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19 *Attorneys for Class Representative*  
20 *Plaintiffs, William Michael Hicks and*  
21 *Kenneth Harms, and Individual Plaintiffs,*  
22 *Matthew Achatz, Brandon Antus, Chad*  
23 *Antus, Andrew Barnes, Chris Berry,*  
24 *Michael Bestor, Duane Bock, David*  
25 *Brooker, Mark Carens, Steve Catlin, Bruce*  
26 *Clendenen, Graeme Courts, Michael*  
27 *Darby, Henry Diana, Don Donatello,*  
28 *Michael Doran, James Edmondson, Dean*  
*Elliott, Joseph Etter, Brent Everson, Micah*  
*Fugitt, Damon Green, Jay Haas, Jr.,*  
*Steven Hale, Matthew Hauser, Adam*  
*Hayes, William Heim, Christian Heath*  
*Holt, Jonathan Jakovac, Tom Janis,*  
*Jimmy Johnson, Chris Jones, Nick Jones,*  
*Steve Kay, Anthony Knight, Shay Knight,*  
*Mitch Knox, Kurtis Kowaluk, Ronald*  
*Levin, John Limanti, Brennen Little,*

1 *Damian Lopez, Scott Martin, Rich Mayo,*  
2 *Jr., Daniel McQuilken, Eric Meller,*  
3 *Matthew Minister, Charles Mohr, Todd*  
4 *Montoya, Tony Navarro, Donald Nelson,*  
5 *Travis Perkins, Joseph Pyland, Brian*  
6 *Reed, Chad Reynolds, Miguel Rivera,*  
7 *David Robinson, Scott Sajtinac, Andrew*  
8 *Sanders, Fred Sanders, Corby Segal,*  
9 *Shawn Segars, Brian Smith, Russell Stark,*  
10 *Brad Swearingen, Paul Tesori, Robert*  
11 *Thompson, Scott Tway, Steve Underwood,*  
12 *Mark Urbanek, Rusty Uresti, Brett*  
13 *Waldman, Neil Wallace, Aaron Wark,*  
14 *Jeffery Willett, Barry Williams, Michael*  
15 *Mazzeo, Jon Yarbrough, Justin York*  
16 *Pete Jordan, Brent Henley, Calvin Henley,*  
17 *John R. Adcox, Peter Ambrosetti, George*  
18 *Assante, Matthew Bednarski, Norman R.*  
19 *Blount, Jr., Alan Bond, Harry Brown,*  
20 *John M. Buchna, Bob Burns, Colin*  
21 *Byrne, Kenny Butler, Michael Carrick,*  
22 *Ladden Cline, Martin Courtois, Russell*  
23 *Craver, Mark Crunden, Jon Custer,*  
24 *Andrew Davidson, Joshua E. Dickinson,*  
25 *Robert Dickerson, Jeff Dolf, Joseph*  
26 *Duplantis, John Egan, Terry R. Engleman,*  
27 *Patrick V. Esway, Jr., Christopher S.*  
28 *Fiedler, Thomas Fletcher, Tim Goodell,*  
*Steve Greenwood, Matthew Hall, Mark*  
*Hamilton, Mark Huber, David A. Kerr,*  
*Kyle Kolenda, Marcel LaBas, David*  
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*Greg W. Martin, Andrew Martinez, Ronald*  
*McCann, Kevin McArthur, Robert J.*  
*McFadden, Allan Mellan, Michael*  
*Middlemo, Mark E. Miller, Richard J.*  
*Motacki, Todd Newcomb, David B.*  
*Parsons, David Patterson, William Poore,*  
*Lewis B. Puller III, David H. Rawls, Chad*  
*Rosenak, Richard M. Schlaack, Daniel*  
*Schlimm, Eric Schwarz, Spencer Seifert,*  
*James Smith, John L. Smith, William*  
*Spencer, James Springer, Linn Strickler,*  
*Brian H. Sullivan, Timothy J. Thalmueller,*  
*Jim Thomas, Kenneth A. Tolles, Terry*  
*Travis, Matthew Tritton, Dennis Turning,*  
*Robert Vail, Peter Vanderriet, John Venn,*  
*Weston Scott Watts, Michael J. Waite,*  
*James Walters, Bradley Whittle, Anthony*  
*Wilds, Stephen Williams, Thomas G.*  
*Williams, Edward E. Willis, David*  
*Woosley, Walter Worthen, Jr., Noah Zelnik*

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

William Michael Hicks and Kenneth Harms, as )  
Class Representative Plaintiffs and Individual )  
Plaintiffs, Matthew Achatz, Brandon Antus, )  
Chad Antus, Andrew Barnes, Chris Berry, )  
Michael Bestor, Duane Bock, David Brooker, )  
Mark Carens, Steve Catlin, Graeme Courts )  
Bruce Clendenen, Michael Darby, Henry )  
Diana, Don Donatello, Michael Doran, James )  
Edmondson, Dean Elliott, Joseph Etter, Brent )  
Everson, Micah Fugitt, Damon Green, Jay )  
Haas, Jr., Steven Hale, Matthew Hauser, Adam )  
Hayes, William Heim, Christian Heath Holt, )  
Jonathan Jakovac, Tom Janis, Jimmy Johnson, )  
Chris Jones, Nick Jones, Steve Kay, Anthony )  
Knight, Shay Knight, Mitch Knox, Kurtis )  
Kowaluk, Ronald Levin, John Limanti, )  
Brennen Little, Damian Lopez, Scott Martin, )  
Rich Mayo, Jr., Daniel McQuilken, Eric )  
Meller, Matthew Minister, Charles Mohr, Todd )  
Montoya, Tony Navarro, Donald Nelson, )  
Travis Perkins, Joseph Pyland, Brian Reed, )  
Chad Reynolds, Miguel Rivera, David )  
Robinson, Scott Sajtinac, Andrew Sanders, )  
Fred Sanders, Corby Segal, Shawn Segars, )  
Brian Smith, Russell Stark, Brad Swearingen, )  
Paul Tesori, Robert Thompson, Scott Tway, )  
Steve Underwood, Mark Urbanek, Rusty )  
Uresti, Brett Waldman, Neil Wallace, Aaron )  
Wark, Jeffery Willett, Barry Williams, Michael )  
Mazzeo, Jon Yarbrough, Justin York, Peter )  
Jordan, Brent Henley, Calvin Henley, John R. )  
Adcox, Peter Ambrosetti, George Assante, )  
Matthew Bednarski, Norman R. Blount, Jr., )  
Alan Bond, Harry Brown, John M. Buchna, )  
Bob Burns, Colin Byrne, Kenny Butler, )  
Michael Carrick, Ladden Cline, Martin )  
Courtois, Russell Craver, Mark Crunden, Jon )  
Custer, Andrew Davidson, Joshua E. )  
Dickinson, Robert Dickerson, Jeff Dolf, Joseph )  
Duplantis, John Egan, Terry R. Engleman, )  
Patrick V. Esway, Jr., Christopher S. Fiedler, )  
Thomas Fletcher, Tim Goodell, Steve )  
Greenwood, Matthew Hall, Mark Hamilton, )  
Mark Huber, David A. Kerr, Kyle Kolenda, )  
Marcel LaBas, David Lawson, Philip Lowe, )  
Michael Maroney, Greg W. Martin, Andrew )  
Martinez, Ronald McCann, Kevin McArthur, )  
Robert J. McFadden, Allan Mellan, Michael )  
Middlemo, Mark E. Miller, Richard J.

Case No. 3:15-cv-00489-VC

**PLAINTIFFS' SECOND AMENDED  
CLASS ACTION COMPLAINT FOR  
DAMAGES**

**DEMAND FOR JURY TRIAL**

1 Motacki, Todd Newcomb, David B. Parsons,  
David Patterson, William Poore, Lewis B.  
2 Puller III, David H. Rawls, Chad Rosenak,  
Richard M. Schlaack, Daniel Schlimm, Eric  
3 Schwarz, Spencer Seifert, James Smith, John  
L. Smith, William Spencer, James Springer,  
4 Linn Strickler, Brian H. Sullivan, Timothy J.  
Thalmueller, Jim Thomas, Kenneth A. Tolles,  
5 Terry Travis, Matthew Tritton, Dennis  
Turning, Robert Vail, Peter Vanderriet, John  
6 Venn, Weston Scott Watts, Michael J. Waite,  
James Walters, Bradley Whittle, Anthony  
7 Wilds, Stephen Williams, Thomas G.  
Williams, Edward E. Willis, David Woosley,  
8 Walter Worthen, Jr., Noah Zelnik

9  
and all others similarly situated,

10  
Plaintiffs,

11  
vs.

12  
PGA TOUR, Inc.,

13  
Defendant.  
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15  
16 **PLAINTIFFS’ SECOND AMENDED CLASS COMPLAINT AND JURY DEMAND**

17  
18 **INTRODUCTION**

19  
20 1. This is a class action lawsuit brought by professional golf caddies employed by  
21 professional golfers who compete on one or more of Defendant’s golf tours. The purposes of this  
22 lawsuit are to compensate caddies who have been forced to wear the logos of Defendant’s  
23 corporate sponsors without remuneration, and to preclude Defendant, individually and in concert  
24 with its Local Hosts, from forcing caddies to provide these endorsement services gratuitously in  
25 the future.<sup>1</sup> The main issue in this lawsuit is whether Defendant, alone or in concert Local Hosts,

26  
27 <sup>1</sup> Local Hosts co-sponsor PGA TOUR events with Defendant. Local Hosts have a strong  
28 financial interest in the sale of advertising space on the bibs. Further, Local Hosts compete with

1 may lawfully compel caddies to wear “bibs” (examples pictured below) during professional golf  
 2 tournaments and then retain for Defendant and/or the Local Hosts the tens of millions of dollars in  
 3 advertising revenue generated by those bibs annually.



#### 15 **I. A BRIEF HISTORY**

16 2. Golf has not always attracted fanfare or produced wealth. Early professional  
 17 golfers were generally poor and survived on meager wages earned by making golf clubs and balls,  
 18 managing the course shop, giving golf lessons, or working as a caddie. Early professional golfers  
 19 merely served golf club members. They were not permitted in the clubhouse and commanded a  
 20 low social status. Even the most proficient professional golfers could hardly be deemed “affluent”  
 21 until the 1950s.

22 3. Similar to professional golfers, professional caddies had very humble beginnings.  
 23 Caddies were originally golf club servants chosen by a club member to carry his bag and to locate  
 24 errant balls. Given the rudimentary grooming of early golf courses, the first caddies were often  
 25 called upon to locate each ball driven down the fairway.

26  
 27 professional golfers, Defendant, and Plaintiffs in one of the relevant antitrust markets defined  
 28 below.

1           4.       As time passed, caddies became experts in course geometry and topography and  
2 provided players an advantage over competitors who lacked such a resource. Given the  
3 knowledge and skill that good caddies possess, it is no surprise that golfing greats such as Ben  
4 Hogan, Byron Nelson, and Sam Snead caddied at local clubs in their youth.

5           5.       Since the 1950s, enthusiasm for professional golf, by spectators and sponsors alike,  
6 has provided vast opportunities for wealth to the sport's participants. Defendant, with gross  
7 annual revenue of approximately \$1 billion, has benefitted immensely from that enthusiasm,  
8 initially stirred by famous players such as Arnold Palmer and by celebrities like Bob Hope.

9           6.       As professional golf has become more popular and competitive, caddies have  
10 become an integral part of the sport. Employed by their respective golfer—not by Defendant—  
11 caddies are expected to have considerable expertise in course topography and geometry. Caddies  
12 must know the correct yardage for every lie on every hole, and they must be skilled in reading  
13 greens. Caddies also serve as coaches, strategists, general assistants, cheerleaders, counselors, and  
14 friends. One esteemed sports journalist has described caddies as “traffic cops, psychiatrists[,]  
15 meteorologists[,] chauffeurs, butlers, and bodyguards, buddies, sidekicks and frequent dinner  
16 companions.” Another journalist likens good caddies to “accomplished sports psychologists, like  
17 corner men in boxing.” Caddies help their player maintain confidence in aspects of play such as  
18 club selection and reading greens. Although it is axiomatic that success in professional golf  
19 comes down to making good shots, caddies are undeniably instrumental in supporting the level of  
20 competition that contributes to Defendant's success.

21           7.       The job market for caddies highlights their importance to professional golf. For  
22 example, it is quite common and acceptable for a struggling golfer to terminate his caddie because  
23 of poor tournament results. If caddies merely carried bags, certainly they would not be terminated  
24 as a result of poor play. Additionally, the market for skilled caddies can become quite  
25 competitive. It is not uncommon for players to recruit other players' caddies using the attraction  
26 of better tournament finishes and, therefore, greater income potential for the caddie.

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## 1 **II. DEFENDANT'S TREATMENT OF CADDIES GENERALLY**

2 8. Despite the caddies' contribution to professional golf, Defendant has treated  
3 caddies as second-class participants of the game. The Barclays tournament in 2013 provides a  
4 microcosm of Defendant's treatment of caddies. During a rain delay, caddies and members of  
5 some of the caddies' families retreated to a shelter designated for caddies. Although the shelter  
6 was not crowded, security officials entered the shelter, demanded identification, and began to  
7 shout and berate caddies and their families. While caddies who produced credentials were  
8 permitted to remain in the shelter, caddies' wives and children were put out into the rain by  
9 security personnel.

10 9. Additionally, Defendant has denied caddies basic health care coverage and access  
11 to pension plans. During tournament play, Defendant forces caddies to use portable lavatories that  
12 lack running water and denies caddies access to areas of tournament venues necessary for caddies  
13 to perform their duties fully. The list goes on.

## 14 **III. THE CONDUCT AT ISSUE IN THIS LAWSUIT**

15 10. This suit arises from Defendant's and Local Hosts' practice of unlawfully forcing  
16 Plaintiffs to wear the bibs, pictured above in paragraph 1. The bibs bear the logos of Defendant's  
17 sponsors and enjoy significant exposure to live tournament audiences, television audiences, and  
18 webcast audiences. The value of the bibs is approximately \$50 million annually. Caddies receive  
19 none of that revenue and never have consented to Defendant's commercial use of their likenesses  
20 and images for commercial purposes. Instead, the money generated by these bib advertisements is  
21 paid to Defendant and Local Hosts pursuant to express and implied written and oral agreements,  
22 patterns of practice, understandings, or some combination thereof.

23 11. As noted throughout this Complaint, Plaintiffs have raised their grievances  
24 regarding the bib on multiple occasions, and Defendant has sometimes obstinately refused to  
25 change its practice, relying on mere custom as its justification. For instance, during the 2014  
26 Farmers Insurance Open, Defendant represented that "the bib is off the table" while conceding it  
27 may not be "right" but nonetheless justifying the practice because "that is the way it has been."  
28

1           12.     Other times Defendant suggested that caddies are not actually required to wear the  
2 bibs. Despite such representations, Defendant has fined Plaintiff Steve Williams numerous times  
3 for removing bibs that covered up his own sponsors' logos. Defendant's representations regarding  
4 the caddies' duty to wear the bibs have been consistently inconsistent. Local Hosts have similarly  
5 forced caddies to wear the bibs, which are designed by Local Hosts, by threatening to report  
6 caddies to Defendant for discipline, by not permitting a caddie to participate in a tournament and  
7 carry out his duties for his professional golfer, and by threatening to prohibit the caddie from  
8 participating in a tournament unless the caddie wears the bib. Defendant has previously testified  
9 in this case as to Local Hosts' role in designing the bib and bib logos, and Local Hosts' forcing  
10 caddies to wear the bibs. .

11           13.     The plain text of Defendant's "regulations" permits caddies to endorse their own  
12 sponsors' products and services in the space occupied by the bibs, and Defendant does not employ  
13 the caddies. Nevertheless, Plaintiffs have continued to wear the bibs in acquiescence to  
14 Defendant's threats to interfere with the caddie-player relationship—which would cause the  
15 caddie to suffer financial ruin—and to further limit Plaintiffs' endorsement opportunities.

16           14.     In this lawsuit the class of caddies defined below seeks injunctive relief that will  
17 prohibit Defendant and its Local Hosts from continuing the wrongful conduct that gives rise to this  
18 lawsuit. The caddies also seek actual damages and disgorgement of the monies Defendant  
19 unlawfully acquired and/or appropriated as a result of appropriating the caddies' endorsement  
20 services.

21 **IV. DEFENDANT'S CONDUCT SINCE THE FILING OF PLAINTIFFS' ORIGINAL COMPLAINT**

22           15.     Plaintiffs filed their original complaint on February 3, 2015. Shortly thereafter,  
23 Tim Finchem, Defendant's commissioner, appeared at a press conference, and though he did not  
24 address the lawsuit directly, conceded that "there's obviously things [Defendant] can do better."

25           16.     However, since Plaintiffs filed their original complaint, Defendant has  
26 demonstrated its intent to dispose of this lawsuit through non-judicial means, including the use of  
27 retaliation and propaganda. For instance, in a letter to the players, Defendant represented (albeit  
28 through implication and innuendo) that this lawsuit will detrimentally affect tournament purses

1 and by extension, player income. Specifically, Defendant informed PGA players that the money  
2 received from the bibs is used to fund player purses. Against that backdrop, Defendant ensured  
3 players that it “does not participate in a player’s decision to hire or fire a caddie.” Defendant has  
4 also implied that this lawsuit will harm player pensions. However, Defendant has not commented  
5 on how this lawsuit may affect its commissioner’s \$5.3 million salary or the seven-digit salaries of  
6 other executives. Nor has it commented on why money received from the bibs could not be used  
7 to fully fund caddie healthcare, which would cost approximately \$4 million, a small fraction of  
8 total bib revenue and at least \$1.3 million less than Commissioner Finchem’s salary alone.

9       17. On February 28, 2015, during the third round of the Honda Classic, a thunderstorm  
10 with 55 mile-per-hour winds caused a delay in play. While Defendant and its local tournament  
11 host permitted others to seek refuge indoors, the caddies were left to seek refuge under an open  
12 metal shed or in their own vehicles. This prompted long-time ESPN analyst and talk-show host  
13 Scott Van Pelt to opine that Defendant “treats its caddies like outside dogs” and should “do better  
14 than this.”

15       18. Further, Defendant recently canceled an annual caddie dinner where, historically,  
16 Defendant would address the caddies on the state of the tours and operations, and take questions  
17 from the caddies regarding tour concerns. Defendant has also indefinitely suspended its quarterly  
18 meetings with the Caddie Advisory Committee. Simply stated, Defendant is retaliating against the  
19 caddies for filing this lawsuit while attempting to maintain some appearance of innocence and an  
20 element of deniability. Plaintiffs anticipate this conduct will continue and reserve the right to file  
21 a motion for interim injunctive relief.

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**PARTIES**

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2           19. Defendant PGA TOUR, Inc. (“PGA TOUR”), is a Maryland corporation with a  
3 permanent place of business in San Francisco, California.

4           20. Plaintiffs<sup>2</sup> allege that this case is suitable as a class action under Federal Rule of  
5 Civil Procedure 23. Alternatively, Plaintiffs aver that the class proposed below should be certified  
6 as to certain causes of action if it is not certified for all claims and requests for relief. In the  
7 further alternative, in the event the class is not certified for this action or any portion thereof, the  
8 named Plaintiffs bring this action in their individual capacities as set forth below.

9           21. Named plaintiff William Michael “Mike” Hicks is the proposed class  
10 representative. Mr. Hicks has caddied at Defendant PGA TOUR events for approximately thirty-  
11 three years. Among others, Mr. Hicks has caddied for professional golfers Payne Stewart, Greg  
12 Norman, Steve Stricker, Justin Leonard and Josh Teater. Mr. Hicks resides in North Carolina.

13           22. Named plaintiff Kenneth “Kenny” Harms is the alternate proposed class  
14 representative. Mr. Harms has been a professional tour caddy since 1991. Mr. Harms has caddied  
15 for professional golfers Kevin Na, Hale Irwin, Aaron Baddeley, Hubert Green, Ray Floyd, Gary  
16 Player, Lee Trevino, David Eger, Jan Stephenson, Emilee Klein, Lynn Connelly and Michelle  
17 Wie. Mr. Harms resides in Florida.

18           23. Plaintiffs Bruce Clendenen, Nick Jones, Anthony Knight, Corby Segal, Terry R.  
19 Engleman, Tim Goodell, David A. Kerr, Michael Maroney, Andrew Martinez, Todd Newcomb,  
20 Eric Schwarz, Spencer Seifert, Matthew Tritton and Dennis Turning have served as caddies on one  
21 or more of Defendant’s golf tours and reside in the State of California.

22           24. Plaintiffs Chad Antus, Steve Catlin, Graeme Courts, Don Donatello, Michael  
23 Doran, Dean Elliott, Brent Everson, Damon Green, Tom Janis, Steve Kay, Kurtis Kowaluk, John  
24 Limanti, Eric Meller, Matthew Minister, Charles Mohr, Travis Perkins, Joseph Pyland, Brian  
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26           <sup>2</sup> Note that in this Complaint, unless otherwise noted or demanded by context, “Plaintiffs”  
27 refers to the proposed class representatives, the proposed class, and the named plaintiffs  
28 disjunctively and collectively.

1 Reed, Chad Reynolds, Miguel Rivera, Andrew Sanders, Brian Smith, Paul Tesori, Scott Tway,  
2 Steve Underwood, Mark Urbanek, Aaron Wark, Harry Brown, John M. Buchna, Bob Burns,  
3 Michael Carrick, Martin Courtois, Mark Crunden, Andrew Davidson, Robert Dickerson, Marcl  
4 LaBas, David Lawson, Greg W. Martin, Ronald McCann, David Patterson, William Poore, Linn  
5 Strickler, Timothy J. Thalmueller, Jim Thomas, Kenneth A. Tolles, John Venn, James Walters,  
6 Anthony Wilds and Noah Zelnik have served as caddies on one or more of Defendant's golf tours  
7 and reside in the State of Florida.

8           25.     Plaintiffs James Edmondson, Micah Fugitt, Matthew Hauser, Bill Heim, James  
9 Johnson, Brennan Little, Damian Lopez, Scott Martin, Richard Mayo, Jr., Donald Nelson, Scott  
10 Sajtinac, Russell Stark, Rusty Uresti, Brett Waldman, Jon Yarbrough, Alan Bond, Russell Craver,  
11 Christopher S. Fiedler, Robert J. McFadden, David H. Rawls, William Spencer, and Robert Vail  
12 have served as caddies on one or more of Defendant's golf tours and reside in the State of Texas.

13           26.     Plaintiffs Henry Diana, Joseph Etter, David Robinson, Thomas Fletcher, Michael  
14 Middlemo, James Smith, John L. Smith, Peter Vanderriet, and Bradley Whittle have served as  
15 caddies on one or more of Defendant's golf tours and reside in the State of Georgia.

16           27.     Plaintiffs Michael Bestor, Steven Hale, Ronald Levin and Fred Sanders have served  
17 as caddies on one or more of Defendant's golf tours and reside in the State of Colorado.

18           28.     Plaintiffs Duane Bock, Mark Carens, Adam Hayes, Barry Williams, Matthew Hall,  
19 Philip Lowe, Mark E. Miller, Richard J. Motacki, James Springer and David Woosley have served  
20 as caddies on one or more of Defendant's golf tours and reside in the State of North Carolina.

21           29.     Plaintiffs Andrew Barnes, Pete Jordan, Neil Wallace, Justin York, Joseph Duplantis  
22 and Kyle Kolenda have served as caddies on one or more of Defendant's golf tours and reside in  
23 the State of Arizona.

24           30.     Plaintiffs Chris Berry, Jonathan Jakovac, Chris Jones and Patrick V. Esway, Jr.  
25 have served as a caddies on one or more of Defendant's golf tours and reside in the State of  
26 Nevada.

1           31.       Plaintiffs Jay Haas, Jr., Shay Knight, Shawn Segars, Robert Thompson, Brad  
2 Swearingen, Jeff Dolf and Steve Greenwood have served as caddies on one or more of  
3 Defendant's golf tours and reside in the State of South Carolina.

4           32.       Plaintiff Jeffery Willett has served as a caddy on one or more of Defendant's golf  
5 tours and resides in the State of Maine.

6           33.       Plaintiff Brent Henley, Calvin Henley, Mitchell Knox, Peter Ambrosetti and Kenny  
7 Butler have served as a caddies on one or more of Defendant's golf tours and resides in the State  
8 of Tennessee.

9           34.       Plaintiff Matthew Achatz and Walter Worthen, Jr. have served as a caddies on one  
10 or more of Defendant's golf tours and reside in the State of Michigan.

11          35.       Plaintiff David Brooker has served as a caddy on one or more of Defendant's golf  
12 tours and resides in the State of Connecticut.

13          36.       Plaintiff Michael Darby has served as a caddy on one or more of Defendant's golf  
14 tours and resides in Richmond, British Columbia, Canada.

15          37.       Plaintiff Christian Heath Holt and Mark Hamilton have served as a caddies on one  
16 or more of Defendant's golf tours and reside in the State of Missouri.

17          38.       Plaintiff Todd Montoya has served as a caddy on one or more of Defendant's golf  
18 tours and resides in Belen, New Mexico.

19          39.       Plaintiff Tony Navarro and Terry Travis have served as a caddies on one or more of  
20 Defendant's golf tours and reside in the State of Illinois.

21          40.       Plaintiffs Brad Antus, Michael Mazzeo and Matthew Bednarski have served as  
22 caddies on one or more of Defendant's golf tours and reside in the State of Pennsylvania.

23          41.       Plaintiff Daniel McQuilken and George Assante have served as a caddies on one or  
24 more of Defendant's golf tours and reside in the State of New Jersey.

25          42.       Plaintiff John R. Adcox, Allan Mellan, Richard Schlaack and Daniel Schlimm have  
26 served as caddies on one or more of Defendant's golf tours and reside in the State of Ohio.

27          43.       Plaintiff Mark Huber and Weston Scott Watts have served as caddies on one or  
28 more of Defendant's golf tours and reside in the State of Wisconsin.

1           44.     Plaintiff Norman R. Blount, Jr. and Lewis B. Puller III have served as a caddies on  
2 one or more of Defendant's golf tours and reside in the State of Virginia.

3           45.     Plaintiff David B. Parsons has served as a caddy on one or more of Defendant's  
4 golf tours and resides in the State of Kentucky.

5           46.     Plaintiff Ladden Cline and Kevin McArthur have served as caddies on one or more  
6 of Defendant's golf tours and reside in the State of Louisiana.

7           47.     Plaintiff Thomas G. Williams has served as a caddy on one or more of Defendant's  
8 golf tours and resides in the State of Rhode Island.

9           48.     Plaintiff Jon Custer has served as a caddy on one or more of Defendant's golf tours  
10 and resides in the State of Oklahoma.

11          49.     Plaintiff Edward E. Willis has served as a caddy on one or more of Defendant's  
12 golf tours and resides in the State of Alabama.

13          50.     Plaintiff John Egan has served as a caddy on one or more of Defendant's golf tours  
14 and resides in the State of Indiana.

15          51.     Plaintiff Brian H. Sullivan has served as a caddy on one or more of Defendant's  
16 golf tours and resides in the State of Washington.

17          52.     Plaintiff Chad Rosenak has served as a caddy on one or more of Defendant's golf  
18 tours and resides in the State of Minnesota.

19          53.     Plaintiff Joshua E. Dickinson has served as a caddy on one or more of Defendant's  
20 golf tours and resides in the State of Arkansas.

21          54.     Plaintiff Michael J. Waite has served as a caddy on one or more of Defendant's golf  
22 tours and resides in Queensland, Australia.

23          55.     Plaintiff Colin Byrne has served as a caddy on one or more of Defendant's golf  
24 tours and resides in Howth Dublin, Ireland.

25          56.     Plaintiff Stephen Williams has served as a caddy on one or more of Defendant's  
26 golf tours and resides in Auckland, New Zealand.

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28

## **JURISDICTION AND VENUE**

### **I. SUBJECT MATTER JURISDICTION**

57. This Court has subject matter jurisdiction because this is a civil action arising under the laws of the United States. *See* 28 U.S.C. § 1331. Specifically, Plaintiffs seek to prosecute civil claims under the Sherman Act, 15 U.S.C. § 1 *et seq.*, the Clayton Act, 15 U.S.C. § 12 *et seq.*, and the Lanham Act, 15 U.S.C. § 1050 *et seq.*

58. This Court also may exercise jurisdiction under 28 U.S.C. § 1337(a) because this is a civil action arising under an act of Congress regulating commerce or protecting trade and commerce against restraints on trades and monopolies.

59. This Court may exercise jurisdiction under 28 U.S.C. § 1332(d) because this is a class action involving damages exceeding \$5,000,000 exclusive of costs and interest, and one or more members of the proposed class is a citizen of a state other than Maryland and Florida. The proposed class consists of more than 100 members.

60. This Court has supplemental subject matter jurisdiction over Plaintiffs' state law claims under 28 U.S.C. § 1367. The Court has original jurisdiction over Plaintiffs' Sherman Act and Lanham Act claims, and Plaintiffs' state law claims are so related to Plaintiffs' federal law claims that they form part of the same case or controversy.

### **II. PERSONAL JURISDICTION**

61. This Court may exercise personal jurisdiction over Defendant PGA TOUR under 15 U.S.C. § 22 based on Defendant's national contacts. Defendant PGA TOUR is a Maryland Corporation with a permanent place of business in San Francisco, California. Further, PGA TOUR advertises its "headquarters" as Ponte Vedra Beach, Florida. Defendant PGA TOUR has designated registered agents within the United States. Defendant PGA TOUR organizes, manages, and promotes numerous professional golf tournaments throughout the United States each year, and Defendant PGA TOUR's gross revenue is approximately \$1 billion annually. Finally, Defendant owns and operates approximately thirty-five golf courses in the United States.

62. This Court also may exercise personal jurisdiction over Defendant PGA TOUR under California's long-arm statute, which is coextensive with constitutional due process limits.

1 See Cal. Civ. Proc. Code § 410.10. Defendant PGA TOUR maintains a permanent office in San  
2 Francisco, California, and owns and manages several golf courses throughout the state of  
3 California. Additionally, Defendant organizes and promotes numerous golf tournaments  
4 throughout the state of California, and those tournaments give rise to Plaintiffs' claims.

5 63. Given Defendant's systematic and continuous contacts with California and the  
6 substantial connection between Plaintiffs' claims and those contacts, this Court may exercise  
7 specific and general personal jurisdiction over Defendant PGA TOUR.

### 8 **III. VENUE**

9 64. Venue is proper in the Northern District of California under Sections 4 and 12 of  
10 the Clayton Act, codified at 15 U.S.C. §§ 15, 22. Defendant PGA TOUR may be found in this  
11 district and transacts business in this district. Additionally, a substantial part of Defendant's  
12 misconduct and the damages caused by that misconduct occurred in this district.

13 65. Venue is also proper in this district because Defendant resides here. See 28 U.S.C.  
14 § 1391(b)(1), (c)(2), and (d). Defendant PGA TOUR has organized and promoted numerous  
15 tournaments within the Northern District of California, and those tournaments provide a primary  
16 basis for Plaintiffs' claims and damages. Defendant PGA TOUR maintains a permanent office  
17 within the Northern District of California. Defendant owns and manages two golf courses located  
18 on real property owned by Defendant within the Northern District of California.

19 66. Venue is proper in the Northern District of California because a substantial part of  
20 the events or omissions giving rise to the claim occurred in the Northern District of California.  
21 Plaintiffs' claims arise from harm and conduct occurring at Defendant's golf tournaments, and  
22 several of those tournaments are organized and promoted in this district.

23 67. This action should be assigned in accordance with Rule 3-2(c) and 3-2(d) of the  
24 Northern District of California Civil Local Rules ("**Local Rules**"). This case should be assigned  
25 to the San Francisco or Oakland division because Defendant resides in the division for venue  
26 purposes and a substantial part of the events or omissions which give rise to the claim occurred in  
27 one or more of the counties identified in Local Rule 3-2(d). Additionally, these divisions have  
28 vast experience in adjudicating similar cases, such as *Samuel Michael Keller v. Electronic Arts*

1 *Inc. et al.*, 4:09-cv-01967-CW (Wilken, J., Oakland division); *Edward C. O'Bannon, Jr. v.*  
2 *National Collegiate Athletic Association et al.*, 4:09-cv-03329-CW (Wilken, J., Oakland division);  
3 and *Cohen v. Facebook, Inc.*, No. C 10–5282 RS (N.D. Cal. 2011) (Seebork, J., San Francisco  
4 division).

## 5 6 FACTUAL BACKGROUND

### 7 I. PLAINTIFFS' RELATIONSHIP WITH DEFENDANT AND LOCAL HOSTS

8 68. Defendant PGA TOUR organizes and promotes three tours of professional golf  
9 tournaments held across the United States. Generally, each tournament has a local sponsor—  
10 usually a nonprofit entity—that helps organize the tournament. These Local Hosts work together  
11 with Defendant to obtain and retain sponsors represented by the bibs at issue in this lawsuit. Local  
12 Hosts and Defendant all profit directly from bib sponsorships. To retain bib sponsors and to lock  
13 out competition for advertising opportunities during tournament play, Local Hosts and Defendant  
14 work together to design the bibs according to those goals and to coerce caddies into wearing the  
15 bibs with threats of fines or other modes of discipline that will leave caddies unemployed. Local  
16 Hosts and Defendant operate pursuant to implied and express written and oral agreements, patterns  
17 of practice, and understandings that grow from their mutual desire to and financial interest in  
18 monopolizing the markets at issue here and restraining competition in those markets. One  
19 example of their involves the Defendant each refraining from competing in certain subdivisions of  
20 the markets at issue so that the other can operate without competition. Although the PGA TOUR  
21 is the most prominent and profitable, Defendant (with the assistance of various Local Hosts) also  
22 organizes, co-sponsors, and promotes tournaments on the Champions Tour and Web.com Tour.  
23 These tours are collectively referred to as the “**Three Tours.**”

24 69. Plaintiffs are caddies employed by players competing on one or more of the Three  
25 Tours. While Defendant requires professional golfers to employ caddies for all practice, Pro-Am  
26 and tournament rounds, no agency relationship exists between Plaintiffs and Defendant, its  
27 affiliates, or its partners. Instead, Plaintiffs are independent contractors for professional golfers  
28 who compete in professional golf tournaments organized and promoted by Defendant.

1           70. Plaintiffs and Defendant are parties to numerous contracts. These contracts are  
2 described in detail below and provide a basis for Plaintiffs' claims.

3 **II. THE ENDORSEMENT POLICY**

4           71. Defendant's Player Handbook & Tournament Regulations ("**Handbook**") includes  
5 a provision titled, "Player Endorsement Policy" ("**Endorsement Policy**"). The Endorsement  
6 Policy generally requires endorsements to be "tasteful and in accordance with standards of  
7 decorum expected of professional golfers." The Endorsement Policy's chief concern is preserving  
8 the image and reputation of the PGA TOUR and, thus, the Endorsement Policy limits  
9 endorsements of tobacco, alcohol,<sup>3</sup> and gaming. In the interest of "taste," the Endorsement Policy  
10 limits placement and size of sponsor logos. Otherwise, the Endorsement Policy does not limit  
11 endorsements. Plaintiffs do not acknowledge Defendant's right to limit endorsements under the  
12 Endorsement Policy and expressly reserve the right to challenge those limitations.

13           72. Pursuant to Defendant's Endorsement Policy, professional golfers playing in  
14 tournaments organized and promoted by Defendant often wear various sponsor logos on their  
15 attire, including their shirts. Because players may choose to wear various sponsors' logos, some  
16 sponsors negotiate exclusive endorsement deals with players under which a player will wear only  
17 the sponsor's logo.

18           73. Under Defendant's rules and contractual provisions drafted by Defendant, caddies  
19 are permitted to endorse products under the Endorsement Policy to the same extent as players.  
20 Defendant's Handbook provides, "Caddies' clothing must conform to the Player Endorsement  
21 Policy." As set forth in detail below, Plaintiffs have entered numerous contracts with Defendant  
22 that include the same or similar language. Thus, Defendant expressly permits caddies to wear  
23 various sponsor logos on their attire—including shirts. However, as set forth below, Defendant,  
24 individually and in concert with Local Hosts, constricts Plaintiffs' endorsement potential and  
25 usurps Plaintiffs' endorsement opportunities.

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26  
27           <sup>3</sup> Although Players and caddies are prohibited from endorsing companies selling alcohol,  
28 Defendant endorses Grey Goose vodka as the "official spirit" of the PGA Tour.

1 **III. DEFENDANT PGA TOUR, INDIVIDUALLY, AND IN CONCERT WITH ITS LOCAL HOSTS**  
2 **FORCES PLAINTIFFS TO ENDORSE THE PRODUCTS AND SERVICES OF SPONSORS WHO PAY**  
3 **ONLY DEFENDANT AND ITS LOCAL SPONSORS FOR THE CADDIES' ENDORSEMENT**  
4 **SERVICES.**

5 74. Notwithstanding the language in the Handbook, Endorsement Policy, and relevant  
6 contracts, Defendant, individually and in concert with Local Hosts, has forced Plaintiffs to endorse  
7 the products and services of Defendant PGA TOUR's sponsors without remuneration. The  
8 specific mechanism through which Defendant and Local Hosts perpetuate this misconduct is  
9 known as the "bib," pictured in paragraph 1 above.

10 75. As the photographs show, the bibs bear sponsor logos—and integrate sponsors'  
11 logos—in the tournament logo which appears on the bibs. Defendant's Local Hosts design the  
12 bibs and the logos appearing on the bibs. The sponsors represented by those logos pay Defendant  
13 and Local Hosts for the bib space. No one, however, pays Plaintiffs to wear these bibs.  
14 Defendant PGA TOUR and Local Host officials have threatened to prohibit Plaintiffs from  
15 providing caddie services at tournaments organized and promoted by Defendant PGA TOUR if  
16 Plaintiffs refuse to wear the bibs. And of course, players' participation in each tournament is  
17 conditioned on players employing a caddie for that particular tournament. Additionally,  
18 Defendant PGA TOUR has contacted tour players to determine whether players would be willing  
19 to terminate their agreements with caddies who refuse to wear the bibs. Defendant PGA TOUR  
20 and its Local Hosts have demonstrated that if Plaintiffs do not supply the marketing medium for  
21 Defendant's and Local Hosts' sponsors by wearing bibs, from which both Defendant and Local  
22 Hosts profit, Defendant will interfere with the relationships between Plaintiffs and the players for  
23 whom they work.

24 76. Defendant PGA TOUR's coercive conduct has recently reached new heights. In  
25 2013, many Plaintiffs joined the Association of Professional Tour Caddies ("APTIC"), a trade  
26 association of professional golf caddies who work with some of the top professional golfers in the  
27 world. Many Plaintiffs joined the APTIC to improve the Plaintiffs' profession in general and to  
28 represent Plaintiffs' collective professional interests.

1           77. In retaliation for many Plaintiffs' membership in the APTC, and in a further effort  
2 to compel Plaintiffs to don the bibs during tournaments, Defendant PGA TOUR has threatened to  
3 prohibit caddies from receiving endorsement money from any sponsor that competes with  
4 Defendant's sponsors or from any of Defendant's sponsors who reduce their investment in  
5 Defendant because of an endorsement agreement with one or more of the Plaintiffs. Believing  
6 they have no reasonable choice but to comply with Defendant PGA TOUR's demands, Plaintiffs  
7 have continued to wear the bibs without compensation.<sup>4</sup>

8           78. With respect to marketing activities stemming from actual tournament play, the bib  
9 provides the greatest source of marketing exposure. Thus, the bib provides the most valuable  
10 marketing medium between commercials during tournament broadcasts. On information and  
11 belief, the annual value of the bib exceeds \$50 million, and that sum is paid to Defendant and  
12 Local Hosts by "title sponsors" and other companies whose logos appear on the bibs or are  
13 integrated in the bib design. However, Plaintiffs are paid nothing to wear bibs and, therefore,  
14 endorse the products and services of bib sponsors without compensation. Plaintiffs are made to  
15 serve as billboards to advertise, at the direction of the PGA Tour and the Local Hosts, for some of  
16 the most profitable companies in the world without compensation. Instead of compensating  
17 Plaintiffs for wearing the bib, Defendant PGA TOUR "incentivizes" Plaintiffs by refraining from  
18 following through on its threats to interfere with Plaintiffs' relationships with their respective  
19 players and by refraining from interfering with Plaintiffs' other endorsement opportunities.

20           79. Defendant PGA TOUR and its Local Hosts have always known that Plaintiffs  
21 expect payment for wearing corporate logos. For instance, Plaintiffs have the option to wear caps  
22 bearing the logo of Nature Valley, one of Defendant's corporate sponsors. Defendant PGA TOUR  
23 has fashioned a formula for compensating caddies who choose to wear the Nature Valley caps  
24

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25           <sup>4</sup> In a meeting with several caddies, one of Defendant's top executives indicated Defendant  
26 would not discuss compensation for the bib by saying "the bib is off the table." Defendant's  
27 executive went on to say "it may not be right, but that is how it has been and how it will be" when  
28 referring to Defendant's refusal to compensate Plaintiffs for serving as glorified billboards.

1 during tournament play. Given that Defendant knows that Plaintiffs expect payment for their  
2 endorsement of Defendant's sponsors on Plaintiffs' headwear, Defendant cannot reasonably deny  
3 knowing that Plaintiffs expect to be paid to endorse sponsors on their other attire, including bibs.<sup>5</sup>  
4 Nor can the Local Hosts, who have been fully aware of the Nature Valley cap program since its  
5 inception.

6 80. Plaintiffs' expectation of payment is evident in other ways. Defendant has entered  
7 enforceable agreements under which the Endorsement Policy applies to Plaintiffs, and the  
8 Endorsement Policy permits Plaintiffs to endorse products for pay—even though Defendant  
9 unlawfully limits that right in practice. Thus, Defendant PGA TOUR cannot reasonably deny  
10 knowing that Plaintiffs expect payment for endorsing sponsors' products and services. Nor can  
11 the Local Hosts, who have been aware of the Endorsement Policy and its application to Plaintiffs  
12 for at least as long as each respective Local Host has co-sponsored a PGA TOUR golf event.

13 81. Defendant, individually and in concert with Local Hosts, made a calculated  
14 decision to use Plaintiffs, their likenesses, and their images to endorse Defendant's sponsors.  
15 Plaintiffs are readily recognizable to the audience targeted by the bibs. By forcing Plaintiffs to  
16 wear the bibs, Defendant PGA TOUR and the Local Hosts benefit from their commercial use of  
17 Plaintiffs' likenesses and images and their status as professional caddies. Plaintiffs never have  
18 consented to the commercial use of their likeness by Defendant PGA TOUR, its affiliates and  
19 partners, or its Local Hosts. Because of their interest or claim to bib-generated advertisement  
20 revenue, Local Hosts have actively worked to ensure that Defendant and Local Hosts—and not the  
21 Plaintiffs—profit from the use of Plaintiffs' likenesses and images during tournament play.

22  
23  
24  
25 <sup>5</sup> Defendant has recently threatened to force all caddies to wear the Nature Valley hat  
26 pursuant to an alleged exclusivity provision in the contract between Nature Valley and Defendant.  
27 While Defendant has proudly proclaimed that Plaintiffs are not a party to that contract, Defendant  
28 seems intent on enforcing its provisions against Plaintiffs.

1 **IV. THE MARKETS AT ISSUE AND THE HARM CAUSED TO THOSE MARKETS**

2 82. There are two relevant markets for the purpose of Plaintiffs' antitrust claims: the  
3 "Endorsement Market" and the "Live Action Advertising Market" (collectively "**Relevant**  
4 **Markets**").

5 83. In addition to the definitions below, Plaintiffs note that the direct evidence of  
6 anticompetitive effects caused by Defendant's misconduct obviates the need to define the relevant  
7 markets or to demonstrate Defendant's market power in those markets. As alleged elsewhere in  
8 this Complaint, Defendant's and Local Hosts' misconduct has caused numerous, substantial  
9 anticompetitive effects. Because direct evidence plainly connects Defendant's misconduct to  
10 anticompetitive effects, the Court may infer that Defendant possesses monopoly power and that  
11 the markets in which those anticompetitive effects occur are the relevant markets.

12 ***A. The Endorsement Market Definition***

13 84. One market affected by Defendant's conduct and its concerted efforts with Local  
14 Hosts is the national market for the endorsement of products and services by participants in  
15 professional golf tournaments ("**Endorsement Market**"). Alternatively, the geographic scope of  
16 the Endorsement Market is North America.

17 85. Defendant PGA TOUR's tournaments take place in various states across the  
18 country and are organized in part by a Local Host, which generally is a nonprofit entity.  
19 Spectators in attendance view the tournament live, and the tournaments generally are televised,  
20 broadcast on the Internet, and viewable on video-on-demand platforms. Professional golfers and  
21 caddies are highly visible to both live spectators and to viewers of broadcasted tournaments.  
22 Professional golfers and caddies are the only people who are consistently visible to both live and  
23 broadcast audiences. They are also the only people readily recognizable by the audience. Thus,  
24 professional golfers and caddies, but for Defendant's unlawful conduct and concerted action with  
25 Local Hosts, would be the only competitors in the Endorsement Market. While player and caddie  
26 endorsements may be *supplemented* by other forms of advertising, such as Internet, television, and  
27 print advertising, they are not interchangeable for a variety of reasons: (A) endorsements by  
28 players is an advertising vehicle that is not easily avoided by flipping the page, clicking out of an

1 ad, or fast-fast forwarding with DVR; a viewer of the golf tournament will see the logo worn by a  
2 tournament participant; (B) endorsements made by the endorser during competition provides a  
3 unique, exponentially more effective opportunity to improve brand recognition and validity when  
4 compared to endorsements made in print or in television commercials; (C) endorsements by  
5 caddies and professional golfers add an element of price flexibility not offered by these other  
6 forms of advertising because a company can effectively set his own price by hiring a prominent  
7 player or caddie versus a lesser-known one, and by hiring multiple players and caddies versus  
8 hiring one.

9       86. The Endorsement Market includes the smallest group of products in which  
10 Defendant, or a hypothetical monopolist, can profitably impose a small but significant and non-  
11 transitory increase in price. On information and belief, if Defendant or a hypothetical monopolist  
12 increased the price of bib space and its other products in this market in the range of five percent to  
13 ten percent for an extended period of time, the purchasers of that bib space and other products  
14 would not, as a result of that increase, pursue marketing opportunities in other markets to such a  
15 degree that the price increase would not be profitable for Defendant or the hypothetical  
16 monopolist. On information and belief, Defendant has implemented such price increases in the  
17 past, and purchasers in this market did not switch to products in other markets to such a degree  
18 that the price increase was not profitable. Further, econometric studies, which consider relevant  
19 information such as pricing and number of competitors, controlled for unrelated forces affecting  
20 pricing and demand, will demonstrate that purchasers in the Endorsement Market will not switch  
21 to products outside of that market in response to a small but significant and non-transitory price  
22 increase by Defendant or a hypothetical monopolist—with respect to bib space its other products  
23 in this market—to such a degree that the price increase is unprofitable. On information and belief,  
24 surveys of bib sponsors and other consumers in this market would support the same conclusion.

25       87. The consumers in the Endorsement Market are companies who employ  
26 professional golf tournament participants to endorse products and services during professional golf  
27 tournaments (“**Endorsement Consumers**”). By employing tournament participants to endorse  
28

1 products and services at professional golf events, Endorsement Consumers target a unique, narrow  
2 audience. *Infra* ¶¶ 93-97.

3 ***B. The Live Action Advertising Market***

4 88. The Live Action Advertising Market refers to the national (or, alternatively North  
5 American) market for in-play or in-action commercial advertising at professional golf events  
6 between commercial breaks. In this market, advertisements opportunities are sold to sponsors,  
7 and the sponsor's logos are inserted subtly but effectively in the field of play where they can be  
8 viewed by the live golf tournament audience and by the broadcast audiences between commercial  
9 breaks (*i.e.* during play).

10 89. The suppliers in this market include professional golfers, caddies, Defendant, and  
11 Local Hosts. The advertising supplied by golfers and caddies has been described above in the  
12 Endorsement Market description. Defendant and Local Hosts provide the remainder of the  
13 advertising supply on signage around the golf course at each tournament that is recorded by  
14 television camera, included in television broadcasts of the tournament, and is seen by live  
15 spectators during play and by broadcast audiences between commercial breaks.

16 90. The Live Action Advertising Market is distinct from the market for traditional  
17 commercials for several reasons. For example, with the advancement of television playback  
18 technology—digital video recorder devices or “DVRs”—broadcast viewers can simply fast  
19 forward through commercial breaks; thus, the advertisement does not and cannot reach the  
20 viewer.<sup>6</sup> Further, broadcast viewers are far less likely to leave the room when play is going on

21  
22  
23 <sup>6</sup> The movie industry has used this concept for decades. By their very nature, movies do not have  
24 commercials. So, the movie production companies who wish to generate advertising revenue  
25 integrate those ads into the movie itself. For example, a character may hold a soft drink can in a  
26 manner permitting the audience to easily see the “Coca-Cola” logo, or child characters may eat  
27 cereal and position the box in a manner that permits the audience to easily see the “Cheerios” logo.  
28 The makers of Coca-Cola and Cheerios pay money in exchange for these in-movie advertising

1 than during a commercial break; thus, a broadcast viewer is far more likely to actually see the Ping  
2 logo on Bubba Watson's visor, or the Buick logos and automobiles placed throughout the course  
3 during the Buick Open than he would if those things were merely in traditional commercials.  
4 Additionally, while some of the larger corporations spend exorbitant amounts on live action  
5 advertising, the vast majority of companies purchasing live action advertisements are smaller  
6 companies who cannot or do not want to pay for advertising *via* television commercials. Thus, the  
7 vast majority of consumers in the Live Action Advertising Market do not have a viable option to  
8 advertise *via* television commercials or in other broadcast commercial locations.

9       91. The Live Action Advertising Market includes the smallest group of products in  
10 which Defendant or a hypothetical monopolist can profitably impose a small but significant and  
11 non-transitory increase in price. On information and belief, if Defendant or a hypothetical  
12 monopolist increased the price of bib space and its other products in this market in the range of  
13 five percent to ten percent for an extended period of time, the purchasers of that bib space and  
14 other products in this market would not, as a result of that increase, pursue marketing  
15 opportunities in other markets to such a degree that the price increase would not be profitable for  
16 Defendant or a hypothetical monopolist. On information and belief, Defendant has implemented  
17 such price increases in the past, and purchasers in the Live Action Advertising Market did not  
18 switch to products in other markets to such a degree that the price increase was not profitable.  
19 Further, econometric studies, which consider relevant information such as pricing and number of  
20 competitors, controlled for unrelated forces affecting pricing and demand, will demonstrate that  
21 purchasers in the Live Action Advertising Market will not switch to products outside of that  
22 market in response to a small but significant and non-transitory price increase by Defendant or a  
23 hypothetical monopolist—with respect to bib space and other products in this market—to such a  
24 degree that the price increase is unprofitable. On information and belief, surveys of bib sponsors  
25 and other consumers in this market would support the same conclusion.

26  
27 opportunities. Defendant, Local Hosts, players, and caddies perform very similar functions by  
28 offering in-play advertising opportunities for companies in the Live Action Advertising Market.

1           92.     The consumers in the Live Action Advertising Market are companies who seek  
2 specifically to advertise products and services during play at professional golf tournaments (“**Live**  
3 **Action Advertising Consumers**”). These consumers seek to advertise to broadcast viewers only  
4 between commercials during live play and to live spectators. As seen below, the audience for  
5 professional golf tournaments is uniquely attractive to these consumers. *Infra* ¶¶ 93-97.

6           ***C. The PGA Audience is a Unique Target for Advertising Consumers in Both Markets***

7           93.     The average audience for PGA golf tournaments is unique in that it is primarily  
8 comprised of golf fans who are generally much more affluent than audiences for other American  
9 professional sports. Approximately 90% of professional golf fans are Caucasian. The percentage  
10 of professional golf fans 55 years old and older by far exceeds the percentage of that demographic  
11 segment in other major televised sports. The percentage of teenage professional golf fans is by far  
12 exceeded by other major televised sports. Professional golf also has the lowest share of fans in  
13 their 20s and 30s when compared to other major televised sports. Fans of professional golf have  
14 vastly different purchasing interests than fans of other professional sports. For example, the most  
15 prevalent purchasing plans for golf fans include golf equipment, financial planning, banking, and  
16 vacationing. Nearly all professional golf fans travel for business *via* air travel on a regular basis  
17 and take vacations using airlines on an annual basis, marking a much greater propensity than the  
18 propensity of other major sports’ fans. On information and belief, nearly half of golf fans vacation  
19 at a golf resort each year. The percentage of fans of other major televised sports who do the same  
20 is negligible.

21           94.     The unique characteristics of a professional golf tournament audience are further  
22 highlighted by the fact that Defendant schedules the most important rounds of golf—including the  
23 final round—at the same time as college football games and NFL games. Thus, the audience—*i.e.*  
24 the target of advertising—for football games is largely exclusive of that of professional golf.  
25 Defendant schedules tournaments that overlap with the Major League Baseball World Series and  
26 with the NHL and NBA Playoffs and Finals. Thus, Defendant recognizes it is not competing with  
27 professional baseball, hockey, or basketball for an audience. The same goes for all other major  
28 professional sports.

1           95.     Simply put, professional golf fans are unique. Because of their demographics and  
2 purchasing habits, professional golf fans are primarily targeted with advertisements for (1) golf-  
3 specific athletic gear like golf bags, golf shirts and golf-specific apparel, golf shoes with spikes,  
4 golf clubs, golf training equipment, golf gloves, and the like; (2) asset and wealth protection and  
5 management planning such as life insurance, 401(k) planning, IRAs, and legal services that protect  
6 assets; (3) luxury automobiles; (4) top-shelf alcohol; (5) travel services—including golf resorts—  
7 and products like luxury resorts, rental car services, and airlines; (6) luxury electronic equipment;  
8 and (7) luxury timepieces such as Rolex and Tag Heuer watches. These are just examples. The  
9 unique audience for professional golf explains why professional golfers primarily wear logos that  
10 advertise golf-specific equipment and apparel made by companies like Nike, Titleist, Ping,  
11 Callaway, Hopkins, Slazenger, and others. The unique audience for professional golf explains  
12 why title sponsors for major PGA TOUR events include the likes of Charles Schwab & Co., The  
13 PNC Financial Services Group, Inc., Dick’s Sporting Goods, and Regions Financial Corporation.  
14 It explains why the name of the Defendant’s very popular Match Play Championship is called the  
15 “*Cadillac* Match Play Championship” and does not refer to an entry-level brand of car  
16 manufactured by GM.

17           96.     For these reasons, changes in the cost of in-play advertising at Defendant’s golf  
18 events versus the cost of in-play advertising during other sporting events will not affect the  
19 demand for player and caddie endorsements in the Endorsement Market or the demand for in-play  
20 advertising in the Live Action Advertising Market. While companies may supplement their  
21 advertising in other markets, suppliers in these other markets simply do not compete with  
22 suppliers in the Relevant Markets.

23           97.     For purposes of the Endorsement Market, having non-golfing professionals endorse  
24 the products and services sought by professional golf fans is distinct from having golfing  
25 professionals endorse those products. Each audience member is viewing because of his  
26 connection with or desire to watch one or more of the golfing professionals—which includes  
27 players and caddies—participate in the tournament. Because the audience is comprised of fans of  
28

1 the golfing professionals endorsing the products, the marketing effect on the audience is much  
2 greater, more effective, and much more valuable than the endorsement of a non-golf professional.

3 ***D. Defendant's Individual and Concerted Misconduct Has Harmed the Relevant***  
4 ***Markets.***

5 98. As noted above, the supply of endorsers in the Endorsement Market is naturally  
6 limited to professional golfers and to Plaintiffs and other caddies participating in professional golf  
7 tournaments because they are the only consistently-visible and recognizable people during  
8 professional golf tournaments. As noted above suppliers in the Live Action Advertising Market  
9 are limited to golfers, caddies, Defendant, and Local Hosts. Thus, the supply chains in the  
10 Relevant Markets are susceptible to these natural limits or barriers, and no other suppliers could  
11 break into the markets even if it would be profitable for them to do so.

12 99. Defendant and the Local Hosts engaged in concerted action proscribed by Section  
13 1. Local Hosts are third parties who co-sponsor professional golf events across the country. In  
14 general, each Local Host co-sponsors a single professional golf tournament with Defendant.  
15 These Local Hosts include without limitation entities such as American Institute of Mathematics  
16 in Palo Alto, California; PGA of America in Palm Beach Gardens Florida; Tiger Woods Charity  
17 Event Corporation in Irvine, California; and Monterey Peninsula Foundation, Inc. in Monterey,  
18 California.

19 100. Defendant and the Local Hosts know that supply in the Relevant Markets is  
20 limited. Defendant's unlawful manipulation of the markets through its unilateral acts and through  
21 its concerted acts with Local Hosts demonstrates this awareness. By employing coercive measures  
22 to force Plaintiffs to wear bibs, Defendant and the Local Hosts have hijacked a chain of supply of  
23 endorsement opportunities and foreclosed competition and/or unreasonably restrained competition  
24 in the Relevant Markets.

25 101. Defendant also engages in concerted action with unwilling participants such as the  
26 Plaintiffs and consumers in the Relevant Markets. As noted throughout this Complaint, Plaintiffs  
27 are coerced by Defendant and Local Hosts to wear the bibs, thus limiting supply and competition  
28 in the Relevant Markets. Consumers in the Relevant Markets are likewise given little choice: buy

1 the advertising product for an inflated value from a limited selection and quantity, or leave the  
2 market. Thus, consumers help perpetuate Defendant's antitrust violations by buying bib space at a  
3 large profit and in spite of its limits on competition.

4 102. The harm to the Relevant Markets is pronounced. For instance, the bib effectively  
5 reduces the number of advertising opportunities Plaintiffs may provide individually, thus reducing  
6 the total output of supply in each of the Relevant Markets. For instance, Plaintiffs' shirts provide  
7 a valuable marketing medium. However, the bib occupies so much of the Plaintiffs' shirts that no  
8 room is left for Plaintiffs to place logos of their own sponsors. Thus, not only are Defendant PGA  
9 TOUR and Local Hosts using Plaintiffs as human billboards without compensating them, they are  
10 drastically abridging Plaintiffs' capacity to wear the logos for companies who are consumers in the  
11 Relevant Markets and whose products and services Plaintiffs wish to endorse.

12 103. Absent Defendant PGA TOUR's unlawful combination with Local Hosts and  
13 Defendant's other unlawful conduct, the Relevant markets could provide advertising and  
14 endorsement opportunities to a much broader scope of companies and products. Specifically, the  
15 bibs that Defendant and Local Hosts force Plaintiffs to wear generally bear the logo of only one to  
16 three sponsors. And all Plaintiffs are forced to wear identical bibs during a given tournament.  
17 Thus, the same one, two, or three logos appear on every caddie's bib during tournament play. This  
18 practice limits potential consumers' ability to enter the Relevant Markets because many consumers  
19 who might pay a single caddie to endorse products in the bib space find that it is cost prohibitive  
20 to purchase bib space under the current practice. And even if it is not cost prohibitive, many  
21 consumers are shut out of the Relevant Markets simply because no supply is available. Without  
22 Defendant's illegal restraint on the Relevant Markets, both by its own conduct and in concert with  
23 others, Plaintiffs would separately enter their own endorsement agreements, resulting in greater  
24 supply and variety of endorsement and advertising opportunities in the Relevant Markets. Absent  
25 Defendant's restraint on trade, supply would increase, and prices in the Relevant Markets would  
26 be governed by competition—not coercion.

27 104. The bib also prevents Plaintiffs from entering exclusive endorsement deals with  
28 sponsors. In some instances, a sponsor will want a player or caddie to wear only that sponsor's

1 logos during tournaments. Because an exclusive endorsement deal prohibits or limits a player or  
2 caddie from endorsing other products during golf tournaments, the exclusive sponsor is willing to  
3 pay a premium to the player or caddie. Although players are free to enter these exclusive  
4 endorsement deals, the bibs preclude Plaintiffs from entering exclusive endorsement deals because  
5 Plaintiffs have no control over which sponsors' logos are placed on the bibs by Defendant and  
6 Local Hosts. In other words, so long as Plaintiffs must wear the bibs, no endorsement deal with a  
7 caddie can truly be "exclusive."

8 105. Although Local Hosts and Defendant would be natural competitors in the Live  
9 Action Advertising Market, they refrain from competing head-to-head in that market by refraining  
10 from competing in subdivisions of the market dominated by the other. They share the bib  
11 advertising revenue while precluding consumers from competing for bib space and restraining  
12 caddies from competing in the market. Defendant and Local Hosts have artificially reduced the  
13 value of Plaintiffs' non-bib endorsements by making the bib prominent in size and color, and by  
14 placing logos on the bibs that vastly exceed the size that Defendant and Local Hosts "approve" for  
15 non-bib endorsements. The brightly-colored bibs and large logos command greater attention than  
16 the other logos in the Relevant Markets, thereby depressing the value that Plaintiffs can obtain for  
17 wearing the logos of non-bib sponsors. While Local Hosts design the bibs and the logos on the  
18 bibs, on information and belief, Defendant is also involved in the bibs' designs.

## 19 20 **CAUSES OF ACTION**

### 21 **I. SHERMAN ACT**

22 106. Plaintiffs incorporate the allegations in paragraphs 1 – 105 in this section for all  
23 purposes as if fully restated.

#### 24 ***A. Defendant Unreasonably Restrained Trade Through Its Concerted Action With*** 25 ***Local Hosts and Unwilling Participants.***

26 107. Defendant's conduct violates section 1 of the Sherman Act, which prohibits  
27 "[e]very contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade  
28 or commerce among the several States, or with foreign nations." Defendant has engaged in

1 multiple unlawful combinations, contracts, or conspiracies in its efforts to restrain trade  
2 unreasonably.

3 108. Defendant and its Local Hosts, through a contract—whether implied, express,  
4 written, or oral, combination and/or conspiracy, have cooperated in an effort to limit competition  
5 unlawfully. On information and belief, Local Hosts were aware of Defendant’s efforts to coerce  
6 Plaintiffs into endorsing the products and services of bib sponsors without remuneration. Due to  
7 Local Hosts’ financial interest in the bib sponsorship revenue, Local Hosts unilaterally made the  
8 conscious decision to join in and support Defendant’s coercive conduct. Local Hosts are natural  
9 competitors with Defendant in the Live Action Advertising Market, but Local Hosts and  
10 Defendant have worked together to maximize their profits in the market by limiting supply and by  
11 commandeering supply. Local Hosts also knew that their own employment of coercion—and in  
12 tandem with Defendant’s coercion—would limit supply in the Relevant Markets and would  
13 unreasonably hinder Plaintiffs’ ability to compete in the markets. However, because Local Hosts  
14 stood to profit from the unlawful restraint on trade imposed by their concerted action with  
15 Defendant, the Local Hosts consciously participated in the scheme of forcing Plaintiffs to wear the  
16 bibs and prohibiting Plaintiffs from exercising their rights under the Endorsement Policy and from  
17 competing in the Relevant Markets. The combination between Defendant PGA TOUR and its  
18 Local Hosts artificially reduces supply and boosts the price paid for advertising and endorsements  
19 in the Relevant Markets, and both parties to the combination derive a profit from their common  
20 scheme. Local Hosts and Defendant share a common interest in obtaining “title sponsorships” and  
21 other sponsorships from companies who pay to have their logo appear on the bibs. Local Hosts  
22 and Defendants—to the exclusion of caddies—profit from revenue generated by bib sponsorships.  
23 The bibs and the logos themselves (if sponsors’ logos are integrated with the tournament logo) are  
24 designed by Local Hosts. Pursuant to their shared desire to reduce competition in the Relevant  
25 Markets, Local Hosts intentionally design the bibs in a way to cover the caddies’ shirts—the  
26 caddies most valuable ad space—and to reduce and eliminate any attention the caddies’ other  
27 logos garner. Finally, on information and belief, Local Hosts and Defendant refrain from  
28

1 competing with one another in certain segments of the Live Action Advertising Market in order to  
2 retain their control of the market, suppress supply, and inflate pricing.

3         109. Defendant and Local Hosts also have coerced Plaintiffs and consumers into a  
4 combination with Defendant that unreasonably restrains trade. First, Defendant and Local Hosts  
5 have threatened to interfere with Plaintiffs' relationship with their respective players and with  
6 Plaintiffs' individual sponsors if Plaintiffs do not wear the bibs and endorse Defendant's and  
7 Local Hosts' sponsors without compensation. Fearing unemployment and the resulting financial  
8 ruin, Plaintiffs have unwillingly acquiesced to Defendant's demands and threats by wearing the  
9 bibs without compensation, thereby unwillingly contributing to Defendant's unreasonable restraint  
10 on trade. In other words, Defendant has forced Plaintiffs to work with Defendant to unreasonably  
11 restrain trade. And through this combination, forged in coercion and involuntary acquiescence,  
12 Plaintiffs, the Relevant Markets, and the relevant consumers in those markets have suffered harm.  
13 Second, consumers in the Relevant Markets are likewise given little choice: buy the advertising  
14 product for an inflated value from a limited selection and quantity, or leave the market. Thus,  
15 consumers help perpetuate Defendant's antitrust violations by buying bib space at a large profit  
16 and in spite of its limits on competition.

17         110. The intended and actual product of Defendant's and Local Hosts' restraints on trade  
18 was to raise, fix, peg, or stabilize the price paid for endorsements and advertising at professional  
19 golf tournaments by unlawfully limiting, commandeering, or eliminating channels of supply. By  
20 forcing Plaintiffs to wear the bibs, Defendant, both individually and in concert with Local Hosts,  
21 has unlawfully gained control of supply in the Relevant Markets, and accordingly, exerts unlawful  
22 control over the prices paid for endorsements and advertising in those markets. Through its  
23 combination, contract, and/or conspiracy with Local Hosts, a competitor of Defendant's in the  
24 Live Action Advertising Market, Defendant has placed a horizontal restraint on trade in that  
25 market. Defendant's restraints on trade should receive *per se* scrutiny. Accordingly, Defendant  
26 should be required to proffer evidence that its conduct does not constitute an unreasonable  
27 restraint on trade.

28

1 111. Defendant, individually and in concert with Local Hosts, artificially reduced  
2 output in the Relevant Markets by nearly eliminating Plaintiffs as a channel of supply for  
3 endorsement and advertising services. Defendant's restraint on trade should receive *per se*  
4 scrutiny. Accordingly, Defendant should be required to proffer evidence that its conduct does not  
5 constitute an unreasonable restraint on trade.

6 112. Defendant cannot demonstrate that its conduct serves procompetitive purposes.  
7 Even if Defendant could identify a procompetitive purpose, a less restrictive restraint would  
8 achieve the same procompetitive purpose.

9 113. Consumers in the Relevant Markets, and consequently Plaintiffs, have suffered  
10 numerous harms, including (1) having access to fewer and less diverse sources of supply in the  
11 Relevant Markets; (2) paying above market value for endorsements and advertisements; and (3)  
12 being priced out of the Relevant Markets altogether. Further, given the prominence of the bib's  
13 size and color, consumers who employ Plaintiffs to endorse products and services receive less  
14 value than they bargained for because their logos are covered or overshadowed by the bibs.

15 114. Plaintiffs have suffered damages. Specifically, Plaintiffs have suffered a loss  
16 equivalent to the amount of money they could have earned had they been permitted to endorse  
17 products and services in the space occupied by the bibs.

18 115. Defendant and Local Hosts unlawfully profited by their anticompetitive conduct.  
19 On information and belief, the value of the bib is believed to be in excess of \$50 million for the  
20 past tournament season alone and similar sums in other seasons. These sums were paid to and  
21 appropriated by Defendant and Local Hosts.

22 ***B. Defendant Is Liable Under the Sherman Act for Its Illegal Tying Arrangement***

23 116. Defendant has monopoly power over the market for professional golf tournaments  
24 ("**Golf Tournament Market**"). While that monopoly is not directly in dispute here, Defendant  
25 has employed its monopoly in the Golf Tournament Market to gain monopoly power and leverage  
26 control in the Relevant Markets.

27 117. Defendant in essence sells access to professional golf tournaments (the "tying  
28 product"), conditioned on Defendant's coerced purchase of bib advertising (the "tied product").

1 Defendant does this in multiple ways. One way that Defendant accomplishes this is by requiring  
2 professional golfers to employ a caddie during tournament rounds. As a condition to players'  
3 participation in a given tournament, players must hire a caddie *and* permit Defendant to use the  
4 caddie to endorse Defendant's sponsors *via* the bib. Alternatively, players must accept a caddie  
5 "provided by" Defendant whom Defendant will likewise force to endorse its sponsors by forcing  
6 them to wear the bib. Thus, Defendant is employing its monopoly in the Golf Tournament Market  
7 to leverage control of the separate, unrelated Relevant Markets.

8         118. A second manner in which Defendant engages in illegal tying involves caddies'  
9 "purchase" of access to tournaments ("tying product") to Defendant's coerced "purchase" of  
10 Plaintiffs' endorsement services. While the caddies do not wish to sell their endorsement services  
11 to Defendant, Defendant uses its monopoly power in the Golf Tournament Market to leverage  
12 control in the Relevant Markets and to coerce Plaintiffs into effectively granting Defendant  
13 monopoly power in the Relevant Markets.

14         119. Third, while there is no agency relationship between Defendant and Plaintiffs,  
15 Defendant in essence "purchases" caddie services from Plaintiffs. Defendant co-sponsors the  
16 tournaments in the Professional Golf Tournament Market, and as each tournament's co-sponsor,  
17 Defendant recognizes that professional golfers—and therefore the golf tournament product—  
18 benefit from the use of caddies. Indeed, Defendant requires players to have them. In  
19 consideration of access to the tournament, Plaintiffs agree to provide caddie services at each  
20 tournament in a manner that improves the value of Defendant's tournament product. Thus, while  
21 there is no employment relationship or any agency relationship for that matter, Defendant in  
22 essence buys caddie services through barter. But Defendant ties that purchase to its coerced  
23 purchase of Plaintiffs' endorsement services. Thus, Defendant purchases caddie services in the  
24 Golf Tournament Market contingent upon its coerced "purchase" of endorsement services in the  
25 Relevant Markets.

26         120. The two products—caddie services and endorsement services—were not originally  
27 bundled in practice because they do not appear in the same market. These services' presence in  
28

1 the same transactions here is directly attributable to Defendant's control over the Golf Tournament  
2 Market, its control over the players, and its coercion of the caddies.

3 121. As a result of Defendant's tying arrangement, the Relevant Markets and Plaintiffs  
4 are injured as a result as described elsewhere in this Complaint.

5 ***C. Defendant Has Maintained a Monopoly Through Unlawful Means or, Alternatively,***  
6 ***Attempted to Establish a Monopoly Through Unlawful Means.***

7 122. Defendant PGA TOUR's conduct violates Section 2 of the Sherman Act, codified  
8 at 15 U.S.C. § 2, which makes it unlawful to monopolize, or attempt to monopolize, or combine or  
9 conspire with any other person or persons, to monopolize any part of the trade or commerce  
10 among the several states.

11 123. As demonstrated above, Defendant PGA TOUR has monopoly power in the  
12 Relevant Markets or, alternatively, there is a dangerous probability that Defendant may be able to  
13 achieve monopoly power. Professional golfers and their caddies are the only sources of supply in  
14 the Endorsement Market and are the primary sources of supply in the Live Action Advertising  
15 Market. Defendant knows that entry into the markets by others is closed because there are a finite  
16 number of professional golfers and caddies who can participate in each tournament. This is one  
17 built-in barrier to competition.

18 124. Further, Defendant has successfully exercised control over the caddies' capacity to  
19 endorse their sponsors' products and services. Through coercion, Defendant has forced Plaintiffs  
20 to wear bibs bearing sponsors' logos that far exceed the size and prominence of those that  
21 Plaintiffs and players are permitted to wear. Defendant forces Plaintiffs to wear the bibs without  
22 compensation. As a result of Defendant's monopolistic conduct, Defendant has drastically  
23 reduced supply in the Relevant Markets and has forced consumers to pay higher prices, leave the  
24 markets, or not enter the markets in the first place. On information and belief, Defendant's  
25 coercion has also led to Defendant's controlling at least 80% of the market share in the Relevant  
26 Markets. Further, through its coercion of Plaintiffs and other caddies, Defendant has erected an  
27 artificial barrier to competition in the Relevant Markets.

28

1           125. Further, other than this lawsuit, there appears to be no impediment to Defendant's  
2 ability to take over another source of supply in the Relevant Markets—the players. For instance,  
3 Defendant has attempted to justify forcing Plaintiffs to wear the bibs by suggesting it is part of  
4 Defendant's "uniform" requirement. If Defendant's justification survives scrutiny in this lawsuit,  
5 Defendant could similarly apply a "uniform" requirement to professional golfers competing on the  
6 Three Tours. If both players and caddies are compelled by Defendant to endorse the products and  
7 services of Defendant's sponsors without payment, Defendant will have absolute control over the  
8 Relevant Markets, their supply, and the prices paid in those markets for player and caddie  
9 endorsements during tournament play and other in-play advertising.

10           126. Defendant has demonstrated an intent to control prices, destroy competition, or  
11 some combination thereof in the Relevant Markets. On information and belief, discovery will  
12 reveal direct evidence in the form of correspondence that proves Defendant's intent. Additionally,  
13 Defendant and Local Hosts refrain from competing against one another in the Relevant Markets  
14 even though they are natural competitors. Local Hosts refrain from advertising in a way that  
15 detracts from the effectiveness of bib advertisements, Defendant agrees refrains from advertising  
16 in certain subdivisions of the Live Action Advertising Market so that Local Hosts may retain  
17 control there. Finally, Defendant's use of threats and coercion, along with the revenue Defendant  
18 receives as a result of its conduct reveals that Defendant specifically intends to reduce or eliminate  
19 competition in the Relevant Markets at the cost of consumers in those markets and Plaintiffs.

20           127. Endorsement Consumers and Live Action Advertising Consumers in general have  
21 suffered numerous harms because of Defendant's monopolistic conduct, including (1) having  
22 access to fewer and less diverse sources of supply in the Relevant Markets; (2) paying above  
23 market value for endorsements; and (3) being priced out of the Relevant Markets altogether.  
24 Further, given the prominence of the bib's size and color, consumers who employ Plaintiffs to  
25 endorse products and services receive less value than they bargained for because their logos are  
26 covered or overshadowed by the bibs.

1 128. Plaintiffs have suffered damages due to Defendant's monopolistic conduct.  
2 Specifically, Plaintiffs have suffered a loss equivalent to the amount of money they could have  
3 earned had they been permitted to endorse products and services in the space occupied by the bibs.

4 129. Defendant has unlawfully profited by its monopolistic conduct. On information  
5 and belief, the value of the bib is believed to be in excess of \$50 million for the past tournament  
6 season alone and similar sums in other seasons.

7 **II. RIGHT OF PUBLICITY/MISAPPROPRIATION OF LIKENESS**

8 130. Plaintiffs incorporate the allegations in paragraphs 1 – 129 in this section for all  
9 purposes as if fully restated.

10 131. By forcing Plaintiffs to wear the bibs, Defendant knowingly and intentionally used  
11 the images and likenesses of Plaintiffs for marketing purposes without Plaintiffs' consent.  
12 Specifically, Defendant used Plaintiffs' likenesses and images at professional golf tournaments  
13 and in broadcasts of those tournaments to endorse the products and services of bib sponsors.  
14 Defendant also used Plaintiffs' likenesses and images to market bib space to potential  
15 Endorsement Consumers and Live Action Advertising Consumers.

16 132. Plaintiffs never consented to Defendant's use of their likenesses and images for  
17 commercial purposes. To any extent Defendant claims that Plaintiffs consented contractually or by  
18 other means, Defendant used coercion to secure that alleged consent as described elsewhere in this  
19 Complaint. Defendant PGA TOUR forced Plaintiffs to wear the bibs by threatening to interfere  
20 with Plaintiffs' relationships with their respective players and individual sponsors. Defendant  
21 threatened to impose further limits on Plaintiffs' right to endorse their individual sponsors if  
22 Plaintiffs refused to wear the bibs. Reasonably prudent people in Plaintiffs' position would have  
23 succumbed to Defendant PGA TOUR's threats just as Plaintiffs did. Given the vulnerable  
24 position that Plaintiffs were in and Defendant's knowledge of Plaintiffs' vulnerability, Defendant  
25 successfully coerced Plaintiffs into wearing the bibs.

26 133. Defendant used Plaintiffs' likenesses and images to serve a commercial purpose—  
27 to endorse the products and services of Defendant's sponsors. In return, Defendant's sponsors paid  
28

1 Defendant various sums of money. Defendant also used Plaintiffs' likenesses and images to  
2 market the bibs in order to lure new bib sponsors to purchase bib space from Defendant.

3 134. Had Plaintiffs been paid for the use of their likenesses and images, Plaintiffs could  
4 have collectively earned over \$50 million during the 2013-2014 golf season and similar sums  
5 during other seasons at issue in this lawsuit. Plaintiffs seek to recover the sums they would have  
6 earned had they been paid for the use of their likenesses and images in promoting the goods and  
7 services advertised on the bibs.

8 135. Further, as a result of Defendant's misappropriation of Plaintiffs' likenesses and  
9 images, and violation of their right to publicity, Defendant PGA TOUR received millions of  
10 dollars. Plaintiffs seek an order disgorging monies received by Defendant as a result of its  
11 misappropriation of Plaintiffs' likenesses and images, and awarding those monies to Plaintiffs.

### 12 **III. BREACH OF CONTRACT**

13 136. Plaintiffs incorporate paragraphs 1 – 136 in this section for all purposes as if fully  
14 restated.

15 137. Plaintiffs and Defendant entered one or more written contracts. Defendant  
16 breached those contracts, and Plaintiffs suffered injury as a result of Defendant's breaches.

17 138. Defendant PGA TOUR is a lawfully-formed corporation with the capacity to enter  
18 enforceable agreements, including those at issue here. Among the essential terms of the contracts  
19 at issue is Defendant PGA TOUR's agreement to permit Plaintiffs to exercise the same rights as  
20 players under the Endorsement Policy. In exchange for this right and others, Plaintiffs agreed to,  
21 among other things, carry out their duties as caddies in accordance with Defendant PGA TOUR's  
22 guidelines. For instance, Plaintiffs agreed to wear the types of shoes designated by Defendant, to  
23 refrain from entering the locker rooms at any time, to assist in maintaining the golf course by  
24 replacing divots, and to release Defendant PGA TOUR from liability for certain physical injuries  
25 that Plaintiffs might sustain during the course of a tournament.

26 139. Plaintiffs and Defendant PGA TOUR mutually assented to all relevant terms in the  
27 subject contracts. Their respective assent to the essential terms of the contracts is evidenced by  
28 their signatures on written contracts. Mutual assent is also evidenced by the parties' conduct.

1 Specifically, Plaintiffs performed their caddie services in compliance with the terms of those  
2 contracts, and Defendant permitted Plaintiffs to caddie on the Three Tours without objection and  
3 issued Plaintiffs credentials for those tournaments.

4 140. Plaintiffs performed under the contracts by complying with their various duties  
5 under the terms, including those duties set forth above. Defendant PGA TOUR breached the  
6 contract by prohibiting Plaintiffs from exercising their rights under the Endorsement Policy. As  
7 set forth above, Defendant coerced Plaintiffs into wearing bibs that cover a significant part of the  
8 Plaintiffs' attire. Plaintiffs received no payment for wearing the bibs, which bore the logos of  
9 sponsors who paid Defendant PGA TOUR for endorsing their products and services.  
10 Additionally, because of the coverage of the bibs, Plaintiffs were unable to place logos at prime  
11 locations on their attire and, thus, could not sell endorsements as provided by the Endorsement  
12 Policy.

13 141. As a result of Defendant PGA TOUR's breaches of contracts, Plaintiffs have  
14 sustained damages in the amount that they would have earned had they been permitted to endorse  
15 products in accordance with the Endorsement Policy.

16 142. Defendant PGA TOUR unjustly profited from its breach of contract.  
17 Notwithstanding the contract terms, Defendant coerced Plaintiffs into wearing the logos of  
18 Defendant's sponsors without remuneration. Because of Defendant PGA TOUR's breach, it has  
19 unlawfully obtained millions of dollars that equity demands be paid to Plaintiffs.

#### 20 **IV. UNJUST ENRICHMENT, QUANTUM MERUIT, AND MONEY HAD AND RECEIVED**

21 143. Plaintiffs incorporate the allegations in paragraphs 1 - 142 in this section for all  
22 purposes as if fully restated.

23 144. By wearing the bibs, Plaintiffs conferred a benefit on Defendant PGA TOUR under  
24 circumstances that would make it inequitable for Defendant to retain the benefit without paying  
25 for its value.

26 145. Under the Endorsement Policy, Plaintiffs are entitled to payment for endorsing  
27 products and services by wearing corporate logos on their attire. However, Plaintiffs never have  
28 been paid for endorsement services they provided by donning the bibs. When Defendant PGA

1 TOUR received and retained money paid by bib sponsors, it received and retained money  
2 rightfully belonging to Plaintiffs.

3 146. Further, Defendant knew that Plaintiffs expected compensation for donning  
4 corporate logos during professional golf tournaments. Defendant's Endorsement Policy permits  
5 Plaintiffs to endorse products and services for pay by displaying sponsor logos on their attire.  
6 Defendant pays Plaintiffs to wear caps bearing the logo of Defendant's hat sponsor during  
7 professional golf tournaments. Plaintiffs have informed Defendant that Plaintiffs oppose wearing  
8 the bibs without compensation, and Plaintiffs have informed Defendant that they want the  
9 opportunity to endorse their own sponsors in the space occupied by the bibs. Further, Defendant  
10 PGA TOUR had to coerce Plaintiffs into wearing the bibs. Defendant PGA TOUR knew that the  
11 basis of Plaintiffs' resistance to wearing the bibs was Plaintiffs' desire to be paid for endorsing  
12 products and services. Defendant PGA TOUR voluntarily and knowingly accepted and retained  
13 payment for the endorsements effectuated by the bibs despite knowing that Plaintiffs expected  
14 payment for endorsing bib sponsors' products and services. At Plaintiffs' expense and by virtue  
15 of Plaintiffs' effort, Defendant PGA TOUR was unjustly enriched in an amount equal to the sums  
16 collected from bib sponsors.

17 147. For these reasons, it would be inequitable for Defendant PGA TOUR to retain the  
18 benefits obtained from Plaintiffs' endorsement of Defendant's sponsors without paying fair value  
19 for the service. The Court should therefore place a constructive trust on the money that Defendant  
20 PGA TOUR has accepted by virtue of the bibs, disgorge the money from Defendant, and award it  
21 to Plaintiffs.

## 22 **V. LANHAM ACT VIOLATIONS**

23 148. Plaintiffs incorporate the allegations in paragraphs 1-147 in this section for all  
24 purposes as if fully restated.

25 149. Defendant PGA TOUR's conduct violates § 43 of the Lanham Act, codified at 15  
26 U.S.C. § 1125. Specifically, by forcing Plaintiffs to wear the bibs without their consent,  
27 Defendant has employed a marketing device that is likely to cause confusion, or to cause mistake,  
28 or to deceive as to the affiliation, connection, or association of Defendant with Plaintiffs, or as to

1 the origin, sponsorship, or approval of Defendant's and bib sponsors' goods, services, or  
2 commercial activities. Through the same conduct, Defendant has misrepresented the nature,  
3 characteristics, and qualities of Defendant's own marketing services.

4 150. As detailed above, Plaintiffs were forced to wear the bibs before live and broadcast  
5 audiences viewing professional golf tournaments. To any extent Defendant alleges that Plaintiffs  
6 consented contractually or by other means, such alleged consent was secured through Defendant's  
7 use of coercion as described elsewhere in this Complaint. Defendant knew that these audiences  
8 are generally comprised of golf fans who readily identify professional golfers and their caddies.  
9 Motivated by that knowledge, Defendant used the likenesses and images of Plaintiffs to endorse  
10 the products and services of bib sponsors by forcing Plaintiffs to wear bibs at professional golf  
11 tournaments.

12 151. By forcing Plaintiffs to wear the bibs before live and broadcast audiences,  
13 Defendant intentionally and knowingly (1) misled those audiences into believing that Plaintiffs  
14 voluntarily endorse or approve of the bib sponsors' products and services; (2) caused confusion  
15 among members of those audiences as to whether Plaintiffs endorse or approve bib sponsors'  
16 products and services; (3) misled or confused Endorsement and Live Action Advertising  
17 Consumers regarding Plaintiffs' association with Defendant and involvement in Defendant's  
18 advertising activities; (4) misled those audiences and consumers into believing that Plaintiffs  
19 voluntarily endorse or approve Defendant PGA TOUR's use of Plaintiffs' likenesses and images  
20 in Defendant's marketing activities; and (5) created a false belief that Defendant PGA TOUR and  
21 Plaintiffs are connected, associated, or otherwise affiliated with respect to the advertising achieved  
22 by the bibs and with respect to the companies advertised on the bibs.

23 152. As a result of Defendant PGA TOUR's violations of the Lanham Act, Plaintiffs  
24 have sustained damages in the amount that they would have earned had Defendant or the bib  
25 sponsors been required to pay Plaintiffs for the use of their likenesses and images.

26 153. By virtue of its Lanham Act violations, Defendant has been enriched by all sums  
27 paid for bib advertising. Plaintiffs seek an order disgorging those sums and awarding them to  
28 Plaintiffs.

1 **VI. DURESS/BUSINESS COMPULSION**

2 154. Plaintiffs incorporate the allegations in paragraphs 1 – 153 in this part for all  
3 purposes as if fully restated.

4 155. Plaintiffs unwillingly wore the bibs at issue in this lawsuit. To any extent  
5 Defendant claims that Plaintiffs “agreed” to provide free advertising services—a notion which  
6 appears untenable and nonsensical considering the lack of employment relationship between  
7 Defendant and Plaintiffs—Defendant acquired the alleged agreement through the employment of  
8 duress and business compulsion. To compel Plaintiffs to wear the bibs—and, alternatively, to  
9 acquire Plaintiffs’ “agreement” to provide Defendant free advertising services—Defendant PGA  
10 TOUR threatened to and attempted to interfere with Plaintiffs’ business relationships with their  
11 respective players and individual sponsors. Defendant and its Local Hosts fined and “disciplined”  
12 or threatened to “discipline” caddies who refused to wear the bib and threatened to or did in fact  
13 preclude caddies from working for their golfer if they refused to provide Defendant free  
14 advertising services. Thus, if caddies refused to provide Defendant free advertising services, they  
15 would lose their job with their respective players. Plaintiffs, who lack viable alternative  
16 employment, would therefore become unemployed, default on financial commitments, be at risk  
17 for imminent bankruptcy, and generally fall into financial ruin.

18 156. Such interference also would have reduced or eliminated Plaintiffs’ ability to enter  
19 new endorsement agreements and to perform under existing endorsement agreements. There is no  
20 other context in the United States in which Plaintiffs can provide caddie services to professional  
21 golf players or sell endorsements. Thus, Defendant PGA TOUR gave Plaintiffs no reasonable  
22 alternative but to wear the bibs without remuneration.

23 157. As a result of Defendant PGA TOUR’s coercion, Plaintiffs have lost opportunities  
24 to endorse products and services for pay in the space occupied by Defendant’s bibs. Additionally,  
25 Plaintiffs have provided valuable endorsement services for Defendant PGA TOUR without  
26 compensation.

27 158. Plaintiffs have suffered damages in the amount of money they would have earned  
28 through endorsement deals they would have entered into had they been able to use the space

1 occupied by the bibs in accordance with the Endorsement Policy. Alternatively, Plaintiffs seek to  
2 recover the amount of money and other benefits Defendant PGA TOUR has received in  
3 connection with the bibs.

4 **VII. VIOLATIONS OF CALIFORNIA'S UNFAIR COMPETITION LAW**

5 159. Plaintiffs incorporate the allegations in paragraphs 1 – 158 in this section for all  
6 purposes as if fully restated.

7 160. In perpetuating the conduct alleged herein, Defendant PGA TOUR violated  
8 California Business & Professions Code § 17200 *et seq.* (“UCL”). Specifically, by coercing  
9 Plaintiffs to wear the bibs during professional golf tournaments, Defendant has engaged in  
10 business practices or acts that are unfair, unlawful, fraudulent, or a combination thereof.

11 161. As noted above, there is a lucrative market for advertising opportunities during  
12 professional golf tournaments and in broadcasts of those tournaments. Defendant and Plaintiffs  
13 are competitors in that market. The consumers in the markets are companies seeking to purchase  
14 marketing space. Bib sponsors are one example of these consumers.

15 162. As alleged throughout this Complaint, Plaintiffs’ have employed threats of  
16 interference with Plaintiffs’ endorsement opportunities and with Plaintiffs’ employment by  
17 professional golfers to coerce Plaintiffs into providing advertising services for Defendant without  
18 compensation. As a result, Defendant has unfairly and illegally decreased competition by  
19 reducing Plaintiffs’ capacity to sell endorsements.

20 163. Further, Defendant’s conduct is unlawful under the UCL because Defendant has  
21 violated federal antitrust law, misappropriated Plaintiffs’ likenesses and images, violated the  
22 Lanham Act, and breached its contracts with Plaintiffs.

23 164. Additionally, on information and belief, Defendant PGA TOUR has intentionally  
24 misled bib sponsors into believing that Plaintiffs voluntarily consented to wearing the bibs without  
25 compensation. On information and belief, Defendant expressly represented to bib sponsors that  
26 Plaintiffs voluntarily wore the bibs, and bib sponsors purchased bib advertising space because they  
27 believed that Plaintiffs wore the bibs on their own volition. Otherwise, bib sponsors would not  
28

1 want to expose themselves to liability or to have their brand tarnished by being involved with  
2 Defendant's conduct at issue in this case.

3         165. Alternatively, Defendant intentionally misled bib sponsors into believing that  
4 Defendant had a legal right to force Plaintiffs to wear the bibs without compensation. Again, Bib  
5 sponsors purchased advertising space on the bib because they believed Defendant's  
6 misrepresentations regarding its "right" to compel caddies to wear the bib. Bib sponsors would  
7 not want to expose themselves to liability arising from the failure to pay endorsers (*i.e.* the  
8 caddies) for their advertising services.

9         166. In the further alternative, Defendant intentionally misled bib sponsors into  
10 believing that Plaintiffs were being compensated for wearing the bibs. Bib sponsors purchased  
11 advertising space on the bib because they believed Defendant's misrepresentations regarding the  
12 caddies receipt of payment or other agreed-upon consideration for their advertising services, such  
13 as the payment caddies receive for wearing the Nature Valley caps described above. Bib sponsors  
14 would not want to expose themselves to liability arising from the failure to pay endorsers (*i.e.* the  
15 caddies) for their advertising services. Likewise, bib sponsors would not want to have their brand  
16 tarnished by being involved with Defendant's conduct at issue in this case

17         167. As a result of Defendant's unlawful acts, the public at large, including golf fans and  
18 bib sponsors, has been misled. By forcing Plaintiffs to wear the logos before live tournament  
19 audiences and on broadcasts of each tournament, Defendant effectively represented that Plaintiffs  
20 and other caddies endorsed the companies, goods, and services represented on the bibs—whether  
21 their logos were "incorporated" in the tournament logo or placed on the bib independently. A  
22 reasonable consumer would have been misled, especially considering that players and caddies also  
23 wear other logos on their attire because they actually do endorse the companies, products, and  
24 services represented by those logos. A reasonable consumer will not know or discern that  
25 Plaintiffs are not employed by Defendant, the Local Host, or the bib sponsors. A reasonable  
26 consumer will not know or discern that Plaintiffs do not, in fact, endorse the companies, goods, or  
27 services represented by the logos on the bibs. Consumers did in fact rely on the appearance of  
28 endorsement by caddies when deciding whether to purchase the goods and services represented by

1 the bib logos. Consumers in the Relevant Markets who decided to buy bib advertising space from  
2 Defendant and Local Hosts relied on the misleading appearance that caddies voluntarily endorsed  
3 the products on the bibs. Those consumers would not have purchased bib advertising space had  
4 they known that Defendant compelled Plaintiffs to wear the bibs. Defendant knew that  
5 representing to the public that caddies endorse the companies and products represented by the  
6 logos was false because, in fact, the caddies had expressed their utter lack of desire to endorse  
7 those companies and were unlawfully compelled to do so by Defendant and its Local Hosts.

8         168. Defendant PGA TOUR's conduct provides no valid benefit to consumers or to  
9 competition. As a result of Defendant's unfair, unlawful competition, Plaintiffs have suffered  
10 significant pecuniary losses in the amount they would have earned had Defendant not coerced  
11 Plaintiffs into wearing the bibs without compensation and had Defendant allowed Plaintiffs to  
12 exercise their rights under the Endorsement Policy. As a result of Defendant's unfair, unlawful  
13 competition, consumers of advertising, such as bib sponsors, have suffered significant injury by  
14 paying above market value for bib advertising, by being denied access to a valuable marketing  
15 medium, or being priced out of the market altogether. Further, Defendant PGA TOUR has  
16 benefitted from its unlawful competition by netting millions of dollars each year from bib  
17 advertising.

18         169. Neither Plaintiffs nor consumers could have reasonably avoided the harm caused  
19 by Defendant PGA TOUR's unfair competitive practices. Plaintiffs were given a "choice": wear  
20 the bibs and preserve their employment relationship with professional golfers, or refuse to wear  
21 the bibs and Defendant would work to terminate Plaintiffs' employment with professional golfers  
22 and interfere with Plaintiffs' individual sponsorship agreements. Plaintiffs could not have  
23 reasonably chosen the latter. Consumers of advertising services are on similar footing. On  
24 information and belief, at least some consumers are unaware of Defendant PGA TOUR's coercion  
25 and have no reason to believe that Plaintiffs were entitled to the benefits under the Endorsement  
26 Policy. These consumers' lack of understanding is attributable to Defendant's misrepresentations.  
27 And regardless of advertising consumers' awareness of the Endorsement Policy, they had no  
28 reasonable response to Defendant PGA TOUR's conduct. Advertising consumers could disregard

1 Defendant's conduct and enter endorsement agreements with Plaintiffs under which Plaintiffs  
2 would wear logos in the space occupied by the bibs. However, Defendant would simply continue  
3 to force Plaintiffs to wear the bibs.

4 170. Plaintiffs and advertising consumers have suffered actual damages in the amount  
5 they would have earned had they been permitted to endorse sponsors in the space occupied by the  
6 bibs. Further, because of its unlawful conduct, Defendant PGA TOUR has received tens of  
7 millions of dollars annually. The Court should order disgorgement of all benefits obtained by  
8 Defendant as a result of its wrongful conduct.

### 9 10 CLASS ALLEGATIONS

11 171. Plaintiffs incorporate the allegations in paragraphs 1 - 170 in this part for all  
12 purposes as if fully restated.

13 172. Class certification is appropriate under Federal Rules of Civil Procedure 23(b)(2)  
14 ("**Rule 23(b)(2)**") and 23(b)(3) ("**Rule 23(b)(3)**"). Class certification is appropriate under Rule  
15 23(b)(2) because Defendant PGA TOUR's wrongful conduct was generally directed to the entire  
16 proposed class, and Plaintiffs' requested injunctive relief is appropriate respecting the proposed  
17 class as a whole. Class certification is also appropriate under Rule 23(b)(3) because questions of  
18 law or fact common to all proposed class members predominate over any questions affecting only  
19 individual members, and the class action procedure is superior to other available methods for  
20 fairly and efficiently adjudicating Plaintiffs' claims.

### 21 I. PROPOSED CLASS DEFINITION

22 173. Plaintiffs propose the following class definition: All caddies residing in the United  
23 States who, without remuneration, wear or have worn bibs bearing the logos of Defendant PGA  
24 TOUR's sponsors or those of Defendant's partners or affiliates, while providing caddie services to  
25 a golfer participating in a tournament on one of Defendant PGA TOUR's Three Tours pursuant to  
26 an agreement between such golfer and such caddie.

27 174. Proposed class representative Mike Hicks and alternate proposed class  
28 representative Kenny Harms are members of this proposed class.

1 **II. THRESHOLD REQUIREMENTS UNDER FEDERAL RULE OF CIVIL PROCEDURE 23(a).**

2 175. The proposed class satisfies the numerosity, commonality, typicality, and adequacy  
3 requirements under Federal Rule of Civil Procedure 23(a). First, Plaintiffs' proposed class  
4 satisfies the numerosity requirement. On information and belief, more than 1,000 caddies  
5 comprise the proposed class, and they reside across the United States. Given the number of  
6 proposed class members and their various domiciles, it would be impracticable to join all caddies  
7 individually in this action.

8 176. Plaintiffs' proposed class also satisfies the commonality requirement. The claims  
9 of each member of the proposed class stand and fall on the allegation that Defendant coerced  
10 Plaintiffs to wear the bibs without compensation and, in doing so, violated federal antitrust law,  
11 violated the Lanham Act, breached its contracts with Plaintiffs, misappropriated Plaintiffs' images  
12 and likenesses, and retained money owed to Plaintiffs. The questions common to each and every  
13 member of the proposed class include (1) whether Defendant PGA TOUR violated the Sherman  
14 Act by unlawfully restraining the proposed class members' ability to compete in the Relevant  
15 Markets; (2) whether Defendant PGA TOUR breached its contracts with members of the proposed  
16 class by prohibiting them from endorsing products and services as provided by the Endorsement  
17 Policy; (3) whether Defendant PGA TOUR misappropriated the likenesses and images of the  
18 members of the proposed class when it coerced each member to wear the bibs at professional golf  
19 tournaments, which were broadcast via television, Internet, and video-on-demand platforms; and  
20 (4) whether Defendant PGA TOUR wrongfully profited from each member of the proposed class  
21 at each member's expense, or by the employment of duress or unlawful compulsion.

22 177. Plaintiffs' proposed class representative Mike Hicks and alternate proposed class  
23 representative, Kenny Harms (collectively "**Proposed Class Representatives**") satisfy the  
24 typicality requirement. The harm suffered by all members of the proposed class is identical in  
25 character to the harm suffered by the Proposed Class Representatives. The Proposed Class  
26 Representatives and each proposed class member had an agreement with the PGA TOUR under  
27 which they could endorse products as permitted under the Endorsement Policy, and the proposed  
28 class members, including the Proposed Class Representatives, were prohibited by the PGA TOUR

1 from exercising their rights under the Endorsement Policy. Each proposed class member and the  
2 Proposed Class Representatives were prohibited from selling endorsements in the markets defined  
3 above. Each proposed class member and the Proposed Class Representatives wore Defendant  
4 PGA TOUR's bibs and therefore conferred a benefit on Defendant without remuneration. Finally,  
5 nothing alleged in this Complaint is unique to the Proposed Class Representatives.

6 178. The Proposed Class Representatives will fairly and adequately protect the interests  
7 of the proposed class. They have historically worked for the betterment of the caddie profession  
8 and caddie working conditions. For instance, Mr. Hicks has been a PGA Tour caddie for thirty-  
9 three years. Mr. Hicks has contributed to sixteen victories by four different players in Defendant's  
10 events. Mr. Harms serves as a board member for the APTC, an organization devoted to the  
11 improvement of caddie working conditions and benefits. Mr. Harms has been a professional  
12 caddie since 1991 and has caddied for professional golfers Kevin Na, Hale Irwin, Aaron Baddeley,  
13 Hubert Green, Ray Floyd, Gary Player, Lee Trevino, David Eger, Jan Stephenson, Emilee Klein,  
14 Lynn Connelly, and Michelle Wie.

15 179. Over 160 members of the proposed class are named plaintiffs in this action and  
16 have hired the undersigned counsel to represent their interests in this case. There are no reasons  
17 why the undersigned counsel cannot adequately protect the proposed class's interests.

18 180. Neither the Proposed Class Representatives nor their counsel have any conflicts of  
19 interest with other members of the proposed class. In fact, several members of the proposed class,  
20 named above, *supra* paragraphs 19 – 56, have agreed to join in this lawsuit and to be represented  
21 by the same counsel. Further, the Proposed Class Representatives and the proposed class  
22 members will share the same benefits from this action should Plaintiffs prevail.

### 23 **III. CLASS CERTIFICATION IS PROPER UNDER RULE 23(b)(2)**

24 181. Defendant PGA TOUR has acted or refused to act on grounds that apply generally  
25 to all the members of the proposed class, so that final injunctive relief is appropriate with respect  
26 to the proposed class as a whole.

27 182. The conduct of Defendant PGA TOUR alleged in this Complaint has been directed  
28 at all caddies working for professional golfers on one or more of the Three Tours. Defendant has

1 compelled all caddies to wear the bibs against their will. Defendant has unlawfully decreased all  
2 caddies' capacity to compete in the markets defined above. Defendant has interfered with all  
3 caddies' rights under the Endorsement Policy. Defendant has unlawfully profited from all  
4 caddies' wearing the bib.

5 183. Should Plaintiffs prevail on one or more of their causes of action, Plaintiffs seek an  
6 order from this Court enjoining Defendant PGA TOUR from continuing its unlawful conduct in  
7 the future. The injunctive relief sought and bases for such relief are stated below, *infra*  
8 paragraphs 192-204.

9 184. Although Plaintiffs also seek damages for Defendant PGA TOUR's unlawful  
10 conduct, those damages will constitute a hollow victory in the absence of prospective injunctive  
11 relief, especially for those class members who are in the beginning stages of their career as a  
12 professional caddie. Without injunctive relief in place, Defendant PGA TOUR may determine  
13 that it is in its economic interest to continue the conduct at issue in this lawsuit or to take new  
14 measures that unlawfully interferes with the relevant market, coerces the Plaintiffs, or uses the  
15 Plaintiffs' likenesses for commercial purposes without Plaintiffs' consent. Additionally,  
16 injunctive relief will provide Plaintiffs and their potential sponsors the freedom and security to  
17 negotiate and enter endorsement agreements without the fear of interference by Defendant PGA  
18 TOUR. Should Defendant PGA TOUR continue the same conduct that establishes liability in this  
19 case, Plaintiffs should not have to begin further litigation to re-establish liability for such conduct.

20 185. Finally, damages alone are inadequate. Damages do not protect Plaintiffs from  
21 Defendant's future attempts to force Plaintiffs to endorse products and services without  
22 compensation. And with respect to Plaintiffs who recently entered the profession, their damages  
23 will be nominal, and injunctive relief will protect their pecuniary interests by securing their right  
24 to compensation for endorsements.

25 **IV. CLASS CERTIFICATION IS PROPER UNDER RULE 23(b)(3)**

26 186. Class certification under Rule 23(b)(3) is appropriate because the questions of law  
27 or fact common to proposed class members predominate over any questions affecting only  
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1 individual members, and a class action is superior to other available methods for fairly and  
2 efficiently adjudicating Plaintiffs' claims.

3         187. The proposed class satisfies the predominance element because the central issues  
4 can be resolved for all members of the proposed class in a single adjudication. These central  
5 questions are (1) whether Defendant PGA TOUR violated the Sherman Act by unlawfully  
6 restraining the proposed class members' ability to compete in the Relevant Markets; (2) whether  
7 Defendant PGA TOUR breached its contracts with members of the proposed class by prohibiting  
8 them from endorsing products and services as provided by the Endorsement Policy; (3) whether  
9 Defendant PGA TOUR misappropriated the likenesses and images of the members of the  
10 proposed class when it coerced each member to wear the bibs at professional golf tournaments,  
11 which were broadcast via television, Internet, and video-on-demand platforms; and (4) whether  
12 Defendant PGA TOUR wrongfully profited from each member of the proposed class at each  
13 member's expense, or by the employment of duress or unlawful compulsion. Given the  
14 homogenous nature of Defendant PGA TOUR's conduct toward the proposed class members,  
15 these issues may be determined in this litigation in a single stroke.

16         188. The superiority element is likewise satisfied. First, on information and belief, no  
17 caddies are involved in litigation that involves or relates to the allegations made in this Complaint.

18         189. Second, there are many reasons why members of the proposed class would not  
19 have an interest in individually controlling the prosecution of their claims in separate actions. For  
20 example, all members of the proposed class will benefit equally from the prospective relief  
21 requested by Plaintiffs, assuring that each of them will be treated in the same manner and there is  
22 no risk of inconsistency of result. Additionally, several members of the proposed class are  
23 hesitant to prosecute claims on their own behalf out of fear of retaliation by Defendant PGA  
24 TOUR. Other members of the proposed class are hesitant to prosecute their claims individually  
25 out of fear that the player for whom they caddie will terminate their employment out of the  
26 player's own fear of retaliation by Defendant PGA TOUR, or to avoid any publicity created by  
27 litigation. Others will lack financial incentive given the cost of litigation versus the amount they  
28 could reasonably expect to recover.

1           190. It is highly desirable to focus this litigation in this forum. Defendant PGA TOUR  
2 has a permanent office in San Francisco, California, which makes much of the evidence easily  
3 accessible and provides a convenient venue for Defendant’s representatives to attend hearings or  
4 other court proceedings as necessary. The Northern District of California is extremely  
5 experienced in adjudicating claims similar to those alleged in this Complaint. Additionally,  
6 prosecution of Plaintiffs’ nearly-identical claims in several different courts will amount to a waste  
7 of judicial resources, and individual prosecution will result in costly and wasteful duplication of  
8 discovery, motion practice, and trial.

9           191. There is little foreseeable difficulty in managing the proposed class action. In fact,  
10 a class action would streamline discovery and avoid the need for separate, repetitive trials and  
11 duplicate discovery. Instead of Defendant PGA TOUR’s representatives being deposed numerous  
12 times in separate suits and forums, its representatives only would be subject to depositions in this  
13 class action. The proposed class action would eliminate other repetitive, duplicate discovery, such  
14 as depositions of individual plaintiffs which merely produce the same testimony over and over  
15 again. To the extent that the amount of actual damages or losses suffered by each member of the  
16 proposed class militates against class certification, Plaintiffs aver that the evidence in this case will  
17 reveal a method of determining actual loss—or actual benefit conferred on Defendant PGA—that  
18 minimizes the need for individual evidence by each proposed class member. Plaintiffs anticipate  
19 that such a formula may be created by considering factors such as (1) the number of tournament  
20 rounds during which each proposed class member wore a bib; (2) the proportion of each such  
21 tournament round that was televised or otherwise broadcast, taking into consideration the mode of  
22 broadcast; (3) the number of such rounds taking place after the “cut” occurred in a particular  
23 tournament; and (4) on which of Defendant PGA Tour’s Three Tours the bib was worn.

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**REQUESTED RELIEF****I. INJUNCTIVE RELIEF PURSUANT TO 15 U.S.C. § 4 AND 15 U.S.C. § 1116**

192. Plaintiffs incorporate the allegations in paragraphs 1 – 191 in this section for all purposes as if fully restated.

193. Upon determination that Defendant PGA TOUR's conduct violates the Sherman Act, Plaintiffs request a permanent injunction that will prohibit Defendant PGA TOUR from continuing such conduct.

194. Upon determination that Defendant PGA TOUR's conduct constituted a violation of the Lanham Act, 15 U.S.C. § 1125(a), Plaintiffs request an order permanently enjoining Defendant PGA TOUR from continuing such conduct.

195. Additionally, Plaintiffs request a permanent injunction (1) prohibiting Defendant PGA TOUR from revising its rules, regulations, or policies in any way that would unreasonably restrain trade as alleged herein; (2) prohibiting Defendant PGA TOUR from taking any retaliatory action against Plaintiffs or members of the proposed class; and (3) prohibiting Defendant PGA TOUR from imposing any limits on the endorsement of products and services by Plaintiffs and members of the proposed class beyond those that apply to professional golfers participating in PGA TOUR events.

**II. PERMANENT INJUNCTIVE RELIEF GENERALLY**

196. Plaintiffs incorporate paragraphs 1 – 195 in this section for all purposes as if fully restated.

197. Plaintiffs seek a permanent injunction prohibiting Defendant PGA TOUR from engaging in any conduct upon which liability is based in this lawsuit.

198. Plaintiffs ask the Court to enjoin Defendant from broadcasting images of Plaintiffs wearing the bibs except with consent of caddies. Alternatively, Plaintiffs request an order that requires Defendant PGA TOUR to compensate Plaintiffs appearing in such broadcasts.

199. Plaintiffs anticipate that Defendant PGA TOUR will interfere with Plaintiffs' contracts with their respective players in retaliation or in an attempt to compel the players to

1 prohibit Plaintiffs from engaging in their own endorsement activities. Plaintiffs therefore seek an  
2 order enjoining Defendant PGA TOUR from taking such actions.

3         200. The conduct that Plaintiffs seek to enjoin will cause irreparable harm to Plaintiffs.  
4 For instance, should Plaintiffs enter individual endorsement deals as a result of prevailing in this  
5 litigation, the conduct sought to be enjoined will force Plaintiffs to choose between fulfilling their  
6 endorsement responsibilities and engaging in their profession as a caddie. Plaintiffs request  
7 injunctive relief that will prevent such harm.

8         201. The balance of equities and public interest tip in favor of permanent injunctive  
9 relief. A permanent injunction will provide Plaintiffs and Defendant PGA TOUR with consistent  
10 expectations regarding future endorsement deals between Plaintiffs and sponsors. Thus, Plaintiffs  
11 and Defendant PGA TOUR, relying on the Court's injunction order, will have reliable  
12 expectations and can proceed with certainty as to the parties' respective rights. Additionally, with  
13 a permanent injunction in place governing aspects of the parties' prospective conduct, the sponsors  
14 with whom Plaintiffs and Defendant PGA TOUR enter endorsement agreements will have some  
15 security based on the terms of the injunctive order. If the future is unsettled, Plaintiffs, Defendant  
16 PGA, and potential sponsors are all susceptible to entering endorsement deals that guarantee  
17 litigation. Further, upon prevailing in this case, neither Plaintiffs nor this Court should have to  
18 relitigate the same issues disposed in this lawsuit when the threat of such relitigation could be  
19 quelled by injunctive relief.

20         202. The public's interest will be served by a future permanent injunction. Public  
21 interest is always served by actions that reduce consumer confusion and misleading advertising.  
22 An order that precludes Defendant PGA TOUR from compelling Plaintiffs to wear the bibs will  
23 produce these benefits. The public's interest always will be served by guarding against certain  
24 litigation in exchange for limits on parties' unlawful conduct. An order enjoining prospective  
25 conduct identical to the conduct at issue in this lawsuit will reduce the chances that these issues  
26 are relitigated.

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1 **III. STATUTORY INJUNCTIONS UNDER STATE LAW**

2 203. Pursuant to California's unfair competition law, Plaintiffs request an order  
3 enjoining Defendant PGA TOUR from engaging in any practice which constitutes unfair  
4 competition and restoring to Plaintiffs all money and property which Defendant acquired or will  
5 acquire by virtue of its unfair competition.

6 204. To that end, Plaintiffs request that a receiver be appointed to oversee Defendant's  
7 compliance with such order. Alternatively, the court should maintain supervisory jurisdiction.

8 **IV. PRELIMINARY INJUNCTION**

9 205. Plaintiffs reserve the right to request preliminary injunctive relief that will maintain  
10 the status quo among the parties pending the outcome of this case.

11 **V. ACTUAL AND STATUTORY DAMAGES**

12 206. Plaintiffs incorporate the allegations in paragraphs 1 - 205 in this section for all  
13 purposes as if fully restated.

14 207. Plaintiffs seek to recover all statutory damages to which they are entitled. Under  
15 California's right to publicity statute, CAL. CIV. CODE § 3344, Plaintiffs are entitled to \$750 for  
16 each violation.

17 208. Plaintiffs also seek actual damages in the amount of money they would have earned  
18 based on the market value of the bib endorsements.

19 209. Plaintiffs seek actual damages in the amount of the gross income attributable to  
20 Defendant PGA TOUR's use of Plaintiffs' likenesses and images in commercial activities.

21 210. Plaintiffs' seek actual damages in the amount of royalties to which Plaintiffs would  
22 have been entitled had Plaintiffs been properly paid for the use of their likenesses and images in  
23 the endorsement of the products and services of the companies whose logos appeared on the bibs.

24 211. Plaintiffs seek damages in the amount that Plaintiffs could have reasonably  
25 expected to earn had they been afforded the right under the Endorsement Policy to endorse  
26 products and services in the space occupied by the bibs.

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1 **VI. DISGORGEMENT/CONSTRUCTIVE TRUST**

2 212. Plaintiffs incorporate the allegations in paragraphs 1 - 211 in this section for all  
3 purposes as if fully restated.

4 213. Plaintiffs seek recovery of all money and benefits received by Defendant PGA  
5 TOUR and its partners and affiliates by virtue of Plaintiffs' wearing the bibs during Defendant  
6 PGA TOUR's events.

7 214. On information and belief, Defendant PGA TOUR has accepted and retained over  
8 \$50 million annually from bib sponsors.

9 **VII. TREBLE AND PUNITIVE DAMAGES**

10 215. Plaintiffs seek treble damages under 15 U.S.C. § 15 and 15 U.S.C. § 1117.

11 216. Additionally, Defendant PGA's conduct was intentional, reckless, and malicious.  
12 Thus, to the extent permitted by law, Plaintiffs' seek punitive damages.

13 **VIII. PRE-JUDGMENT AND POST-JUDGMENT INTEREST**

14 217. Plaintiffs request pre-judgment post-judgment interest on any money judgment.  
15

16 **PRAYER**

17 Plaintiffs respectfully ask that the Court grant the relief requested above and all other relief  
18 to which Plaintiffs are entitled, whether by law or equity.  
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21 *[Signature Blocks on Next Page]*  
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1 Dated: September 4, 2015

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**ECF CERTIFICATION**

I hereby certify that a true and correct copy of the foregoing document was filed electronically on this 4th day of September, 2015. As of this date, all counsel of record have consented to electronic service and are being served with a copy of this document through the Court's CM/ECF System.

By:           /s/ Eugene R. Egdorf            
Eugene R. Egdorf

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**DEMAND FOR JURY**

Plaintiffs hereby demand a trial by jury on all issues as provided by Rule 38(b) of the Federal Rules of Civil Procedure.

Dated: September 4, 2015

THE LANIER LAW FIRM, P.C.

By:           /s/ Eugene R. Egdorf            
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## General Information

<b>Court</b>	United States District Court for the Northern District of California; United States District Court for the Northern District of California
<b>Federal Nature of Suit</b>	Antitrust[410]
<b>Docket Number</b>	3:15-cv-00489
<b>Status</b>	Closed