

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

IRINA VORONINA, an individual;
PAOLA CANAS, an individual;
TIFFANY TOTH, an individual;
JAMILLETTE GAXIOLA, an individual;
EVA PEPAJ, an individual;
ROSIE JONES, an individual;
URSULA MAYES, an individual;
MASHA LUND, an individual; and
RACHEL KOREN, an individual,

Case No.:

PLAINTIFFS,

vs.

STAN INC., d/b/a THE PLAYHOUSE a/k/a
THE PLAYHOUSE GENTLEMAN'S CLUB,
a Florida corporation,

DEFENDANT.

PLAINTIFFS' COMPLAINT FOR DAMAGES

Irina Voronina ("Voronina"), Paola Canas ("Canas"), Tiffany Toth ("Toth"), Jamillette Gaxiola ("Gaxiola"), Eva Pepaj ("Pepaj"), Rosie Jones ("Jones"), Ursula Mayes ("Mayes"), Masha Lund ("Lund"), and Rachel Koren ("Koren") (collectively herein referred to as "Plaintiffs" or "Models") by and through undersigned counsel, hereby sue Stan Inc., doing business as The Playhouse also known as The Playhouse Gentleman's Club (hereinafter referred to as "Playhouse", "Strip Club", "Club" or "Defendant") and allege as follows:

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JURISDICTION

1. This is an action for damages and (a) violation of Fla. Stat. § 540.08; (b) civil theft under Fla. Stat. § 772.11 for violation of Fla. Stat. § 812.014; (c) violation of Florida Deceptive and Unfair Trade Practices Act (“FDUPTA”); (d) unfair competition (e) common law invasion of privacy- misappropriation; (f) common law conversion; (g) defamation; (h) fraudulent misrepresentation; (i) unjust enrichment; (j) negligence and *respondent superior* and in excess of \$15,000.00 exclusive of interest, attorneys’ fees and costs.

PARTIES AND VENUE

2. PLAINTIFF Voronina is, and at all times relevant to this action was, a professional model and a resident of Los Angeles County, in the State of California.

3. PLAINTIFF Canas is, and at all times relevant to this action was, a professional model and resident of Los Angeles County, in the State of California.

4. PLAINTIFF Toth is, and at all times relevant to this action was, a professional model and resident of Orange County, in the State of California.

5. PLAINTIFF Gaxiola is, and at all times relevant to this action was, a professional model and resident of Clark County, in the State of Nevada.

6. PLAINTIFF Pepaj is, and at all times relevant to this action was, a professional model and resident of Los Angeles County, in the State of California.

7. PLAINTIFF Jones is, and at all times relevant to this action was, a professional model and resident of Middlesex, England, United Kingdom.

8. PLAINTIFF Mayes is, and at all times relevant to this action was, a professional model and resident of Orange County, in the State of California.

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9. PLAINTIFF Lund is, and at all times relevant to this action was, a professional model and resident of New York County, in the State of New York.

10. PLAINTIFF Koren is, and at all times relevant to this action was, a professional model and resident of Los Angeles County, in the State of California.

11. PLAINTIFFS are informed and believe and thereon allege that DEFENDANT is, at all times relevant to this action, a company organized and existing under the laws of the State of Florida. DEFENDANT does business, has offices, and/or maintains agents for the transaction of its customary business in Broward County, Florida.

12. DEFENDANT holds and at all times relevant, has held itself out as a strip club that engages in the business of entertaining its patrons with alcohol and nude or semi-nude women. DEFENDANT is registered as a business entity in Broward County, is licensed by the State of Florida, and holds a liquor licenses issued by the Division of Alcoholic Beverages and Tobacco.

13. Pursuant to Fla. Stat. § 47.011, venue is proper in Broward County as DEFENDANT is incorporated in Broward County, Florida and operates and does business in Broward County, Florida.

GENERAL ALLEGATIONS APPLICABLE TO ALL COUNTS

14. PLAINTIFFS are, and at all times mentioned herein, were professional models who earn their living by modeling and selling their images, photographs, and likeness to companies and individuals for the advertisement of products and services.

15. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT engages in the business of selling alcohol and food in an atmosphere where nude and semi-nude woman entertain the business' clientele.

16. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT is, and at all times mentioned herein, was the operator of the above described strip club in West Park, Florida.

17. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT is, and at all times mentioned herein, was the operator of the following social media websites with URLs, <https://www.facebook.com/The-Playhouse-Gentlemans-Club-125818034112819/>, <https://instagram.com/djseizure/>, <https://twitter.com/playhousexxx>, and <https://plus.google.com/111687003446330005996/about> and has, and at all times mentioned herein, had control over the contents of said websites.

18. PLAINTIFFS are informed and believe that DEFENDANT promotes its business by and through the use of various marketing tactics and media to include, but not limited to, a website, social media, flyers, posters, and other forms of advertisements.

19. PLAINTIFFS are informed and believe that DEFENDANT used, advertised, created, printed, and distributed PLAINTIFFS' images, photographs, or likeness as further described and identified below (herein referred to as "Images") for commercial value to falsely associate the PLAINTIFFS with DEFENDANT'S strip club in order to receive benefits therefrom, including but not limited to monetary payments, increased promotional, advertising, marketing, and other public relations benefits, notoriety, and publicity, as well as an increase in business revenue, profits, proceeds, and income, and accepted those benefits while PLAINTIFFS failed to receive benefits for the use of their Images to which they are entitled to.

20. PLAINTIFFS are further informed and believe that DEFENDANT created, printed, and distributed various marketing and promotional materials that falsely depicted PLAINTIFFS as patrons, employees, or strippers of its strip club.

21. PLAINTIFFS are informed and believe that DEFENDANT did not have the authority to use PLAINTIFFS' Images. Further, because of the salacious nature of the industry that PLAYHOUSE is involved in, DEFENDANT'S theft of the Images is causing and will continue to cause PLAINTIFFS permanent damage, irreparable harm, loss of future earnings, and ability to conduct business, all while in turn, generating revenue and other benefits as described above for DEFENDANT.

Background Information on Models

22. PLAINTIFFS' careers in the talent and modeling industry place a high degree of value in their good will and reputation, as this is critical in order to maximize earnings, book jobs, and establish a brand. PLAINTIFFS have worked extremely hard for years in order to establish themselves as reliable, reputable, and professional models.

23. PLAINTIFF Voronina is an international model and actress. As her international modeling career began to skyrocket, Voronina was brought to America, where she was introduced to *Playboy* Studios in Los Angeles. She eventually became *Playboy's* Miss January, 2001 and then permanently relocated to Los Angeles to take her career to the next level. She signed with Wilhelmina L.A., which offered her the opportunity to work with world-famous photographers such as Teri Richardson, Mathew Rolston, Antoine Verglas, David LaChapelle, and many others. She is an advertiser's dream, known for her sultry look, charm, and on-set professionalism. Voronina's beauty has represented international brands including SKYY Vodka, Miller Lite, Michelob Ultra, Bacardi, Sisley

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& Detour, to name a few. She has millions of visual impressions around the globe via covers and pages of worldwide magazines, such as *FHM*, *Maxim*, *Playboy* (in 20 countries), *Max* (Italy), *Ocean*, *Shape*, *944*, *Knock-out*, *Q* (United Kingdom), *People* (Australia), and most recently *Kandy*, *Rukus*, *Vape* and *Browz*. In addition to being a model, Voronina has appeared on television and the big screen. She has over two million eight hundred thousand (2,800,000) followers on Facebook, over three hundred thousand (300,000) Instagram followers, ninety-nine thousand (99,000) Twitter followers, and almost six hundred thousand (600,000) YouTube views.¹

24. PLAINTIFF Canas is a Colombian born model now residing and working in the United States. Canas has been in the industry for over twelve (12) years and has found great success as a model, host, runway model, and actor. She has worked runway shows in her native Colombia, as well as Mexico, Ecuador, and recently in Paris, France. She heads up the international campaign and was a contracted model for Curve and their worldwide lingerie line. Canas was chosen as the face of the Masters Gold Tournament in Dubai, United Arab Emirates and was the image for the “International Surf and Sport Expo” in Orlando, Florida. She has worked for international brands and labels such as SOHO, KISS underwear, Salon International, Zona Rosa, and Esteban Escobar. She has appeared in numerous TV shows like FOX Sports and on TV networks such as Telemundo and TV Azteca. Canas continues to build an impressive profile and is constantly in demand between Miami, New York, and Los Angeles.

¹ In the world of modeling, the number of online “followers” or “likes” is a strong factor in determining the earning capacity of a model.

25. PLAINTIFF Toth is an extremely successful model who has not only been featured in such magazines as *Super Street Bike*, *Import Tuner*, *Sport Truck*, *Iron Man*, *Seventeen*, and *Maxim*, but also has posed for various catalogs. Toth also earned the prestigious title of *Playboy* Playmate for the Month of September, 2011. Toth has over two million six hundred thousand (2,600,000) Facebook likes, over five hundred thousand (500,000) Instagram followers, and over one hundred thousand (100,000) Twitter followers. Toth also has her own e-commerce site and continues to earn paid endorsements.

26. PLAINTIFF Gaxiola became Miss Cuba at the age of eighteen (18), and in a small period of time, has possessed the work ethic and dedication to transition between beauty, fashion, and television. She is popular among fashion designers and magazines and is currently a Sports Personality representing the Ultimate Fighting Championship. Gaxiola is also active in a number of social and charitable causes. She has worked for designer brands such as Reebok, Hurley, Guess Jeans, Victoria Secret, Nike, MAC Cosmetics, Roberto Cavalli, Naeem Khan, Paul Marciano, Fendi, Saks Fifth Avenue, and Niemen Marcus. Gaxiola's magazine highlights include those of *GQ Magazine*, *Maxim* (Australia), *Open Magazine*, and *Esquire*.

27. PLAINTIFF Pepaj is a professional working model and actress and her work includes runway walks, high fashion, print, and film. She is known for her roles in the movies, *The Hand Off* (2009), *The Romp* (2011), *Leather Bar*, (2013), and *Interior* (2014). Pepaj was also featured in a national Diet Coke TV commercial. Pepaj currently has over twenty-five thousand (25,000) Instagram followers.

28. PLAINTIFF Jones is a glamour model born in Middlesex, United Kingdom. Jones is regularly featured in many of the United Kingdom's top magazines, including *Nuts*, *Front Army*, *Loaded*, and *FHM*, to name a few. In 2010 and 2011, Jones was voted as the "Number 1 Sexiest Babe" by visitors to *Nuts*' website, with over 1 million votes. She has also appeared in numerous music videos and currently enjoys over two hundred eighteen thousand (218,000) followers on Instagram, two hundred and six thousand (206,000) followers on Twitter, and over one million (1,000,000) followers on Facebook.

29. PLAINTIFF Mayes is a model whose career started when her photos won first place in prestigious photography awards and a spread in *Maxim* magazine. She is well known as a "suitcase model #5" from the hit game show *Deal or No Deal*. Mayes has appeared on *Minute To Win It*, *The Tonight Show*, and *The Jay Leno Show*. She has also appeared in campaigns for Coronet Diamonds, Volkswagen, Subaru, Bacardi, *Vogue*, *Elle*, *In Style*, *Cosmopolitan*, and *Marie Claire*, to name a few. Mayes is currently a cover model and a star of the game *Juiced 2: Hot Import Nights*. She has a modeling contract under CESD Talent Agency (Los Angeles, California) as well as Brand Model & Talent Agency (Orange County, California), and as an actress with Abstract Talent Agency.

30. PLAINTIFF Lund is a famous Danish/Russian model, actress, and designer. Lund has been featured in big print ads for Rockstar Energy Drinks. Further, Lund's billboards for Rockstar Energy Drinks have been featured in twenty (20) cities all over the United States. Lund has also graced the covers of *FHM*, *Maxim*, and *People Magazine*, and was named one of the "Sexiest Women in the World" by *FHM*. As she continued modeling and acting, she was featured in movies with Jack Black and Tenacious D., in *The Pick of Destiny*, and *Epic Movie*, alongside Carmen Electra. Lund also appeared in music videos

for Eminem, Lady Gaga, and many other artists. She was a spokes model for several brands including, Dreamgirl Lingerie clothing company and was featured on billboards for 138 Water Company on Sunset Drive in Los Angeles, California. In 2010, Lund starred in a popular Danish reality show about career women from Denmark “living the dream” in Los Angeles, California called *Danske Hollywood Fruer*. Besides modeling and acting, Lund has studied fashion, art, and interior design. She is also currently working on her own pet clothing line.

31. PLAINTIFF Koren is an international model who started her career in Miami, Florida and is currently living in Los Angeles, California. She has walked the runways for fashion shows in Miami’s Mercedes Benz Fashion Week, filmed for travel TV show *Bikini Destinations* all over the world, shot for major campaigns in California, and is the face of many brands. Koren can be seen across the nation on billboards, buildings, and bus stops in a campaign for MIDORI alongside Kim Kardashian. Koren also played the character of “Sue Emory” in the movie *Date Night* with Steve Carell and Tina Fey. In addition, she did her own stunts in an episode of the TV show *The Closer*. Through out her career, Koren was published in major campaigns and worked for companies including Nike, Reebok, Affliction Clothing, Body Glove, *Modern Salon*, Axe Body Spray, Paul Mitchell, *Vibra*, *Launch Pad*, *Cut & Dry*, *Hairdo*, Sunset Tan, Divine Boutique, *Esquire*, *Vogue*, True Religion, Jessica Simpson Swimwear, Ed Hardy, Tommy Bahama, J Valentine, *Maxim*, *Viva Glam*, and Elegant Moments, to name a few. Koren also owns her own company, Cashmere Hair Extensions, which appeared on the popular TV show *Shark Tank*. Koren currently has over 122,000 followers on Instagram.

32. PLAINTIFFS discovered that DEFENDANT knowingly and without PLAINTIFFS' prior consent (in violation of Fla. Stat. § 540.08, Fla. Stat. § 772.11, Florida Deceptive and Unfair Trade Practices Act ("FDUPTA") Florida Statutes § 501.201, and common law) invaded PLAINTIFFS' privacy by using PLAINTIFFS' Images for commercial purposes to promote and market PLAYHOUSE by and through, *inter alia*, an Instagram, Facebook, Twitter, and Google+ accounts, operated by DEFENDANT, as well as other advertisements and marketing and promotional materials, including but not limited to billboards, banners, flyers, posters, videos, commercials, websites, and social media (hereinafter collectively referred to as DEFENDANT'S "marketing and promotional materials").

33. PLAINTIFFS are informed and believe and on such information allege that at no time did DEFENDANT attempt to purchase PLAINTIFFS' Images or rights to PLAINTIFFS' Images.

34. DEFENDANT'S unauthorized theft and commercial use of PLAINTIFFS' Images in promoting a perverse and sexually oriented business, without consent, has caused PLAINTIFFS financial damage and significant mental anguish and emotional distress.

Standard Valuation In The Modeling Industry

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

36. The fee a professional model charges (as negotiated by his or her agency) involves the consideration of various factors, including, but not limited to: the quality, earning capacity, experience, demand of a model chosen by a client; where the photo

shoot takes place and the length of the photo shoot; the *how* and *where* the images are going to be used by the end user (e.g. flyers, posters, billboards, commercials, videos, Facebook, Instagram, etc.); and length of time (term) the rights to use the photos will be assigned.

37. As stated above, PLAINTIFFS are professional models who have been either employed for runway, advertising campaigns, commercials, and/or film/movie work.

38. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT used PLAINTIFFS' Images on its social media webpages.

39. PLAINTIFFS are informed and believe and on such information allege that based on standard business practice, this usage would be characterized as "social."

40. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT manipulated the Images of PLAINTIFFS to suggest that PLAINTIFFS work at the strip club *as strippers*, make personal appearances at the strip club, or otherwise endorse the strip club.

The Strip Club's Theft of Plaintiffs' Images

41. DEFENDANT knowingly and without PLAINTIFFS' prior consent (in violation of Fla. Stat. § 540.08, Fla. Stat. § 772.11, Florida Deceptive and Unfair Trade Practices Act ("FDUPTA") Florida Statutes § 501.201, and common law) invaded PLAINTIFFS' privacy by using PLAINTIFFS' Images for commercial purposes to promote and market PLAYHOUSE by and through various marketing and promotional mediums including, *inter alia*, website(s), videos, social media, advertisements, flyers, posters, and other media.

42. PLAINTIFFS are informed and believe that DEFENDANT showcased PLAINTIFFS' Images on DEFENDANT'S marketing and promotional materials to target specific audiences and to draw in big spending clients who were/are hoping to meet PLAINTIFFS. DEFENDANT used the Images to promote its strip club and thereby generated revenue and other benefits such as, but not limited to augmenting the guest check average, raising awareness and word of mouth for PLAYHOUSE, and increasing the overall effectiveness of the strip club's marketing campaigns.

43. PLAINTIFFS are successful professional models. PLAINTIFFS are not strip club dancers (herein referred to as "strippers") who dance naked or partially naked for tips in an environment that serves alcohol to mostly male patrons.

44. PLAINTIFFS are informed and believe and on such information allege that any improper or unauthorized use of their Images will substantially injure their careers.

45. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT used a stolen Image of PLAINTIFF Voronina to entice the public to visit its strip club. Specifically, DEFENDANT used an Image of Voronina to invite patrons and the public to visit its strip club on Tuesday, March 26, 2015 for PLAYHOUSE'S "50 Shades of Play Leather & Lace Party" event. The stolen Image of Voronina was uploaded to PLAYHOUSE'S Facebook page on March 19, 2015 with PLAYHOUSE'S logo directly above Voronina's head. Voronina appears as the model on the left hand side of PLAYHOUSE'S advertisement. The misappropriated Image was also used to advertise and promote various hip-hop and rap performers. The Image was used without the consent of Voronina and was altered to intentionally give the impression that Voronina was either a stripper working at the club or that she endorsed the club. *See Image of*

PLAINTIFF Voronina attached hereto as **Composite “1”** which is incorporated herein by this reference.

46. PLAINTIFFS are informed and believe that on or after March 19, 2015, DEFENDANT republished the Image described in paragraph 45 above and depicted in Composite “1” by altering and modified the Image in a way that reached a new audience thereby publishing the Image anew. PLAINTIFFS’ investigation and discovery into DEFENDANT’S subsequent republication of the Image is ongoing.

47. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT used a stolen Image of Canas to promote a “Naughty Nurse Party” event at its strip club. On October 3, 2014, DEFENDANT uploaded Canas’ Image to PLAYHOUSE’S Facebook page for the purposes of promoting its Thursday, October 30, 2014 event as well as alcohol specials. The advertisement also prominently featured the PLAYHOUSE logo. The Image was used without the consent of Canas and was manipulated to intentionally give the impression that Canas was either a stripper working at the club or that she endorsed the club. See Image of PLAINTIFF Canas attached hereto as **Composite “2”** which is incorporated herein by this reference.

48. PLAINTIFFS are informed and believe that on or after October 3, 2014, DEFENDANT republished the Image described in paragraph 47 above and depicted in Composite “2” by altering and modified the Image in a way that reached a new audience thereby publishing the Image anew. PLAINTIFFS’ investigation and discovery into DEFENDANT’S subsequent republication of the Image is ongoing.

49. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT manipulated the Image of PLAINTIFF Toth to make it appear as if she is

an employee of PLAYHOUSE and has authorized her Image to be used for the promotion of the “NFL Super Bowl XLVII Bash” event at its strip club. On January 23, 2014, DEFENDANT uploaded a flyer to PLAYHOUSE’S Facebook page with Toth’s Image in which she was wearing a referee outfit. The Image was also used out of context and to promote game time raffles, giveaways, and an open bar at PLAYHOUSE. The Image was used without the consent of Toth and was altered to intentionally give the impression that Toth was either a stripper working at the club or that she endorsed the club. *See* deceptive practices embodied in the Image of PLAINTIFF Toth attached hereto as **Composite “3”** which is incorporated herein by this reference.

50. PLAINTIFFS are informed and believe that on or after January 23, 2014, DEFENDANT republished the Image described in paragraph 49 above and depicted in Composite “3” by altering and modified the Image in a way that reached a new audience thereby publishing the Image anew. PLAINTIFFS’ investigation and discovery into DEFENDANT’S subsequent republication of the Image is ongoing.

51. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT used a stolen Image of PLAINTIFF Gaxiola without her consent to encourage patrons and to entice the public to visit its strip club. Specifically, DEFENDANT used an Image of Gaxiola to invite patrons and the public to visit its strip club on Tuesday, March 26, 2015 for PLAYHOUSE’S “50 Shades of Play Leather & Lace Party” event. The stolen Image of Gaxiola was uploaded to PLAYHOUSE’S Facebook page on March 19, 2015 with PLAYHOUSE’S logo directly beside Gaxiola’s Image. Gaxiola appears as the model on the right hand side of PLAYHOUSE’S advertisement. The misappropriated Image was also used to advertise and promote

various hip-hop and rap performers. The Image was used without the consent of Gaxiola and was altered to intentionally give the impression that Gaxiola was either a stripper working at the club or that she endorsed the club. *See* Image of PLAINTIFF Gaxiola attached hereto as **Composite “1”** which is incorporated herein by this reference.

52. PLAINTIFFS are informed and believe that on or after March 19, 2015, DEFENDANT republished the Image described in paragraph 51 above and depicted in Composite “1” by altering and modified the Image in a way that reached a new audience thereby publishing the Image anew. PLAINTIFFS’ investigation and discovery into DEFENDANT’S subsequent republication of the Image is ongoing.

53. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT used an Image of PLAINTIFF Pepaj without her consent to encourage patrons and to entice the public to visit its strip club. DEFENDANT used a stolen Image of Pepaj to promote its “Pre-St Patrick’s Day at Playhouse” event. The stolen Image of Pepaj was also used to advertise PLAYHOUSE’S website and an open bar. The Image was published on PLAYHOUSE’S Facebook page on March 5, 2011 and contained a prominent PLAYHOUSE logo next to Pepaj’s face. Pepaj’s Image was used without her consent and was manipulated to intentionally give the impression that she was either working at PLAYHOUSE or that she endorses the club. *See* Image of PLAINTIFF Pepaj attached hereto as **Composite “4”** which is incorporated herein by this reference.

54. PLAINTIFFS are informed and believe that on or after March 5, 2011, DEFENDANT republished the Image described in paragraph 53 above and depicted in Composite “4” by altering and modifying the Image in a way that reached a new

audience thereby publishing the Image anew. PLAINTIFFS' investigation and discovery into DEFENDANT'S subsequent republication of the Image is ongoing.

55. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT manipulated Images of PLAINTIFF Jones to make it appear as if she authorized her Images to be used for the promotion of PLAYHOUSE strip club. On or about April 12 and 19, 2014, an employee or contractor of PLAYHOUSE uploaded Jones' Image to his Instagram account to promote and market PLAYHOUSE'S "# WCW Wednesdays at Playhouse" events. The Image was also used to promote DJ Seizure, "#wcwwednesdays", "#WCW", and "#Playhouse"². On February 4, 2015, DEFENDANT used another Image of Jones to promote its "Wicked Wednesdays" events at PLAYHOUSE strip club. The Image was uploaded to PLAYHOUSE'S Facebook page with the purpose of advertising \$5 well drinks, \$5 table dances, and \$5 selected menu items. The Image also promoted DJ Seizure, "#wickedwednesdays", and PLAYHOUSE'S Facebook and Twitter pages. On September 23 and October 14, 2015, the same employee or contractor of PLAYHOUSE uploaded Jones' Image to his Instagram account with intent to promote PLAYHOUSE'S "Wicked Wednesdays" events. The Image was used to advertise \$5 well drinks, \$5 table dances, \$5 selected menu items, DJ Seizure, PLAYHOUSE'S Facebook and Twitter pages,

² The use of hashtags on PLAINTIFFS' Images is substantially damaging to PLAINTIFFS since a hashtag ensures that PLAINTIFFS' Images will reside with other social media images and/or content that may be similarly as offensive. A hashtag is a type of label or metadata tag used on social networks and microblogging services which makes it easier for users to find messages or images with a specific theme or content. Users create and use hashtags by placing the hash character (or number sign) in front of a word or unspaced phrase, either in the main text of a message or at the end. Searching for that hashtag will then present each message or image that has been tagged with the same hashtag. For example, when a user searches for such hashtags as "#jelloshotgirls" and "#shotgirls", an innumerable amount of sexual and lewd images will appear along with PLAINTIFFS' Images.

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“#WickedWednesdays”, www.DJSeizure.com, “#PlayhouseGentlemensClub”, “#clubsessions”, “#stripclub”, “#DJSeizure”, “#TeamSeizure”, “#MiamisFinest”, as well as other salacious hashtags. DEFENDANT intentionally made it appear as if Jones endorses PLAYHOUSE or is a stripper at PLAYHOUSE. The Images were used without Jones’ consent and engineered to intentionally give the impression that Jones was either working as a stripper at PLAYHOUSE or that she endorses PLAYHOUSE. See Images of PLAINTIFF Jones attached hereto as **Composite “5”** which is incorporated herein by this reference.

56. PLAINTIFFS are informed and believe that on or after April 12, 2014, April 19, 2014, February 4, 2015, September 23, 2015 and October 14, 2015, DEFENDANT republished the Images described in paragraph 55 above and depicted in Composite “5” by altering and modifying the Images in a way that reached a new audience thereby publishing the Images anew. PLAINTIFFS’ investigation and discovery into DEFENDANT’S subsequent republication of the Images is ongoing.

57. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT used a stolen Image of PLAINTIFF Mayes to make it appear as if she is a stripper of DEFENDANT’S strip club and she endorses PLAYHOUSE. Mayes’ Image was used to promote PLAYHOUSE on Instagram. On or about August 23, 2014, an employee or contractor of PLAYHOUSE uploaded Mayes’ Image to his Instagram account in order to promote and market “Naughty School Girl Party” at PLAYHOUSE strip club. Mayes appears as the model in the center of the advertisement. The Image was also used to promote alcohol specials, PLAYHOUSE’S Facebook and Twitter pages, DJ Seizure, “#PlayThursdays”, and “#NaughtySchoolGirl”. The Image was used without the

consent of Mayes and was altered to intentionally give the impression that Mayes is either a stripper working at the club or that she endorses the club. See Image of PLAINTIFF Mayes attached hereto as **Composite “6”** which is incorporated herein by this reference.

58. PLAINTIFFS are informed and believe that on or after August 23, 2014, DEFENDANT republished the Image described in paragraph 57 above and depicted in Composite “6” by altering and modifying the Image in a way that reached a new audience thereby publishing the Image anew. PLAINTIFFS’ investigation and discovery into DEFENDANT’S subsequent republication of the Image is ongoing.

59. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT used a stolen Image of PLAINTIFF Lund to entice its patrons and the public to visit its strip club. DEFENDANT used Lund’s stolen Image to promote its “Sexy Green Glow Party” event. DEFENDANT doctored the Image to make it appear as if Lund endorses PLAYHOUSE or is an employee of DEFENDANT’S strip club. Lund is the model appearing on the left hand side of the advertisement. The Image was uploaded to PLAYHOUSE’S Facebook and Google+ pages on March 2, 2015. On March 16, 2015, the same Image was uploaded to MainStage411’s Twitter page. The Image contained a lewd and salacious language implying that Lund participates in sexual acts for money. Specifically, the Image read, “Come get lucky.” The Image was also used to promote alcohol specials, PLAYHOUSE’S Facebook and Twitter accounts, “#Playhouse”, “#SPB”, “#March17”, and “#Irish”. The Image was used without the consent of Lund and was altered to intentionally give the impression that Lund is either a stripper working at

the club or that she endorses the club. See Image of PLAINTIFF Lund attached hereto as **Composite “7”** which is incorporated herein by this reference.

60. PLAINTIFFS are informed and believe that on or after March 2 and 16, 2015, DEFENDANT republished the Image described in paragraph 59 above and depicted in Composite “7” by altering and modifying the Image in a way that reached a new audience thereby publishing the Image anew. PLAINTIFFS’ investigation and discovery into DEFENDANT’S subsequent republication of the Image is ongoing.

61. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT misappropriated an Image of PLAINTIFF Koren to entice its patrons and the public to visit its strip club. DEFENDANT used a stolen Image of Koren to make it appear as if she was endorsing an event at DEFENDANT’S strip club. The advertisement for PLAYHOUSE showcased Koren as one of the women promoting PLAYHOUSE’S “Naughty Nurse Party” event. The Image was also used to advertise alcohol specials, PLAYHOUSE’S website, Facebook, and Twitter accounts. The Image was published on PLAYHOUSE’S Twitter page on October 19, 2012. Koren’s Image was used without her consent and was manipulated to intentionally give the impression that she was either a stripper working at PLAYHOUSE or that she endorses PLAYHOUSE. See Image of PLAINTIFF Koren depicted as the woman on the left attached hereto as **Composite “8”** which is incorporated herein by this reference.

62. PLAINTIFFS are informed and believe that on or after October 19, 2012, DEFENDANT republished the Image described in paragraph 61 above and depicted in Composite “8” by altering and modifying the Image in a way that reached a new

audience thereby publishing the Image anew. PLAINTIFFS' investigation and discovery into DEFENDANT'S subsequent republication of the Image is ongoing.

63. PLAINTIFFS are all highly successful talent professionals who make a living by promoting their image and likeness to various clients and take great pride in their reputation in their industry.

64. At no time did PLAINTIFFS give DEFENDANT permission to use their Images for any marketing and promotional materials, nor did PLAINTIFFS consent to being associated with a strip club or pornography industry in the manner in which DEFENDANT is involved.

65. DEFENDANT never contacted PLAINTIFFS, either directly or indirectly, to request permission to use PLAINTIFFS' Images.

66. DEFENDANT never obtained, either directly or indirectly, PLAINTIFFS' permission to use PLAINTIFFS' Images.

67. DEFENDANT never paid PLAINTIFFS for the use of PLAINTIFFS' Images on any marketing and promotional materials.

68. PLAINTIFFS never received any compensation for the use of PLAINTIFFS' Images on DEFENDANT'S marketing and promotional materials.

69. Moreover, the method and manner in which DEFENDANT used the Images of PLAINTIFFS evinces that DEFENDANT knew that PLAINTIFFS' Images were not pictures of its establishment's strippers.

70. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT has taken the foregoing actions with intent to permanently deprive PLAINTIFFS of their rights to their Images.

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71. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT has taken the foregoing actions with the threat of causing PLAINTIFFS irreparable harm.

72. DEFENDANT'S theft of the Images permitted, encouraged, or facilitated other persons, firms, and entities (including other strip clubs) to further utilize and steal PLAINTIFFS' Images in other advertisements, and making PLAINTIFFS' Images available to such other persons, firms, or entities, for purposes of advertising, marketing, and promoting other products or services.

PLAINTIFFS' Demand and Cease & Desist Letter

73. On August 13, 2015, PLAINTIFFS' counsel sent a **demand and cease & desist ("Demand Letter")** to DEFENDANT explaining that it was illegally using PLAINTIFF Voronina, PLAINTIFF Canas, PLAINTIFF Toth, PLAINTIFF Gaxiola, and PLAINTIFF Pepaj's Images for pecuniary gain, without permission, and to their detriment.

74. The Demand Letter also explained that PLAINTIFFS have intangible rights, privileges, and interests in their image and likeness and their privacy rights are a property right.

75. The Demand Letter threatened legal action in thirty (30) days if DEFENDANT failed to properly compensate PLAINTIFFS for the theft of the Images.

76. The Demand Letter further advised DEFENDANT that litigation was imminent and requested a "Litigation Hold" on all electronically stored media, information, and documents. The Demand Letter requested DEFENDANT not to destroy any evidence of PLAYHOUSE'S use of PLAINTIFFS' Images on any medium or platform, whether hard copy of stored electronically and that the destruction of evidence could lead to serious

consequences (both civil and criminal) and subject DEFENDANT to further damages.

77. The Demand Letter also gave DEFENDANT thirty (30) days to cure the violations as required under Fla. Stat. § 772.11(1).

78. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT removed *some* of the PLAINTIFFS' Images, thereby indirectly confirming receipt of the Demand Letter (although DEFENDANT never formally responded), but continued to use PLAINTIFFS' Images to promote and market PLAYHOUSE.

79. After further investigation, and sometime after August, 2015, PLAINTIFFS discovered additional usages (thefts) of PLAINTIFF Jones, PLAINTIFF Mayes, PLAINTIFF Lund, and PLAINTIFF Koren's Images and that DEFENDANT was using additional models' Images for pecuniary gain and without permission.

80. PLAINTIFFS have retained the undersigned counsel in this action and thereby seek to be reimbursed for their attorneys' fees for their services.

81. All conditions precedent to bringing this action have been performed or satisfied, or have otherwise occurred or been discharged.

COUNT I - VIOLATION OF FLA. STAT. § 540.08 –UNAUTHORIZED PUBLICATION OF NAME OR LIKENESS AS TO PLAINTIFFS VORONINA, CANAS, TOT, GAXIOLA, PEPAJ, JONES, MAYES, LUND, and KOREN

82. PLAINTIFFS re-allege paragraphs 1 through 81 above, and incorporate the same by reference as though fully set forth herein.

83. Fla. Stat. § 540.08(1) provides that "[n]o person shall publish, print, display or otherwise publicly use for purposes of trade or for any commercial or advertising purpose

the name, portrait, photograph, or other likeness of any natural person without the **express written or oral consent** to such use.” (Emphasis added).

84. Despite the clear language of Section 540.08(1) DEFENDANT published unauthorized and stolen Images of PLAINTIFFS on its marketing and promotional materials, and any person viewing the Images with the naked eye can reasonably determine that the persons depicted are PLAINTIFFS. Each PLAINTIFFS’ face and body are shown in each use, and they are clearly lighted and readily distinguishable. PLAINTIFFS have identified themselves in the respective Images.

85. DEFENDANT published, printed, displayed, or otherwise publicly disseminated or used PLAINTIFFS’ Images without their express written or oral consent, for purposes of trade or for other commercial or advertising purposes by, among other things:

- a. See attachments attached hereto as Composites “1” - “8”, showing each PLAINTIFF in or on DEFENDANT’S marketing and promotional materials;
- b. Permitting, encouraging, or facilitating other persons, firms, and entities (including other strip clubs) to further utilize and steal PLAINTIFFS’ Images in other advertisements, and making PLAINTIFFS’ Images available to such other persons, firms, or entities, for purposes of advertising, marketing, and promoting other products or services; and
- c. Intentionally and purposefully utilizing PLAINTIFFS’ Images for commercial or advertising purposes despite having knowledge that such was unauthorized.

86. PLAINTIFFS are informed and believe and on such information allege that no consent to use the Images, either express, written, or oral exists or existed between PLAINTIFFS and DEFENDANT.

87. DEFENDANT did not seek PLAINTIFFS' permission, nor did the PLAINTIFFS give DEFENDANT permission, to use the Images for any commercial purpose.

88. Additionally, DEFENDANT did not offer PLAINTIFFS compensation nor did PLAINTIFFS receive compensation for the use of their Images on DEFENDANT'S marketing and promotional materials for DEFENDANT'S strip club.

89. PLAINTIFFS are informed and believe and on such information allege that as a direct and proximate result of DEFENDANT'S unauthorized publication of PLAINTIFFS' Images, DEFENDANT received benefits therefrom, including but not limited to monetary payments, increased promotional, advertising, marketing, and other public relations benefits, notoriety, and publicity, as well as an increase in business revenue, profits, proceeds, and income, and accepted those benefits while PLAINTIFFS failed to receive benefits for the use of their Images to which they are entitled to.

90. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT'S unauthorized use of PLAINTIFFS' Images has damaged PLAINTIFFS with respect to their right to control the commercial exploitation of their Images.

91. PLAINTIFFS are informed and believe and on such information allege that as a further direct and proximate result of the unauthorized publication set forth above, the value of PLAINTIFFS' Images has been diluted due to DEFENDANT'S unauthorized publication of their Images on DEFENDANT'S marketing and promotional materials.

92. PLAINTIFFS have been damaged by DEFENDANT'S widespread, unauthorized, and commercial use of PLAINTIFFS' Images in an amount to be established by proof at trial.

93. As a result of DEFENDANT'S misappropriation of the Images, PLAINTIFFS have been compelled to engage the undersigned to enforce their rights and to prosecute this instant action.

94. In addition, PLAINTIFFS are informed and believe and thereon allege that engaging in the conduct described above, DEFENDANT acted with oppression, fraud, and/or malice. DEFENDANT'S conduct has been despicable and taken in conscious disregard of PLAINTIFFS' rights. Accordingly, PLAINTIFFS are entitled to an award of punitive damages against DEFENDANTS, in an amount sufficient to punish and make an example of DEFENDANT. Therefore, Plaintiffs' reserve the right to seek punitive damages according to proof and pursuant to Fla. Stat. §768.72.

WHEREFORE, PLAINTIFFS demand judgment against PLAYHOUSE for all remedies available under Fla. Stat. §540.08, including but not limited to, both actual loss and damages, punitive damages according to proof, costs, interest, royalties, and restitution of DEFENDANT'S unlawful proceeds, including DEFENDANT'S profits and other relief deemed just and proper by this Court.

**COUNT II - COMMON LAW INVASION OF PRIVACY - MISAPPROPRIATION
AS TO PLAINTIFFS VORONINA, CANAS, TOTH, GAXIOLA, PEPAJ, JONES,
MAYES, LUND, and KOREN**

95. PLAINTIFFS re-allege paragraphs 1 through 81 above, and incorporate the same by reference as though fully set forth.

96. DEFENDANTS published, printed, displayed, or otherwise publicly disseminated or used PLAINTIFFS' Images without their express written or oral consent, for purposes of trade or for other commercial or advertising purposes by, among other things:

- a. See attachments attached hereto as Composites "1"- "8", showing each PLAINTIFF in or on DEFENDANT'S marketing and promotional materials;
- b. Permitting, encouraging, or facilitating other persons, firms, and entities (including other strip clubs) to further utilize and steal PLAINTIFFS' Images in other advertisements, and making PLAINTIFFS' Images available to such other persons, firms, or entities, for purposes of advertising, marketing, and promoting other products or services; and
- c. Intentionally and purposefully utilizing PLAINTIFFS' Images for commercial or advertising purposes despite having knowledge that such was unauthorized.

97. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT misappropriated PLAINTIFFS' Images for the value associated with them.

98. PLAINTIFFS are informed and believe that the misappropriation was neither incidental nor for a newsworthy purpose.

99. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT misappropriated PLAINTIFFS' Images for DEFENDANT'S own benefit because of the commercial standing, reputation, and other values associated with

PLAINTIFFS' Images and for the direct purpose of soliciting sales and promotion of PLAYHOUSE.

100. PLAINTIFFS are readily identifiable on DEFENDANT'S marketing and promotional materials and any person viewing the Images with the naked eye can reasonably determine that the persons depicted are PLAINTIFFS. PLAINTIFFS' faces and bodies are shown in each use, and they are clearly lighted and readily distinguishable. PLAINTIFFS have identified themselves in the respective Images.

101. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT did not request PLAINTIFFS' permission nor did PLAINTIFFS give DEFENDANT permission and/or receive compensation for the theft and misappropriation of their Images for any sales or advertising for DEFENDANT'S strip club.

102. PLAINTIFFS are informed and believe and on such information allege that any use of PLAINTIFFS' Images for the commercial use and benefit of PLAYHOUSE is unauthorized and without consent.

103. Likewise, PLAINTIFFS are informed and believe and on such information allege that DEFENDANT did not request PLAINTIFFS' permission, nor did PLAINTIFFS give DEFENDANT permission and/or receive compensation for the use their Images on DEFENDANT'S social media, print materials, advertising flyers, or any other promotional items.

104. PLAINTIFFS never authorized the use of their Images whatsoever for any advertising of PLAYHOUSE.

105. PLAINTIFFS are informed and believe and on such information allege that because the use of PLAINTIFFS' Images was unauthorized and without consent, DEFENDANT has invaded PLAINTIFFS' right to privacy by exploiting their likenesses and personalities.

106. Additionally, the continuous appearance of PLAINTIFFS' Images on DEFENDANT'S marketing and promotional materials reasonably implied that PLAINTIFFS continued to consent to their appearance on DEFENDANT'S marketing and promotional materials.

107. PLAINTIFFS are informed and believe and on such information allege that as a direct and proximate result of DEFENDANT'S appropriation of PLAINTIFFS' Images, DEFENDANT gained benefits to include, but not limited to increased profits or gross revenues in an amount to be established by proof at trial.

108. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT'S unauthorized use of PLAINTIFFS' Images has damaged PLAINTIFFS with respect to their right to control the commercial exploitation of their Images.

109. PLAINTIFFS are informed and believe and on such information allege that as a further direct and proximate result of the unauthorized publication set forth above, the value of PLAINTIFFS' Images has been diluted due to DEFENDANT'S unauthorized publication of their Images on DEFENDANT'S marketing and promotional materials.

110. PLAINTIFFS have been damaged by DEFENDANT'S widespread, unauthorized, and commercial use of PLAINTIFFS' Images in the amount to be proven at trial.

111. In addition, PLAINTIFFS are informed and believe and thereon allege that in engaging in the conduct described above, DEFENDANT acted with oppression, fraud,

and/or malice. DEFENDANT'S conduct has been despicable and taken in conscious disregard for PLAINTIFFS' rights.

WHEREFORE, PLAINTIFFS demand judgment against PLAYHOUSE for all remedies available under a claim of misappropriation including, but not limited to, actual damages, costs, interest, and restitution of DEFENDANT'S unlawful proceeds, including DEFENDANT'S profits and other relief deemed just and proper by this Court.

COUNT III - CIVIL THEFT UNDER FLA. STAT. § 772.11 FOR VIOLATION OF SECTION 812.014 AS TO PLAINTIFFS VORONINA, CANAS, TOTI, GAXIOLA, PEPAJ, JONES, MAYES, LUND, and KOREN

112. PLAINTIFFS incorporate and re-allege paragraphs 1 through 81 as if fully restated herein.

113. PLAINTIFFS are informed and believe and on such information allege that PLAINTIFFS, at all material times, were the exclusive owners of all rights, title, and interest in and to their Images and possession thereof in Florida.

114. PLAINTIFFS never authorized or licensed DEFENDANT to copy, reproduce, distribute, or to otherwise exploit their Images in any manner.

115. DEFENDANT was not entitled to or authorized to use PLAINTIFFS' Images for copying, reproducing, distributing, or other exploitation.

116. PLAINTIFFS discovered that DEFENDANT was knowingly and without PLAINTIFFS' prior consent invading PLAINTIFFS' privacy and stealing their property rights by using each PLAINTIFFS' Images on DEFENDANT'S marketing and promotional materials.

117. Fla. Stat. § 772.11 provides, "...any person who proves by clear and convincing evidence that he or she has been injured in any fashion by reason of any violation of Fla.

Stat. § 812.012 – 812.037 or § 825.103(1) (civil theft) is punishable by treble damages, attorneys' fees, and court costs.”

118. Under Fla. Stat. § 812.012(4)(b), stolen property is defined as anything of value, and includes tangible or intangible personal property, including rights, privileges, interests and claims.

119. Fla. Stat. § 812.014 (“theft”), provides that “(1) A person commits theft if he or she knowingly obtains or uses the property of another with intent to either temporarily or permanently: (a) Deprive the other person of a right to the property or a benefit from the property. (b) Appropriate the property to his or her use.”

120. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT knew that PLAINTIFFS’ Images were not pictures of any of its employees or strippers as neither DEFENDANT nor any agent acting under DEFENDANT’S direction, sought consent from PLAINTIFFS to use their Images; and none of the PLAINTIFFS gave DEFENDANT permission to use the Images. DEFENDANT knows full well who its employees and/or contractors are and knows that PLAINTIFFS were not its employees and/or contractors.

121. PLAINTIFFS are informed and believe and on such information allege that by DEFENDANT’S acts and the conduct alleged above, DEFENDANT knowingly obtained and used PLAINTIFFS’ Images with the intent to temporarily or permanently appropriate PLAINTIFFS’ Images, including but not limited to DEFENDANT’S own use, and by so doing, DEFENDANT committed statutory theft pursuant to Fla. Stat. § 812.014.

122. Nevertheless, PLAINTIFFS moved to resolve their differences and mitigate their damages.

123. PLAINTIFFS delivered a Demand Letter to DEFENDANT over thirty (30) days ago as required by Fla. Stat. § 772.11(1), to sustain a claim for Civil Theft.

124. The Demand Letter also threatened legal action unless the Defendant agreed that the amount owed would be paid.

125. Additionally, PLAINTIFFS are informed and believe and on such information allege that DEFENDANT'S blatant appropriation of PLAINTIFFS' Images has likely confused and deceived the public into believing that PLAINTIFFS are somehow sponsored by DEFENDANT or act under DEFENDANT'S supervision or control.

126. PLAINTIFFS are informed and allege that in engaging in the conduct described above, DEFENDANT acted with fraud and the conduct of DEFENDANT has been undertaken in conscious disregard for PLAINTIFFS' rights.

127. PLAINTIFFS have been damaged by DEFENDANTS' widespread unauthorized commercial use of PLAINTIFFS' Images in an amount to be proven at trial.

128. Accordingly, pursuant to Fla. Stat. § 772.11(1), PLAINTIFFS are entitled to an award treble the amount of compensatory damages against DEFENDANT.

129. PLAINTIFFS are also entitled to reasonable attorneys' fees and costs pursuant to Fla. Stat. § 772.11(1).

130. PLAINTIFFS are informed and believe that the notice requirement for relief under Fla. Stat. § 772.11(1) has also been satisfied.

131. PLAINTIFFS are informed and believe and on such information allege that thirty (30) days have run since the demand was sent.

WHEREFORE, PLAINTIFFS demand judgment against PLAYHOUSE for all remedies available under Fla. Stat. § 772.11(1), including but not limited to, treble the

amount of actual damages, costs, interest, and attorneys' fees and other relief deemed just and proper by this Court.

COUNT IV - UNLAWFUL CONVERSION AS TO PLAINTIFFS VORONINA, CANAS, TOTTH, GAXIOLA, PEPAJ, JONES, MAYES, LUND, and KOREN

132. PLAINTIFFS incorporate and re-allege paragraphs 1 through 81, as if fully restated herein.

133. PLAINTIFFS are, and at relevant times were, the exclusive owners of all rights, title, and interest to their Images and possession thereof in Florida.

134. PLAINTIFFS have, and for all times relevant herein had, an intangible property interest in their Images.

135. By their acts and conduct alleged above, DEFENDANT has converted PLAINTIFFS' property rights, including without limitation, PLAINTIFFS' Images for DEFENDANT'S own use and wrongful disposition for financial gain.

136. PLAINTIFFS are informed and believe and on such information allege that they have made a demand to DEFENDANT for the return of their property, namely the Images used by DEFENDANT prior to filing these claims.

137. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT has continued to exercise ownership illegally and unlawfully of said property, through it rightfully belongs to PLAINTIFFS.

138. PLAINTIFFS are informed and believe and on such information allege that DEFENDANT has failed to return PLAINTIFFS' property to them.

139. As a result, PLAINTIFFS have suffered compensatory damages in excess of \$675,000.00; but PLAINTIFFS allege that the same are within the jurisdiction of the Court.

133. Further, PLAINTIFFS are informed and believe and thereon allege that in engaging in the conduct described above, DEFENDANT acted with oppression, fraud, and/or malice. DEFENDANT'S conduct has been despicable and taken in conscious disregard of PLAINTIFFS' rights. Accordingly, PLAINTIFFS are entitled to an award of punitive damages against DEFENDANTS, in an amount sufficient to punish and make an example of DEFENDANT. Therefore, Plaintiffs' reserve the right to seek punitive damages according to proof and pursuant to Fla. Stat. §768.72.

WHEREFORE, PLAINTIFFS demand judgment against PLAYHOUSE and for all remedies available under the common law claim for conversion, including but not limited to actual damages, punitive damages according to proof, costs, interest, and restitution of DEFENDANT'S unlawful proceeds, including DEFENDANT'S profits and other relief deemed just and proper by this Court.

**COUNT V - VIOLATION OF DECEPTIVE AND UNFAIR TRADE PRACTICES
ACT AS TO PLAINTIFFS VORONINA, CANAS, TOTH, GAXIOLA, PEPAJ,
JONES, MAYES, LUND, and KOREN**

141. PLAINTIFFS re-allege paragraphs 1 through 81 above, and incorporate the same by reference as though fully set forth herein.

142. Fla. Stat. § 501.204(1) ("FDUTPA"), provides that "[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful."

143. DEFENDANT was a direct and active participant in the dealings with PLAINTIFFS concerning the advertising and promotion of PLAINTIFFS' Images to the overall public.

144. DEFENDANT, at all material times, was engaged in a trade or commerce as defined within Fla. Stat. § 501.203.

145. DEFENDANT was also engaged in deceptive and unfair conduct, in violation of FDUTPA, by, *inter alia*: (i) failing to obtain the required consent prior to promoting PLAYHOUSE by and through the theft and use of PLAINTIFFS' Images; (ii) failing to obtain authorization from PLAINTIFFS or their agents, prior to the publication of PLAINTIFFS' Images on PLAYHOUSE'S marketing and promotional materials; (iii) failing to compensate PLAINTIFFS for the appropriation of PLAINTIFFS' Images on PLAYHOUSE'S marketing and promotional materials, in compliance with normal industry standards; (iv) falsely representing to the public that PLAINTIFFS endorsed the strip club, or would be present at the DEFENDANT'S strip club or events, and/or, (v) falsely representing that PLAINTIFFS could or would perform sexually oriented activities such as providing lap dances or nude dances.

146. Additionally, the acts and practices described in the preceding paragraphs were misleading to the general public.

147. PLAINTIFFS are informed and believe and on such information allege that these acts constitute unfair and fraudulent practices of a business within the meaning of FDUTPA which prohibits unlawful, unfair, or fraudulent business act or practice and unfair, deceptive, untrue, or misleading advertising.

148. As a direct and proximate result of DEFENDANT'S unfair and deceptive conduct, PLAINTIFFS have suffered actual damages in the form of general damages and consequential damages.

149. While the precise amount of PLAINTIFFS' damages is presently unknown, such damages are believed to be substantial and will be determined according to proof at trial; but PLAINTIFFS allege that the same are within the jurisdiction of the Court.

150. PLAINTIFFS are entitled to recover reasonable attorneys' fees and costs from DEFENDANT pursuant to, *inter alia*, Fla. Stat. § 501.2105.

WHEREFORE, PLAINTIFFS respectfully request that this Court enter a Judgment against PLAYHOUSE for actual damages, including loss of profit, attorneys' fees, interest, costs, compensatory damages, damage to professional reputation, consequential damages, statutory civil penalties under Fla. Stat. § 501.2075, and such other relief as this Court deems just and proper.

COUNT VI - UNFAIR TRADE COMPETITION AS TO PLAINTIFFS
VORONINA, CANAS, TOTH, GAXIOLA, PEPAJ,
JONES, MAYES, LUND, and KOREN

151. PLAINTIFFS re-allege paragraphs 1 through 81 above, and incorporate the same by reference as though fully set forth herein.

152. PLAINTIFFS are, and at all relevant times were, the exclusive owners of all rights, title, and interest in and to their Images and possession thereof in Florida.

153. PLAINTIFFS have not authorized or licensed DEFENDANT to reproduce, distribute, disseminate, or otherwise exploit their Images in any manner.

154. DEFENDANT was not entitled to or authorized to reproduce, distribute, disseminate or otherwise exploit PLAINTIFFS' Images.

155. PLAINTIFFS have expended significant time, labor, and money in the making and marketing of their Images. DEFENDANT has paid nothing to PLAINTIFFS for reproducing, distributing, disseminating, or otherwise exploiting PLAINTIFFS' Images. Without expending any time, labor, money or marketing of its own, DEFENDANT has simply appropriated the commercial qualities, reputation, and salable properties of PLAINTIFFS, including without limitation PLAINTIFFS' Images, by unfairly and directly competing with PLAINTIFFS' use, sale, distribution, and exploitation of their Images.

156. In so doing, DEFENDANT has undermined PLAINTIFFS' substantial and financial investment in themselves for DEFENDANT'S own commercial benefit and have commercially damaged the market value of PLAINTIFFS' Images.

157. DEFENDANT has usurped for itself the fruits of PLAINTIFFS' popularity and fame.

158. DEFENDANT has profited from the results of PLAINTIFFS' hard work modeling and from their portfolio and skill without having to incur any expense in relation to PLAINTIFFS' Images.

159. Furthermore, DEFENDANT'S unauthorized use of PLAINTIFFS' Images has likely caused confusion, mistake, or deception as to the source, sponsorship, affiliation, or connection between PLAINTIFFS and DEFENDANT.

160. DEFENDANT'S acts constitute unfair competition involving the misappropriation of PLAINTIFFS' Images.

161. As a direct and proximate result of DEFENDANT'S misappropriation and unfair competition, PLAINTIFFS are entitled to recover all proceeds and other compensation

received or to be received by DEFENDANT from the misappropriation and unfair competition of PLAINTIFFS' Images.

162. PLAINTIFFS have been damaged and DEFENDANT has been unjustly enriched, in an amount to be proved at trial; but PLAINTIFFS allege that the same are within the jurisdiction of the Court.

163. PLAINTIFFS are informed and believe and thereon allege that in engaging in the conduct described above, DEFENDANT acted with oppression, fraud, and/or malice. DEFENDANT'S conduct has been despicable and taken in conscious disregard of PLAINTIFFS' rights. Therefore, Plaintiffs' reserve the right to seek punitive damages according to proof and pursuant to Fla. Stat. §768.72.

WHEREFORE, PLAINTIFFS demand judgment against PLAYHOUSE for all remedies available under a claim of unfair competition of DEFENDANT'S misappropriated Images of PLAINTIFFS, including but not limited to actual and compensatory damages, punitive damages according to proof, consequential damages, and further relief in law or equity as this Court deems just and proper.

COUNT VII - DEFAMATION AS TO PLAINTIFFS VORONINA, CANAS, TOTH, GAXIOLA, PEPAJ, JONES, MAYES, LUND, and KOREN

164. PLAINTIFFS re-allege paragraphs 1 through 81 above, and incorporate the same by reference as though fully set forth herein.

165. PLAINTIFFS are informed and believe that DEFENDANT falsely, willfully, and maliciously created, designed, printed, published, and distributed through Broward County and the Internet libelous and defamatory flyers (and other marketing materials) for its personal gain and the benefit of PLAYHOUSE.

166. The Images described above depict PLAINTIFFS as endorsing DEFENDANT'S establishment or as strippers or in the occupation of taking one's clothing off for the sexual stimulation of another, which is utterly false and defamatory. PLAINTIFFS are not strippers, they are professional models.

167. The context of the defamatory statements further indicates the attempt by DEFENDANT to falsify claims that PLAINTIFFS endorse PLAYHOUSE and are strippers employed by DEFENDANT.

168. In total, the combined effect of DEFENDANT'S false depiction and statements creates an impression in the ordinary and reasonable person that PLAINTIFFS either work for DEFENDANT'S establishment, endorse it, or are strippers at PLAYHOUSE.

169. PLAINTIFFS are informed and believe that DEFENDANT has acted with actual malice; that is, DEFENDANT knew that PLAINTIFFS did not endorse PLAYHOUSE and were not strippers or caught up in a stripper lifestyle, and yet DEFENDANT published the Images of PLAINTIFFS with knowledge of their falsity or acted with reckless disregard as to whether the Images were accurate representations.

170. DEFENDANT, in disseminating such information to the public, acted in a grossly irresponsible manner with reckless disregard for the standards of truth and veracity ordinarily followed by responsible persons. DEFENDANT knew that in making the statements, a false impression would be made and PLAINTIFFS would be damaged.

171. The false and unprivileged publication about PLAINTIFFS by DEFENDANT exposed PLAINTIFFS to distrust, hatred, contempt, ridicule, and caused injury to their reputations.

172. By portraying PLAINTIFFS on its strip club's social media, and flyers, DEFENDANT left no doubt in the mind of an individual viewing its marketing and promotional materials, that PLAINTIFFS endorsed PLAYHOUSE and are strippers.

173. PLAINTIFFS are informed and believe that hundreds if not thousands of people have viewed the false and defamatory advertisements.

174. DEFENDANT knew or should have known that the failure to exercise due care in obtaining permission from PLAINTIFFS, whose Images it used to promote its business, would cause PLAINTIFFS severe emotional distress.

175. DEFENDANT further knew that because its advertisements were posted for the entire world to view, it was likely that someone would recognize the advertisements and assume that PLAINTIFFS endorsed DEFENDANT'S establishment or are strippers and/or participants in other deviant sexual behavior. DEFENDANT undertook this action with careless disregard of the fact that PLAINTIFFS would suffer emotional distress and humiliation as a result of DEFENDANT'S wanton and reckless disregard of the consequences to PLAINTIFFS.

176. As a direct and proximate result of DEFENDANT'S defamatory comments, PLAINTIFFS have suffered damages, which include extreme emotional distress and humiliation, mental anguish, emotional and physical distress, and have been injured in mind and body in the amount to be proved at trial; but PLAINTIFFS allege that the same are within the jurisdiction of the Court.

177. PLAINTIFFS are informed and believe that DEFENDANT has further used their Images by altering or modifying the Images in other mediums, to include but not limited

to social media, flyers, and included high resolution Images of PLAINTIFFS in which each of their faces are readily visible and identifiable.

178. PLAINTIFFS are informed and believe that DEFENDANT has further re-published PLAINTIFFS' Images in other promotional forums.

WHEREFORE, PLAINTIFFS demand judgment against PLAYHOUSE for damages, including but not limited to compensatory damages, punitive damages according to proof and pursuant to Fla. Stat. §768.72, costs, interest, and other relief deemed just and proper by this Court.

COUNT VIII - UNJUST ENRICHMENT AS TO PLAINTIFFS VORONINA, CANAS, TOTTH, GAXIOLA, PEPAJ, JONES, MAYES, LUND, and KOREN

179. PLAINTIFFS re-allege paragraphs 1 through 81 above, and incorporate the same by reference as though fully set forth herein.

180. PLAINTIFFS are informed and believe and allege that DEFENDANT'S appropriation of PLAINTIFFS' Images was for the purpose of targeting a specific audience.

181. PLAINTIFFS are informed and believe that DEFENDANT'S marketing and promotional materials featured PLAINTIFFS.

182. DEFENDANT specifically used PLAINTIFFS' Images to draw in big spending clients who were hoping to meet PLAINTIFFS.

183. PLAINTIFFS are informed and believe and allege that DEFENDANT did not request PLAINTIFFS' permission, nor did PLAINTIFFS give DEFENDANT permission to use their Images on DEFENDANT'S social media, print flyers, or other uses.

184. PLAINTIFFS did not authorize the use of their Images whatsoever for any of DEFENDANT'S property and/or promotional materials.

185. Had the PLAINTIFFS authorized the use of their Images for commercial gain and the benefit to DEFENDANT, PLAINTIFFS would have also expected to be paid for such use.

186. PLAINTIFFS are informed and believe and allege that DEFENDANT did not provide any financial incentive or form of compensation to PLAINTIFFS for the use their Images on DEFENDANT'S social media, print flyers, or other uses.

187. As a result of DEFENDANT'S acts, PLAINTIFFS have been damaged and DEFENDANT has been unjustly enriched, in an amount that is not fully ascertained but which will be determined according to proof at trial; but PLAINTIFFS allege that the same are within the jurisdiction of the Court.

188. PLAINTIFFS are entitled to restitution of the reasonable value of the benefit derived by DEFENDANT for the unauthorized use DEFENDANT made of PLAINTIFFS' Images. Such damages, restitution, and disgorgement should include a declaration by this Court that DEFENDANT is a constructive trustee for the benefit of PLAINTIFFS, and an order that DEFENDANT convey to PLAINTIFFS gross receipts received or to be received that are attributable to DEFENDANT'S usage of PLAINTIFFS' Images.

WHEREFORE, PLAINTIFFS demand judgment against PLAYHOUSE for damages, including but not limited to actual damages, costs, interest, imposition of a constructive trust, restitution of unlawful proceeds, including DEFENDANT'S gross

profits and such other and further relief in law or equity as this Court deems just and proper.

COUNT IX - FRAUDULENT MISREPRESENTATION AS TO PLAINTIFFS
VORONINA, CANAS, TOTH, GAXIOLA, PEPAJ,
JONES, MAYES, LUND, and KOREN

189. PLAINTIFFS re-allege paragraphs 1 through 81 above, and incorporate the same by reference as though fully set forth herein.

190. PLAINTIFFS are informed and believe and herein allege that DEFENDANT misrepresented to the public the PLAINTIFFS' patronage, connection, or sponsorship with their establishment for the purpose of financial gain.

191. PLAINTIFFS are informed and believe and allege that DEFENDANT knew that PLAINTIFFS were not legally connected, endorsed or working for its establishment.

192. PLAINTIFFS are informed and believe and allege that DEFENDANT published Images of PLAINTIFFS as if they worked for its strip clubs, either endorsing it, hosting it, or appearing at an event at the strip club.

193. PLAINTIFFS are entitled to restitution of the reasonable value of the benefit derived by DEFENDANT for the unauthorized use DEFENDANT made of PLAINTIFFS' Images.

194. As a result of DEFENDANT'S conduct, PLAINTIFFS suffered damages to be determined according to proof at trial; but PLAINTIFFS allege that the same are within the jurisdiction of the Court.

WHEREFORE, PLAINTIFFS demand judgment against PLAYHOUSE for damages, including but not limited to actual damages, costs, interest, and such other and further relief in law or equity as this Court deems just and proper.

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COUNT X - NEGLIGENCE AND *RESPONDEAT SUPERIOR* AS TO PLAINTIFFS
VORONINA, CANAS, TOTH, GAXIOLA, PEPAJ,
JONES, MAYES, LUND, and KOREN

195. PLAINTIFFS re-allege paragraphs 1 through 81 above, and incorporate the same by reference as though fully set forth herein.

196. PLAINTIFFS are informed and believe and allege that DEFENDANT and/or their agents promulgated policies and procedures concerning the prevention of misappropriation of Images. Yet, DEFENDANT negligently failed to enforce those policies, communicate them to its employees, or to supervise its employees to ensure that these policies and both State and Federal Law were not violated.

197. Pleading alternatively, DEFENDANT and/or its agents failed to promulgate policies and procedures concerning the prevention of misappropriation of Images and is, as such, liable to PLAINTIFFS for the harm that failure caused to PLAINTIFFS.

198. More specifically, DEFENDANT had a duty to all members of the public, namely to PLAINTIFFS, to refrain from the misappropriation of their Images. DEFENDANT violated that duty by negligently hiring, screening, retaining, supervising, and training of its employees and agents.

199. As a result of DEFENDANT'S conduct, PLAINTIFFS suffered damages to be determined according to proof at trial; but PLAINTIFFS allege that the same are within the jurisdiction of the Court.

WHEREFORE, PLAINTIFFS demand judgment against PLAYHOUSE for damages, including but not limited to actual damages, costs, interest, and such other and further relief in law or equity as this Court deems just and proper.

PRAYER FOR RELIEF

1. For damages as provided in Fla. Stat. §540.08;
2. For general damages according to proof;
3. For special damages according to proof;
4. For consequential damages according to proof;
5. For treble compensatory damages as provided in Fla. Stat. §772.11;
6. For attorneys' fees and costs of suit, as provided for in Fla. Stat. §772.11;
7. For damages as provided in Fla. Stat. §501.201;
8. For attorneys' fees and costs of suit, as provided for in Fla. Stat. §501.2105;
9. For civil penalty, as provided for in Fla. Stat. §501.2075;
10. For reasonable attorneys' fees and costs as permitted by law;
11. For emotional distress damages according to proof;
12. For prejudgment interest and royalties at the legal rate;
13. For such other relief as this Court deems just and proper; and
14. Plaintiffs reserve the right to amend the pleadings to include punitive damages pursuant to Fla. Stat. §768.72.

DEMAND FOR JURY TRIAL

PLAINTIFFS demand a jury trial of all issues so triable.

DATED: October 26, 2015.

THE CASAS LAW FIRM, P.C.

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FORM 1.997. CIVIL COVER SHEET

The 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. This form shall be filed by the plaintiff or petitioner for the use of the Clerk of the Court for the purpose of reporting judicial workload data pursuant to Florida Statutes section 25.075.

I. CASE STYLE

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT,
IN AND FOR BROWARD COUNTY, FLORIDA

Case No.: _____
Judge: _____

Irina Voronina, Paola Canas, Tiffany Toth, Jamillette Gaxiola, Eva Pepaj

Plaintiff

vs.

Stan, Inc., doing business as The Playhouse

Defendant

II. TYPE OF CASE

- | | |
|---|---|
| <ul style="list-style-type: none"> <input type="checkbox"/> Condominium <input type="checkbox"/> Contracts and indebtedness <input type="checkbox"/> Eminent domain <input type="checkbox"/> Auto negligence <input type="checkbox"/> Negligence – other <ul style="list-style-type: none"> <input type="checkbox"/> Business governance <input checked="" type="checkbox"/> Business torts <input type="checkbox"/> Environmental/Toxic tort <input type="checkbox"/> Third party indemnification <input type="checkbox"/> Construction defect <input type="checkbox"/> Mass tort <input type="checkbox"/> Negligent security <input type="checkbox"/> Nursing home negligence <input type="checkbox"/> Premises liability – commercial <input type="checkbox"/> Premises liability – residential <input type="checkbox"/> Products liability <input checked="" type="checkbox"/> Real Property/Mortgage foreclosure <ul style="list-style-type: none"> <input type="checkbox"/> Commercial foreclosure \$0 - \$50,000 <input type="checkbox"/> Commercial foreclosure \$50,001 - \$249,999 <input type="checkbox"/> Commercial foreclosure \$250,000 or more <input checked="" type="checkbox"/> Homestead residential foreclosure \$0 – 50,000 <input type="checkbox"/> Homestead residential foreclosure \$50,001 - \$249,999 <input checked="" type="checkbox"/> Homestead residential foreclosure \$250,000 or more <input type="checkbox"/> Non-homestead residential foreclosure \$0 - \$50,000 <input type="checkbox"/> Non-homestead residential foreclosure \$50,001 - \$249,999 <input type="checkbox"/> Non-homestead residential foreclosure \$250,00 or more <input checked="" type="checkbox"/> Other real property actions \$0 - \$50,000 | <ul style="list-style-type: none"> <input type="checkbox"/> Other real property actions \$50,001 - \$249,999 <input type="checkbox"/> Other real property actions \$250,000 or more <input type="checkbox"/> Professional malpractice <ul style="list-style-type: none"> <input type="checkbox"/> Malpractice – business <input type="checkbox"/> Malpractice – medical <input type="checkbox"/> Malpractice – other professional <input checked="" type="checkbox"/> Other <ul style="list-style-type: none"> <input type="checkbox"/> Antitrust/Trade Regulation <input type="checkbox"/> Business Transaction <input checked="" type="checkbox"/> Circuit Civil - Not Applicable <input type="checkbox"/> Constitutional challenge-statute or ordinance <input type="checkbox"/> Constitutional challenge-proposed amendment <input type="checkbox"/> Corporate Trusts <input type="checkbox"/> Discrimination-employment or other <input type="checkbox"/> Insurance claims <input type="checkbox"/> Intellectual property <input type="checkbox"/> Libel/Slander <input type="checkbox"/> Shareholder derivative action <input type="checkbox"/> Securities litigation <input type="checkbox"/> Trade secrets <input type="checkbox"/> Trust litigation |
|---|---|

COMPLEX BUSINESS COURT

This action is appropriate for assignment to Complex Business Court as delineated and mandated by the Administrative Order. Yes ☐ No ☒

III. REMEDIES SOUGHT (check all that apply):

- ☒ Monetary;
- ☐ Non-monetary
- ☐ Non-monetary declaratory or injunctive relief;
- ☒ Punitive

IV. NUMBER OF CAUSES OF ACTION: () (Specify)

10

V. IS THIS CASE A CLASS ACTION LAWSUIT?

- ☐ Yes
- ☒ No

VI. HAS NOTICE OF ANY KNOWN RELATED CASE BEEN FILED?

- ☒ No
- ☐ Yes – If “yes” list all related cases by name, case number and court:

no

VII. IS JURY TRIAL DEMANDED IN COMPLAINT?

- ☒ Yes
- ☐ No

I CERTIFY that the information I have provided in this cover sheet is accurate to the best of my knowledge and belief.

Signature s/ SARAH M CABARCAS
Attorney or party

FL Bar No.: 90938

(Bar number, if attorney)

SARAH M CABARCAS
(Type or print name)

10/26/2015

Date

General Information

Court	Florida Circuit Court, Broward County
Docket Number	CACE15019012
Status	Open