 20 inclusive, on behalf of Lina Posada, CJ Gibson, Marketa Karzdova, Emily Chave,  
2 Devin J. Takeguma, Ashley Vickers, Paola Canas, and Tina Quarles (hereinafter collectively  
3 referred to as "THE MODELS").

4 3. PLAINTIFF is informed and believes and on such information and belief alleges that  
5 Defendant ABNER PAJOUNIA d/b/a THE PLAYPEN GENTLEMEN'S CLUB, (hereinafter  
6 referred to as "PLAYPEN"), is now, and at all times mentioned in this complaint was, an  
7 individual, with its principal place of business located in Los Angeles, California.

8 4. PLAINTIFF is unaware of the true names and capacities of those Defendants named  
9 herein as unidentified DOES 1 through 20 inclusive (hereinafter referred to as "DOES"), and,  
10 therefore, sues such Defendants by such fictitious names. PLAINTIFF will seek leave of court to  
11 amend this complaint when the true names of said Defendants are ascertained. PLAINTIFF is  
12 informed and believes and on such information and belief alleges that each of the Defendants  
13 named by such a fictitious name is, in some manner, responsible for the acts and omissions as  
14 alleged herein and is, therefore, liable to PLAINTIFF for the damages alleged herein.

15 5. All Defendants are hereinafter collectively referred to as "DEFENDANTS".

16 6. PLAINTIFF is informed and believes and on such information and belief alleges that each  
17 of the DEFENDANTS is now, and at all times mentioned in this complaint was, the agent,  
18 servant, or employer of each of the other DEFENDANTS and that, in doing the acts alleged  
19 herein, was acting within the course and scope of said agency, service, or employment, and with  
20 the permission and consent of each of the other DEFENDANTS.

21 **JURISDICTION AND VENUE**

22 7. Venue is proper in this Court because the principal place of business of one or more  
23 DEFENDANTS is situated in this county.

24 **GENERAL ALLEGATIONS COMMON TO ALL COMPLAINTS:**

25 8. PLAINTIFF is, and at all times mentioned herein was, a company that specializes in the

1 protection of personal image rights.

2 9. THE MODELS are, and at all times mentioned herein were, professional models who  
3 earns their living by modeling and selling their image to companies and individuals for the  
4 advertisement of products and services.

5 10. PLAINTIFF is informed and believes and on such information and belief alleges that  
6 PLAYPEN is, and at all times mentioned herein was, the operator of the The Playpen  
7 Gentlemen's Club, a strip club, located at 1109 S. Sante Fe Ave., Los Angeles, CA 90021  
8 (hereinafter referred to as "Defendants' STRIP CLUB").

9 11. PLAINTIFF is informed and believes and on such information and belief alleges that  
10 DEFENDANTS are, and at all times mentioned herein were, the owners and operators of the  
11 social media marketing website accessible via the URL [www.playpenla.com](http://www.playpenla.com) (hereinafter referred  
12 to by "Defendants' WEBSITE") and has, and at all times mentioned herein had, control over the  
13 contents of the said website.

14 12. PLAINTIFF is informed and believes and on such information and belief alleges that  
15 DEFENDANTS are, and at all times mentioned herein were, the owners and operators of the  
16 social media marketing website accessible via the URL "<https://www.facebook.com/playpenla>"  
17 (hereinafter referred to by "Defendants' FACEBOOK MARKETING SITE") and has, and at all  
18 times mentioned herein had, control over the contents of the said website.

19 13. PLAINTIFF is informed and believes and on such information and belief alleges that  
20 DEFENDANTS are, and at all times mentioned herein were, the owners and operators of the  
21 social media marketing website accessible via the URL "<https://www.twitter.com/playpenla>"  
22 (hereinafter referred to by "Defendants' TWITTER MARKETING SITE") and has, and at all  
23 times mentioned herein had, control over the contents of the said website.

24 14. PLAINTIFF is informed and believes and on such information and belief alleges that  
25 DEFENDANTS are, and at all times mentioned herein were, the owners and operators of the

1 social media marketing website accessible via the URL  
2 “https://www.instagram.com/playpenclub” (hereinafter referred to by “Defendants’  
3 INSTAGRAM MARKETING SITE”) and has, and at all times mentioned herein had, control  
4 over the contents of the said website.

5 15. PLAINTIFF is informed and believes and on such information and belief alleges that  
6 DEFENDANTS are, and at all times mentioned herein were, the owners and operators of the  
7 social media marketing website accessible via the URL  
8 “https://plus.google.com/+PlaypenLosAngeles” (hereinafter referred to by “Defendants’  
9 GOOGLE PLUS MARKETING SITE”) and has, and at all times mentioned herein had, control  
10 over the contents of the said website.

11 16. Defendants’ FACEBOOK MARKETING SITE, Defendants’ TWITTER  
12 MARKETING SITE, Defendants’ GOOGLE PLUS MARKETING SITE, Defendants’  
13 INSTAGRAM MARKETING SITE, are hereinafter collectively referred to as “Defendants’  
14 SOCIAL MEDIA SITES”.

15 17. Each of the THE MODELS images and likenesses were used to promote Defendants’  
16 STRIP CLUB on one or more of Defendants’ SOCIAL MEDIA SITES.

17 18. THE MODELS discovered that the DEFENDANTS were knowingly and without  
18 THE MODELS’s prior consent, and in violation of Civil Code section 3344 and common law,  
19 invading THE MODELS’s privacy by using THE MODELS’s image and likeness on the social  
20 media marketing websites of the DEFENDANTS, as well as on other advertisements and  
21 promotional materials.

22 19. THE MODELS at no time gave DEFENDANTS any permission to use their images  
23 for use of any advertising materials produced.

24 20. DEFENDANTS have paid THE MODELS nothing for the use of THE MODELS’s  
25 image and likeness on DEFENDANTS’ websites, advertisements, and promotional materials for

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1 any advertising materials produced.  
2 21. DEFENDANTS have never contacted THE MODELS, either directly or indirectly, to  
3 request permission to use THE MODELS's image and likeness.  
4 22. THE MODELS have each assigned to PLAINTIFF their right to bring suit for  
5 misappropriation of image against DEFENDANTS.  
6 23. PLAINTIFF is in the best position to pursue this action against DEFENDANTS, as  
7 PLAINTIFF is the holder and custodian of all of the evidence required in this case.

8 **FIRST CAUSE OF ACTION**

9 (STATUTORY INVASION OF PRIVACY – CIVIL CODE § 3344)

10 24. PLAINTIFF re-alleges paragraphs 1 through 23 above, and incorporates the same by  
11 reference as though fully set forth herein.

12 25. PLAINTIFF discovered that DEFENDANTS were knowingly and without  
13 PLAINTIFF's or PLAINTIFF's models' prior consent, and in violation of Civil Code § 3344,  
14 invading the privacy of PLAINTIFF's models by using her images and likenesses in  
15 advertisements for the Defendants' STRIP CLUB.

16 26. In the images used by DEFENDANTS to promote Defendants' STRIP CLUB, THE  
17 MODELS are each readily identifiable in that any person seeing the photographs with the naked  
18 eye can reasonably determine that the persons depicted are THE MODELS. Each MODEL'S  
19 face and body is shown in each advertisement, and is clearly lighted and readily distinguishable.

20 27. DEFENDANTS' appropriation of the images of THE MODELS was for the purpose  
21 of advertising or soliciting patronage of the Defendants' STRIP CLUB.

22 28. DEFENDANTS' appropriation of the images of THE MODELS was for the purpose  
23 of advertising or soliciting partially nude entertainment by THE MODELS at the Defendants'  
24 STRIP CLUB.

25 29. DEFENDANTS' appropriation of the images of THE MODELS was for the purpose

1 of advertising or soliciting a personal and intimate encounter with THE MODELS at the  
2 Defendants' STRIP CLUB.

3 30. DEFENDANTS did not request PLAINTIFF's or THE MODELS' permission, nor did  
4 PLAINTIFF or THE MODELS give DEFENDANTS permission, to use the images to advertise  
5 and promote the participation or patronage of the Defendants' STRIP CLUB.

6 31. Finally, DEFENDANTS failed to compensate THE MODELS for any use of THE  
7 MODELS' likeness and image.

8 32. As a direct and proximate result of DEFENDANTS' appropriation of the likenesses  
9 and images of THE MODELS, DEFENDANTS made profits or gross revenues in an amount to  
10 be established by proof at trial.

11 33. As a further direct and proximate result of the wrongful conduct set forth above,  
12 PLAINTIFF, through its assignment from THE MODELS, sustained the following injuries and  
13 damages: The unauthorized use of THE MODELS' images has damaged her in respect to their  
14 right to control the commercial exploitation of her name, photographs, and likenesses, resulting in  
15 damages, the total amount of which will be established by proof at trial.

16 34. PLAINTIFF is informed and believes and on such information and belief allege that as  
17 a further direct and proximate result of the wrongful conduct set forth above, PLAINTIFF and  
18 THE MODELS have also sustained the following injuries and damages: the value of THE  
19 MODELS' images and likenesses has been diluted due to DEFENDANTS' unauthorized use of  
20 the images and likenesses to advertise their products. Each of THE MODELS earn a living by  
21 modeling and authorizing companies and individuals to use her images and likenesses to promote  
22 their products and services.

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1 **SECOND CAUSE OF ACTION**

2 (COMMON LAW INVASION OF PRIVACY - MISAPPROPRIATION)

3 35. PLAINTIFF re-alleges paragraphs 1 through 34 above, and incorporates the same by  
4 reference as though fully set forth herein.

5 36. DEFENDANTS, in Los Angeles County in the State of California, and without  
6 PLAINTIFF's or THE MODELS' consent, invaded the models' right to privacy, by exploiting  
7 her likenesses and personalities, when they published their images on Defendants' SOCIAL  
8 MEDIA SITES.

9 37. DEFENDANTS' use of the images and likeness of THE MODELS promoted patronage of  
10 the Defendants' STRIP CLUB operated by DEFENDANTS.

11 38. DEFENDANTS' use of the images of THE MODELS was for the purpose of advertising  
12 or soliciting partially nude entertainment by THE MODELS at the Defendants' STRIP CLUB.

13 39. DEFENDANTS' appropriation of the images of THE MODELS was for the purpose of  
14 advertising or soliciting a personal and intimate encounter with THE MODELS at the  
15 Defendants' STRIP CLUB.

16 40. DEFENDANT'S conduct appropriated the images of PLAINTIFF's models for  
17 DEFENDANTS' advantage in that the use of the images and personalities in connection with the  
18 advertisements for the benefit of the DEFENDANTS, and DEFENDANT'S social media  
19 marketing websites contributed to the commercial promotion of the Defendants' STRIP CLUB  
20 without PLAINTIFF's or THE MODELS's consent.

21 41. DEFENDANTS have paid PLAINTIFF and THE MODELS nothing for the use they have  
22 made of the images and they have never contacted PLAINTIFF or THE MODELS for consent to  
23 use their images.

24 42. PLAINTIFF, through assignment from THE MODELS, has been damaged by  
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1 DEFENDANTS' widespread unauthorized commercial use of THE MODELS' respective images  
2 in an amount to be proven at trial.

3 43. PLAINTIFF is informed and believes and on such information and belief alleges that as a  
4 further direct and proximate result of the wrongful conduct set forth above, each of THE  
5 MODELS have also sustained the following injuries and damages: the value of their images and  
6 likenesses has been diluted due to DEFENDANTS' unauthorized use of their images and  
7 likenesses to advertise their products. Each of THE MODELS earns a living by modeling and  
8 authorizing companies and individuals to use their images and likenesses to promote their  
9 products.

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**PRAYER FOR RELIEF**

WHEREFORE, PLAINTIFF prays for judgment against DEFENDANTS, and each of them, as follows:

1. For damages as provided in Civ. Code § 3344;
2. For general damages according to proof;
3. For special damages according to proof;
4. For consequential and incidental damages in an amount according to proof at trial;
5. For the amount due, owing and unpaid to PLAINTIFF in the amount to be determined according to proof at trial plus interest at the legal rate;
6. For prejudgment interest according to law;
7. For costs of suit; and
8. For any other and further relief that the court considers proper.

Dated: October 26, 2015

**LAW OFFICES OF HALL & LIM**

By: 

Timothy A. Hall, Esq.  
Attorneys for Plaintiff:  
TIMED OUT LLC

## General Information

<b>Court</b>	CA Superior Court - Los Angeles County
<b>Docket Number</b>	BC599207
<b>Status</b>	Open