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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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	:	
MARC DORSEY,	:	
	:	
Plaintiff,	:	06 Civ. ()
	:	
– against –	:	COMPLAINT
	:	
BLACK PEARL BOOKS, INC.,	:	JURY TRIAL DEMANDED
FELICIA HURST and DAMION	:	
MILLER,	:	
	:	
Defendants.	:	
	:	
-----	X	

Plaintiff Marc Dorsey, by his attorneys, Bragar Wexler & Eagel, PC, and Smith Dornan & Dehn PC, as and for his Complaint herein, alleges as follows:

NATURE OF THIS ACTION

1. Mr. Dorsey is a two-time Grammy nominated R&B singer, songwriter and producer, as well as a respected business owner in New Jersey. He is also the founder of

a community outreach program in New Jersey that prevents truancy and provides skills training for out of school youth. Mr. Dorsey also devotes a significant portion of his energies to other outreach programs and philanthropic events, many of them music-related, in an effort to keep kids off drugs and off the streets, and to otherwise improve the lives of those in the African American community.

2. This action arises out of defendants' deliberate and completely unauthorized use of photographs of Mr. Dorsey prominently and recognizably on the front and back covers of a book entitled Legit Baller ("Legit Baller" or the "Book") which follows the life and sexual escapades of a fictional African-American character, a convicted crack-cocaine dealer, during his incarceration in federal prison and after his release. Upon information and belief, these images have reached millions of people as a result of the display and sale of the Book at establishments such as Wal-Mart, Borders, Walden Books, B. Dalton, Barnes & Noble, Amazon.com and local bookstores in the State of New Jersey and throughout the United States, as well as worldwide via the Internet.

3. The Book glamorizes and seeks to glorify the stereotype of African American men as criminals. It is laden with violence, criminal activity, drug use, degradation of women and vivid descriptions of sexual promiscuity. Worse still, the term "baller" is a slang term that is used and understood in the African American community to refer to a "drug dealer who moves sufficient quantities of the product such that they always have dope and money." Mr. Dorsey himself, as set out above, is an upstanding member of his community and a legitimate role model, who has never dealt drugs, nor has he ever been sentenced to a prison term or convicted of any crime.

4. Legit Baller is aimed at the very same African American community that constitutes a substantial portion of Mr. Dorsey's audience. As a result of defendants' conduct as set forth herein, the criminal activities, violence, drug use and sexual promiscuity featured so prominently throughout the Book are now being associated with Mr. Dorsey. Moreover, by causing the publication of Mr. Dorsey's picture on the front and back covers of the Book, defendants have misled Mr. Dorsey's fans, his business and philanthropic associates, and other consumers into believing that Mr. Dorsey has abandoned his principles for financial gain and has endorsed the Book. This has caused, and will continue to cause, substantial injury to Mr. Dorsey, including but not limited to enormous damage to his personal and professional reputation, in violation of federal and common law.

5. Accordingly, Mr. Dorsey is seeking relief in this action based on claims against defendants for false endorsement, misappropriation of likeness and interference with the right of publicity, false light invasion of privacy, defamation, unjust enrichment and unfair competition. Additionally, Mr. Dorsey is seeking relief against defendant Miller for breach of contract and for breach of the implied covenant of good faith and fair dealing

JURISDICTION AND VENUE

6. This action arises under the Lanham Federal Trademark Act of 1946 (the "Lanham Act"), 15 U.S.C. §§ 1051 et seq., the common law of the State of New Jersey, and related claims under 28 U.S.C. § 1367 (a). The Court's jurisdiction is based upon federal questions and diversity of citizenship, pursuant to 15 U.S.C. § 1121 and 28 U.S.C.

§§ 1331, 1332(a)(1), 1338(a) and 1367(a). The amount in controversy also exceeds the sum or value of \$75,000, exclusive of interest and costs.

7. The Court may properly exercise personal jurisdiction over the defendants in that, among other things, they are doing business in the State of New Jersey and have committed intentional torts in such a manner as to cause harm to Mr. Dorsey in the State of New Jersey. Further, defendants expressly aimed their tortious conduct at the State of New Jersey such that New Jersey can be said to be a focal point of the tortious activity.

8. Venue lies in this District pursuant to 28 U.S.C. § 1391(b) and (c). A substantial part of the events giving rise to the claims in suit occurred within this District.

THE PARTIES

9. At all times relevant to this Complaint, Mr. Dorsey was and still is a citizen of the State of New Jersey.

10. Upon information and belief, at all times relevant to this Complaint, defendant Black Pearl Books, Inc. (“Black Pearl”) was and still is a corporation organized and existing under the laws of the State of Georgia, with its principal place of business in Georgia. Upon information and belief, at all times relevant to this Complaint, Black Pearl was and still is the publisher of the Book.

11. Upon information and belief, at all times relevant to this Complaint, defendant Felicia Hurst (“Hurst”) was and still is the President and Chief Executive Officer of Black Pearl.

12. Upon information and belief, at all times relevant to this Complaint, defendant Damion Miller (“Miller”), was and still is a citizen of the state of Maryland, residing at 7509 Mandan Road, Apartment T2, Greenbelt, Maryland.

THE FACTS

Mr. Dorsey's Activities and Reputation

13. Mr. Dorsey is a two-time Grammy nominated R&B singer, songwriter and producer who, in addition to releasing his own critically acclaimed album in 2003, has collaborated with some of the most well-known and respected performers in music today, including Jay-Z, LL Cool J, Chaka Khan, Branford Marsalis, Charlie Wilson, Omar Hakim, Faith Evans, Carl Thomas, Will Downing, Kelis and N.E.R.D. Mr. Dorsey has lent his considerable talents to a number of Fortune 500 companies, including Sears, Toys R Us and Coca Cola, which have retained him for endorsements and other deals. Mr. Dorsey's work also has appeared on numerous feature film soundtracks, including those for the Spike Lee films "Crooklyn," "Clockers" and "Get on the Bus."

14. Apart from being a successful entertainer, Mr. Dorsey has strived throughout his life and professional career to be a positive influence within the African-American community. Among other things, Mr. Dorsey is the owner of a successful barber and cosmetology business in New Jersey. In 2005, Mr. Dorsey founded the Dorsey Enrichment Program to help prevent truancy and provide skills training for out of school youth, giving them an alternative to the far more dangerous and illegal choices that are all too often readily available to them on inner city streets.

15. Mr. Dorsey also devotes a substantial amount of his time and energy to other outreach programs, including those sponsored by the City of Hackensack and by the American Diabetes Association. Recently, Mr. Dorsey wrote, produced and sang on an educational video for the American Diabetes Association that will be distributed throughout the entire medical community in the United States. He is soon slated to be

featured on the Association's website alongside actor Ossie Davis, singer/songwriter Gladys Knight, Pastor Daryl Coley and Philadelphia Eagles' Quarterback Donovan McNabb in the Association's "Celebrity Corner."

The Activities and Reputation of the Defendants Black Pearl and Hurst

16. Upon information and belief, defendant Hurst owns and operates defendant Black Pearl, a small publishing business. Further, upon information and belief, defendant Hurst is the alter-ego of Black Pearl and exercises complete control and domination over Black Pearl such that Black Pearl has no separate existence of its own.

17. Upon information and belief, defendant Hurst used her domination and control over Black Pearl to cause Black Pearl to commit the unlawful acts against Mr. Dorsey as set forth herein and Mr. Dorsey has suffered injury, as detailed herein, resulting from such domination and control.

18. Upon information and belief, defendants Black Pearl and Hurst have been engaged in an aggressive (and apparently very successful) campaign to tap into and exploit the African American book market by publishing, promoting, marketing and advertising what they describe as "gritty and sexy urban stories." Like Legit Baller, defendants' other publications glamorize and glorify African American criminals, gang violence, drug use, the degradation of women, and hard-core sexual promiscuity, with such titles as Hustling Backwards ('*three partners in crime rise up the ranks from Project -Kids to Street-Don*'); Sex A Baller ('*mysterious Luva has sexed them all . . . and more importantly, she's made them all pay*'); Crunk ('*imagine a thug world divided by the Mason-Dixon line . . .*'); and Street Games ('*Lamont Limbo Adams, a hood-rich hustler is given the most difficult choice of his life: The Streets or his Family*'). Upon information

and belief, to date, defendants Black Pearl and Hurst have published at least 17 of these ‘urban stories’ and, according to their promotional materials, plan to release 30 new novels in 2006.

The Misappropriation of Mr. Dorsey’s Likeness

19. In or about December 2004, defendant Miller, a Maryland-based photographer, was hired to take photographs of Mr. Dorsey for Mr. Dorsey’s possible promotional and personal use. Miller did several ‘set-ups’ with Mr. Dorsey, photographing him in different outfits, in different locations and with different models. Although there was no written agreement between Mr. Dorsey and Miller, it was understood and agreed between them that Mr. Dorsey owned and had the right to control all of the images from this photo shoot and that Miller would neither make nor authorize any use of the images for his own benefit.

20. Upon information and belief, in or about May 2005, defendant Miller licensed two images of Mr. Dorsey from the December 2004 photo shoot to defendants Black Pearl and Hurst without Mr. Dorsey’s knowledge or permission.

21. Upon information and belief, in or about July 2005, defendants Black Pearl and Hurst released Legit Baller. Defendants Black Pearl and Hurst prominently used the two photographs of Mr. Dorsey that they had obtained from defendant Miller to illustrate the back and front covers of the Book and to enhance the Book’s sales, and

underneath a superimposed ersatz quote, “True playa fo real!,” utilizing an offensive, stereotyped version of black speech that is contrary to Mr. Dorsey’s image and pro-educational community outreach efforts. The front cover of the book is shown in Figure 1 and the back cover is shown in Figure 2.

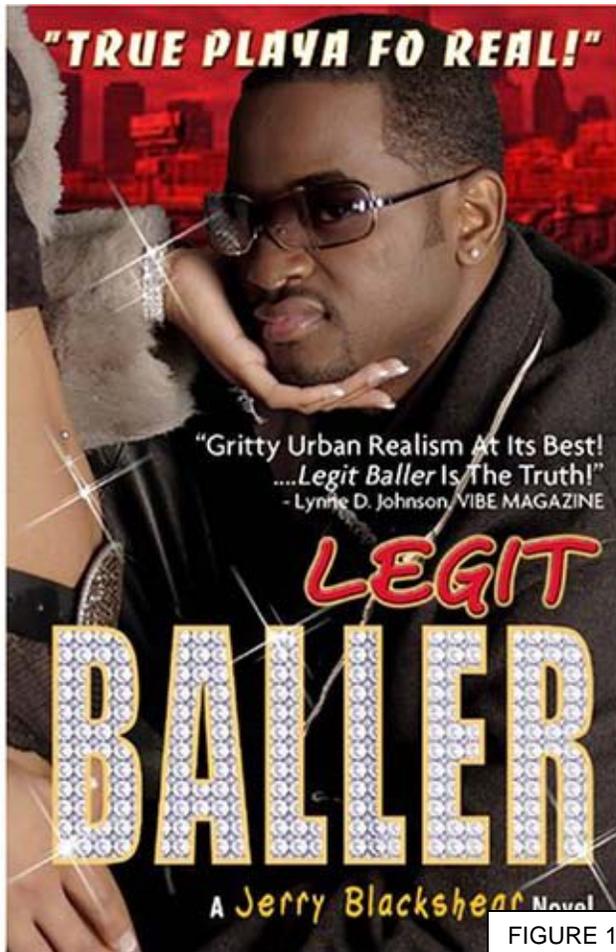


FIGURE 1

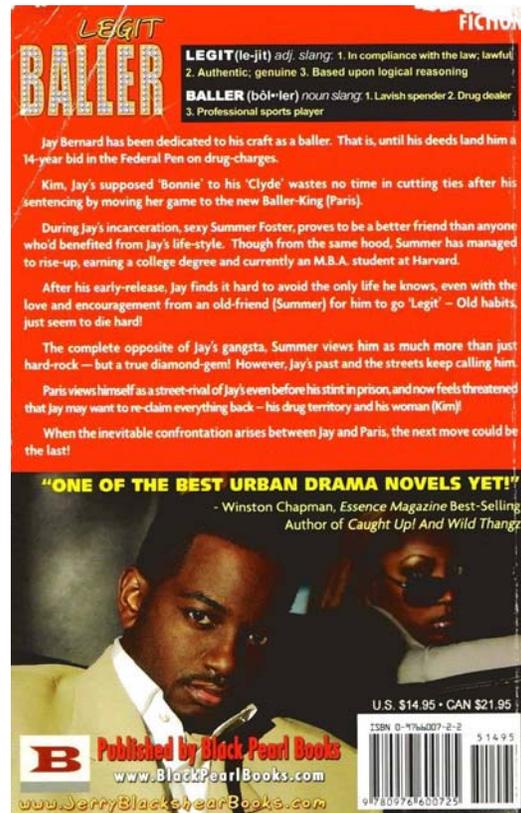


FIGURE 2

22. Defendants Black Pearl and Hurst also have used the photograph of Mr. Dorsey as it appears on the front cover of the Book to advertise and promote the Book, including by displaying this image in other of their publications and on their website at www.blackpearlbooks.com, as shown in Figure 3 image in other of their publications and

on their website at www.blackpearlbooks.com, as shown in Figure 3:

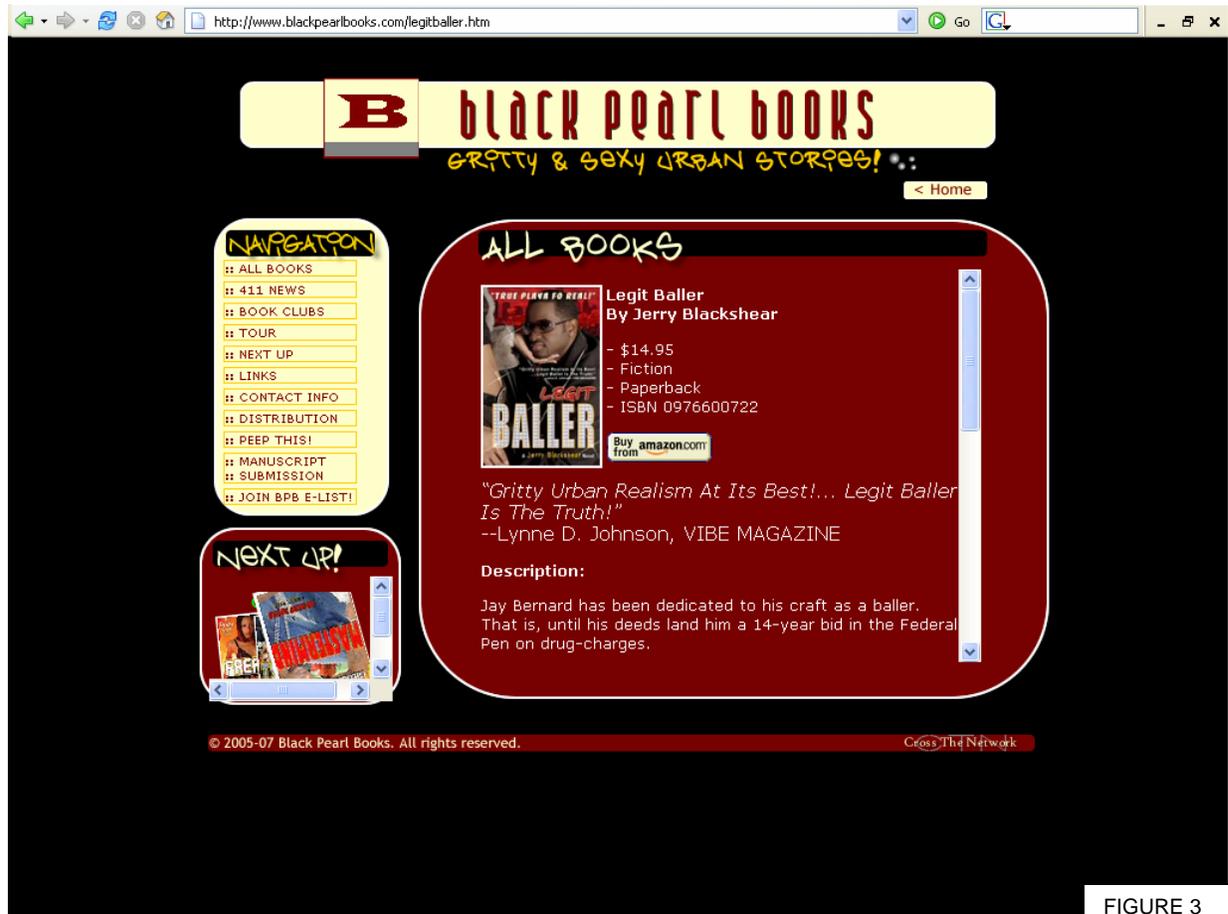


FIGURE 3

23. Upon information and belief, this embarrassing and misleading image of Mr. Dorsey has reached millions of people as a result of its display and sale at establishments such as Wal-Mart, Borders, Walden Books, B. Dalton, Barnes & Noble, Amazon.com and local bookstores in the State of New Jersey and throughout the United States, as well as worldwide via the Internet. An example of the foregoing is set forth

below as Figure 4:

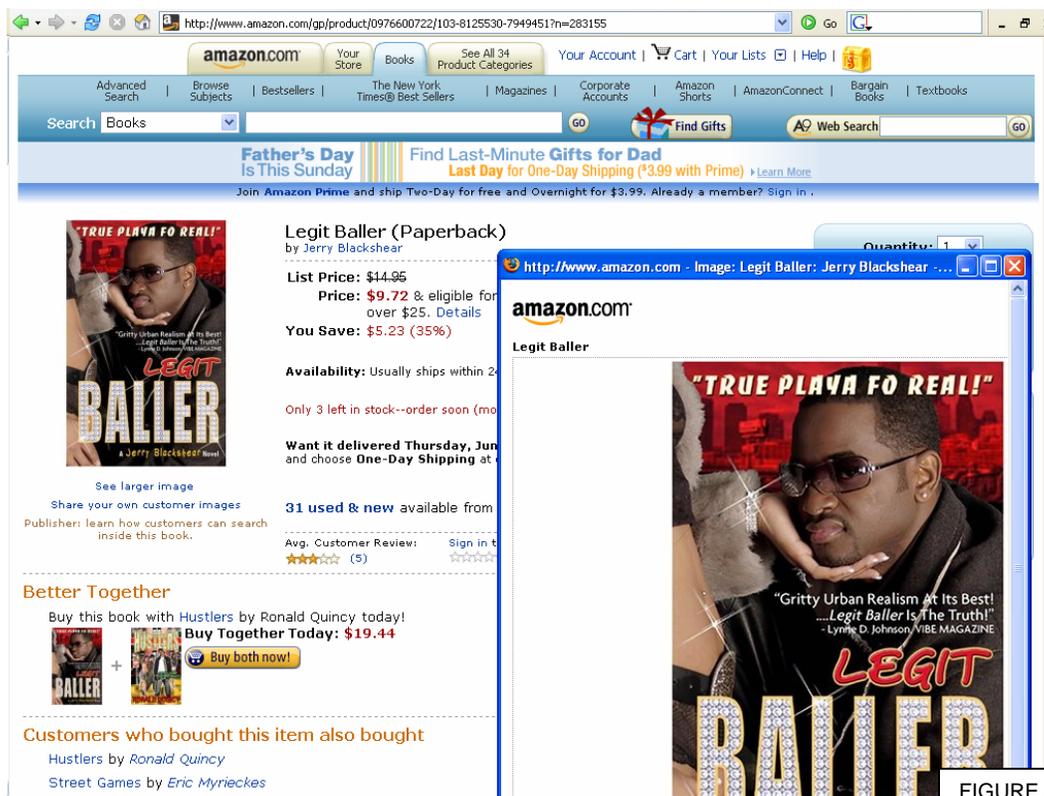


FIGURE 4

24. Defendants never sought or obtained Mr. Dorsey's permission to use his likeness or these photographs in any manner whatsoever. The conduct of the defendants as alleged in this Complaint was never authorized, licensed, permitted or ratified by Mr. Dorsey or by any of his agents. In fact, Mr. Dorsey had been dissatisfied and embarrassed by several of Miller's photographs (including the two photographs at issue here) and had intended to never use or publicly display these particular images.

25. Upon learning of defendants' misappropriation, Mr. Dorsey demanded that defendants Black Pearl and Hurst immediately cease and desist from all use of these images. To date, however, defendants Black Pearl and Hurst have refused to do so and, as of the date of this Complaint, defendants Black Pearl and Hurst have continued to use

Mr. Dorsey's image in connection with the sale, advertisement and promotion of the Book.

26. Upon information and belief, as a result of the defendants' conduct, including but not limited to their deliberate misappropriation and exploitation of Mr. Dorsey's likeness, defendants have confused and continue to confuse a substantial segment of the public, including but not limited to a substantial number of Mr. Dorsey's fans, by creating the false impression that the Book, and the advertising and promotional campaign surrounding it, are related to, affiliated or associated with, or sponsored, endorsed or otherwise authorized by Mr. Dorsey.

27. Further, upon information and belief, as a result of the defendants' conduct, Mr. Dorsey's business associates and philanthropic partners now mistakenly believe that Mr. Dorsey has abandoned his principles for financial gain and has endorsed a book that glamorizes a lifestyle and a stereotype of the African American community that Mr. Dorsey had previously rejected and that is contrary to his and his partners' philanthropic goals and aims.

28. The harm that defendants have caused Mr. Dorsey by falsely associating him with the Book is underscored by a recent, widely-published editorial that appeared in the *New York Times*. In this editorial, Nick Chiles, an award winning African-American journalist who has written for *Essence*, the *Dallas Morning News* and the *Newark Star Ledger*, singled out Legit Baller as a prime example of the glorification of the stereotyped African American criminal, calling it "crass," "smut" and "tasteless pornography."

29. By reason of their conduct, defendants have caused and will continue to cause, among other things, substantial irreparable injury to Mr. Dorsey's personal and

professional reputation; damage to his career; a decrease in the value, if not total elimination, of future endorsement and partnership opportunities available to Mr. Dorsey; and emotional distress.

FIRST CLAIM
(False Designation of Origin and False Endorsement)

30. Mr. Dorsey repeats and realleges each of the allegations contained in paragraphs 1 through 29 above.

31. By deliberately misappropriating and publishing Mr. Dorsey's image, defendants have confused and continue to confuse consumers by creating the false impression that the Book and its advertising campaign are related to, affiliated or associated with, or sponsored, endorsed, approved or otherwise somehow authorized by Mr. Dorsey.

32. Defendants' activities as alleged above constitute a false endorsement and false designation of origin in violation of Section 43(a) of the Lanham Act.

33. Defendants' actions as alleged above were deliberate, willful and in conscious disregard of Mr. Dorsey's rights.

34. As a result of defendants' unlawful conduct alleged above, Mr. Dorsey has been and continues to be substantially injured and is entitled to the damages he has sustained and will sustain, and any gains, profits, advantages obtained by defendants as a result of their unlawful acts. At present, the amount of such damages, gains, profits, and advantages cannot be fully ascertained by plaintiff and will be established according to proof at trial.

35. As a result of defendants' unlawful conduct as set forth above, Mr. Dorsey also has suffered and will continue to suffer immediate and irreparable injury for which there is no adequate remedy at law. Accordingly, Mr. Dorsey is also entitled to a preliminary and permanent injunction restraining defendants, their agents and employees, and all persons acting in concert or participation with defendants from any further use of his image, including in connection with the Book and the advertising and promotional campaign surrounding the Book.

SECOND CLAIM
(Misappropriation/Violation of Right of Publicity)

36. Mr. Dorsey repeats and realleges each of the allegations contained in paragraphs 1 through 35 above.

37. Defendants' use of Mr. Dorsey's image in such a prominent manner on the front and back covers of the Book is strictly a commercial use for trade or advertising purposes, and has no public interest, news or historical value.

38. Defendants' activities as alleged above have stripped Mr. Dorsey of his right to control the commercial value and exploitation of his image and to prevent others from unfairly appropriating this value for their own commercial benefit.

39. Mr. Dorsey never consented to any use of his likeness by defendants in any manner whatsoever.

40. Defendants' activities as alleged above constitute misappropriation and a violation of Mr. Dorsey's right of publicity under the common law of the State of New Jersey.

41. Defendants' actions as alleged above were deliberate, willful and in conscious disregard of Mr. Dorsey's rights.

42. As a result of defendants' unlawful conduct alleged above, Mr. Dorsey has been and continues to be substantially injured and is entitled to the damages he has sustained and will sustain, and any gains, profits, advantages obtained by defendants as a result of their unlawful acts. At present, the amount of such damages, gains, profits, and advantages cannot be fully ascertained by plaintiff and will be established according to proof at trial.

43. As a result of defendants' unlawful conduct as set forth above, Mr. Dorsey also has suffered and will continue to suffer immediate and irreparable injury for which there is no adequate remedy at law. Accordingly, Mr. Dorsey is also entitled to a preliminary and permanent injunction restraining defendants, their agents and employees, and all persons acting in concert or participation with defendants from any further use of his image, including in connection with the Book and the advertising and promotional campaign surrounding the Book.

THIRD CLAIM
(False Light Invasion of Privacy)

44. Mr. Dorsey repeats and realleges each of the allegations contained in paragraphs 1 through 43 above.

45. Defendants' activities as alleged above, including prominently placing Mr. Dorsey's image on the front and back covers of the Book alongside the word "baller," which is defamatory to Mr. Dorsey in that it falsely identifies him as being a drug dealer, have placed Mr. Dorsey before the public in a false and objectionable light that would be highly offensive to a reasonable person.

46. Mr. Dorsey never consented to any use of his likeness by defendants in any manner whatsoever. Moreover, defendants' use of Mr. Dorsey's likeness in

connection with the Book constitutes a major misrepresentation of Mr. Dorsey's character, history, activities and beliefs.

47. Defendants' actions as alleged above were deliberate, willful and in reckless disregard of (i) Mr. Dorsey's rights; (ii) the falsity of the published matter, and (iii) the false light in which Mr. Dorsey would be placed.

48. Defendants' activities as alleged above constitute false light invasion of privacy in violation of the common law of the State of New Jersey.

49. As a result of defendants' unlawful conduct alleged above, Mr. Dorsey has been and continues to be substantially injured and is entitled to the damages he has sustained and will sustain, and any gains, profits, advantages obtained by defendants as a result of their unlawful acts. At present, the amount of such damages, gains, profits, and advantages cannot be fully ascertained by plaintiff and will be established according to proof at trial.

50. As a result of defendants' unlawful conduct as set forth above, Mr. Dorsey also has suffered and will continue to suffer immediate and irreparable injury for which there is no adequate remedy at law. Accordingly, Mr. Dorsey is also entitled to a preliminary and permanent injunction restraining defendants, their agents and employees, and all persons acting in concert or participation with defendants from any further use of his image, including in connection with the Book and the advertising and promotional campaign surrounding the Book.

FOURTH CLAIM
(Defamation)

51. Mr. Dorsey repeats and realleges each of the allegations contained in paragraphs 1 through 50 above.

52. The Book, inasmuch as it prominently features Mr. Dorsey's image on the front and back covers alongside the word "baller," constitutes a false and defamatory statement of and concerning Mr. Dorsey. Because the term "baller" is commonly used and understood to refer to a "drug dealer," the Book is libelous per se.

53. By reason of the publication of the Book and the advertising and promotional campaign surrounding the Book, Mr. Dorsey has been injured in his reputation, business and standing in the community. By reason of said publication, he has suffered damage to his good name and integrity, both as an individual and as a performing and recording artist and producer; he has suffered mental anguish, and he has been held up to public scorn, ridicule and contempt.

54. At the time defendants published the defamatory materials quoted above, they knew or should have known that they were false, or defendants published them with reckless disregard of whether they were true or false.

55. In publishing the Book with Mr. Dorsey's image alongside words that would reasonably be understood to refer to Mr. Dorsey as a drug dealer, defendants acted in a grossly irresponsible manner, without due consideration for the standards ordinarily followed by responsible persons in the defendants' position.

56. Without conceding any requirement to allege special damages in this action for libel per se, upon information and belief, Mr. Dorsey has suffered special damages as a result of defendants' conduct including, but not limited to, lost endorsement opportunities and lost grants for his charitable work in an amount which is impossible to ascertain at this time.

57. As a result of defendants' unlawful conduct alleged above, Mr. Dorsey has been and continues to be substantially injured and is entitled to the damages he has sustained and will sustain, and any gains, profits, advantages obtained by defendants as a result of their unlawful acts. At present, the amount of such damages, gains, profits, and advantages cannot be fully ascertained by plaintiff and will be established according to proof at trial.

FIFTH CLAIM
(Unfair Competition)

58. Mr. Dorsey repeats and realleges each of the allegations contained in paragraphs 1 through 57 above.

59. By deliberately trading upon Mr. Dorsey's image to advertise and promote the Book and enhance defendants' goodwill and business reputation at Mr. Dorsey's expense, defendants, among other things, knowingly and willfully confused millions of consumers by creating the false impression that defendants' Book and advertising were related to, affiliated or associated with, or sponsored, endorsed, approved or otherwise somehow authorized by Mr. Dorsey.

60. Defendants' conduct as alleged above was intended to misappropriate Mr. Dorsey's property rights and to unlawfully trade upon Mr. Dorsey's popularity, goodwill and reputation, and it was committed with conscious disregard for Mr. Dorsey's rights.

61. Defendants' conduct as alleged above constitutes unfair competition under the law of the State of New Jersey.

62. As a result of defendants' unlawful conduct alleged above, Mr. Dorsey has been and continues to be substantially injured and is entitled to the damages he has sustained and will sustain, and any gains, profits, advantages obtained by defendants as a

result of their unlawful acts. At present, the amount of such damages, gains, profits, and advantages cannot be fully ascertained by plaintiff and will be established according to proof at trial.

63. As a result of defendants' unlawful conduct as set forth above, Mr. Dorsey also has suffered and will continue to suffer immediate and irreparable injury for which there is no adequate remedy at law. Accordingly, Mr. Dorsey is also entitled to a preliminary and permanent injunction restraining defendants, their agents and employees, and all persons acting in concert or participation with defendants from any further use of his image, including in connection with the Book and the advertising and promotional campaign surrounding the Book.

SIXTH CLAIM
(Unjust Enrichment)

64. Mr. Dorsey repeats and realleges each of the allegations contained in paragraphs 1 through 63 above.

65. By reason of the foregoing, defendants have been unjustly enriched at plaintiff's expense in that defendants Black Pearl and Hurst received the benefits of using Mr. Dorsey's image without permission, and in the case of defendant Miller selling Mr. Dorsey's image without permission to defendants Black Pearl and Hurst, which they cannot in good conscience be entitled to retain or use for their benefit.

66. As a result of defendants' unlawful conduct alleged above, Mr. Dorsey has been and continues to be substantially injured and is entitled to the damages he has sustained and will sustain, and any gains, profits, advantages obtained by defendants as a result of their unlawful acts. At present, the amount of such damages, gains, profits, and

advantages cannot be fully ascertained by plaintiff and will be established according to proof at trial.

SEVENTH CLAIM
(Breach of Contract)

67. Mr. Dorsey repeats and realleges each of the allegations contained in paragraphs 1 through 66 above.

68. Pursuant to the contract between Mr. Dorsey and defendant Miller, Miller was paid to stage and take the photographs that are the subject of this Complaint solely for the benefit of Mr. Dorsey, and was obligated not to sell or otherwise provide them to any third party.

69. Defendants Miller's actions were a breach of his contract with Mr. Dorsey.

70. As a result of defendants' breach of contract alleged above, Mr. Dorsey has been and continues to be substantially injured and is entitled to the damages he has sustained and will sustain, and any gains, profits, advantages obtained by defendants as a result of their unlawful acts. At present, the amount of such damages, gains, profits, and advantages cannot be fully ascertained by plaintiff and will be established according to proof at trial.

EIGHTH CLAIM
(Breach of Implied Covenant of Good Faith and Fair Dealing)

71. Mr. Dorsey repeats and realleges each of the allegations contained in paragraphs 1 through 70 above.

72. Defendant Miller's failure actions constituted a breach of the covenant of good faith and fair dealing which was part of his contract with Mr. Dorsey.

PRAYER FOR RELIEF.

WHEREFORE, Mr. Dorsey demands judgment against both of the defendants, jointly and severally, for the following relief:

A) On Plaintiff's First Claim

1. That the Court find a substantial likelihood that defendants have violated and will continue to violate Section 43(a) of the Lanham Act unless enjoined from doing so;

2. That defendants, their directors and officers, agents, servants, employees, and all other persons in active concert or privity or in participation with them, be preliminarily and permanently enjoined from directly or indirectly using Mr. Dorsey's image in connection with the Book and the advertising and promotion of the same, or continuing to market, offer, sell, dispose of, display, license, transfer, advertise, market, promote, develop, manufacture or otherwise exploit the Book, or any other book containing Mr. Dorsey's image, or to participate or assist in such activity;

3. That defendants, their directors and officers, agents, servants, employees, and all other persons in active concert or privity or in participation with them, be enjoined to recall all copies of the Book, and any other book containing Mr. Dorsey's image, from all bookstores, retail outlets, including on the Internet, and any other place or person to whom they have caused books bearing or including images of plaintiff to be distributed;

4. That defendants be enjoined to deliver upon oath, for destruction pursuant to judgment herein, all originals, copies, facsimiles, or duplicates of any Book, and any advertising, promotional or other materials, shown by the evidence to violate plaintiff's rights under the Lanham Act;

5. That judgment be entered for plaintiff and against defendants for plaintiff's actual damages according to proof, and for defendants' profits attributable to defendants' violation of the Lanham Act, in accordance with proof, plus interest;

6. That defendants be required to account for all gains, profits, and advantages derived from their unlawful acts in violation of plaintiff's rights under the Lanham Act;

7. That all gains, profits, and advantages derived by defendants from their unlawful acts be deemed to be held in constructive trust for the benefit of plaintiff and that plaintiff be awarded such amount, plus interest;

8. That plaintiff have judgment against defendants for treble damages, punitive damages in an amount to be determined at trial, and plaintiff's costs and attorneys' fees as permitted by law; and

9. That the Court grant to plaintiff such other and further relief as the Court may deem just and proper.

B) On Plaintiff's Second Claim

1. That the Court find a substantial likelihood that defendants have misappropriated plaintiff's image and violated his right of publicity and will continue to do so unless enjoined from doing so;

2. That defendants, their directors and officers, agents, servants, employees, and all other persons in active concert or privity or in participation with them, be preliminarily and permanently enjoined from directly or indirectly using Mr. Dorsey's image in connection with the Book and the advertising and promotion of the same, or continuing to market, offer, sell, dispose of, display, license, transfer, advertise, market,

promote, develop, manufacture or otherwise exploit the Book, or any other book containing Mr. Dorsey's image, or to participate or assist in such activity;

3. That defendants, their directors and officers, agents, servants, employees, and all other persons in active concert or privity or in participation with them, be enjoined to recall all copies of the Book, and any other book containing Mr. Dorsey's image, from all bookstores, retail outlets and any other place or person to whom they have caused books bearing or including images of plaintiff to be distributed;

4. That defendants be enjoined to deliver upon oath, for destruction pursuant to judgment herein, all originals, copies, facsimiles, or duplicates of any Book, and any advertising, promotional or other materials, shown by the evidence to misappropriate plaintiff's image and violate his right of publicity;

5. That judgment be entered for plaintiff and against defendants for plaintiff's actual damages according to proof, and for defendants' profits attributable to defendants' misappropriation of plaintiff's image and violation of his right of publicity;

6. That defendants be required to account for all gains, profits, and advantages derived from their unlawful misappropriation of plaintiff's image and violation of his right of publicity;

7. That all gains, profits, and advantages derived by defendants from their unlawful acts be deemed to be held in constructive trust for the benefit of plaintiff and that plaintiff be awarded such amount, plus interest;

8. That plaintiff have judgment against defendants for punitive damages in an amount to be determined at trial, and plaintiff's costs and attorneys' fees as permitted by law; and

9. That the Court grant to plaintiff such other and further relief as the Court may deem just and proper.

C) On Plaintiff's Third Claim

1. That the Court find a substantial likelihood that defendants have committed the intentional tort of false light invasion of privacy and will continue to do so unless enjoined from doing so;

2. That defendants, their directors and officers, agents, servants, employees, and all other persons in active concert or privity or in participation with them, be preliminarily and permanently enjoined from directly or indirectly using Mr. Dorsey's image in connection with the Book and the advertising and promotion of the same, or continuing to market, offer, sell, dispose of, display, license, transfer, advertise, market, promote, develop, manufacture or otherwise exploit the Book, or any other book containing Mr. Dorsey's image, or to participate or assist in such activity;

3. That defendants, their directors and officers, agents, servants, employees, and all other persons in active concert or privity or in participation with them, be enjoined to recall all copies of the Book, and any other book containing Mr. Dorsey's image, from all bookstores, retail outlets and any other place or person to whom they have caused books bearing or including images of plaintiff to be distributed;

4. That defendants be enjoined to deliver upon oath, for destruction pursuant to judgment herein, all originals, copies, facsimiles, or duplicates of any Book, and any advertising, promotional or other materials, shown by the evidence to constitute false light invasion of privacy;

5. That judgment be entered for plaintiff and against defendants for plaintiff's actual damages according to proof, and for defendants' profits attributable to defendants' false light invasion of privacy;

6. That defendants be required to account for all gains, profits, and advantages derived from their unlawful false light invasion of privacy;

7. That all gains, profits, and advantages derived by defendants from their unlawful acts be deemed to be held in constructive trust for the benefit of plaintiff and that plaintiff be awarded such amount, plus interest;

8. That plaintiff have judgment against defendants for punitive damages in an amount to be determined at trial, and plaintiff's costs and attorneys' fees as permitted by law; and

9. That the Court grant to plaintiff such other and further relief as the Court may deem just and proper.

D) On Plaintiff's Fourth Claim

1. That judgment be entered for plaintiff and against defendants for plaintiff's actual damages according to proof;

2. That plaintiff have judgment against defendants for punitive damages in an amount to be determined at trial, and plaintiff's costs and attorneys' fees as permitted by law; and

3. That the Court grant to plaintiff such other and further relief as the Court may deem just and proper.

E) On Plaintiff's Fifth Claim

1. That the Court find a substantial likelihood that defendants have engaged in unfair competition and will continue to do so unless enjoined from doing so;

2. That defendants, their directors and officers, agents, servants, employees, and all other persons in active concert or privity or in participation with them, be preliminarily and permanently enjoined from directly or indirectly using Mr. Dorsey's image in connection with the Book and the advertising and promotion of the same, or continuing to market, offer, sell, dispose of, display, license, transfer, advertise, market, promote, develop, manufacture or otherwise exploit the Book, or any other book containing Mr. Dorsey's image, or to participate or assist in such activity;

3. That defendants, their directors and officers, agents, servants, employees, and all other persons in active concert or privity or in participation with them, be enjoined to recall all copies of the Book, and any other book containing Mr. Dorsey's image, from all bookstores, retail outlets and any other place or person to whom they have caused books bearing or including images of plaintiff to be distributed;

4. That defendants be enjoined to deliver upon oath, for destruction pursuant to judgment herein, all originals, copies, facsimiles, or duplicates of any Book, and any advertising, promotional or other materials, shown by the evidence to constitute unfair competition;

5. That judgment be entered for plaintiff and against defendants for plaintiff's actual damages according to proof, and for defendants' profits attributable to defendants' unfair competition;

6. That defendants be required to account for all gains, profits, and advantages derived from their unfair competition;

7. That all gains, profits, and advantages derived by defendants from their unfair competition be deemed to be held in constructive trust for the benefit of plaintiff and that plaintiff be awarded such amount, plus interest;

8. That plaintiff have judgment against defendants for punitive damages in an amount to be determined at trial, and plaintiff's costs and attorneys' fees as permitted by law; and

9. That the Court grant to plaintiff such other and further relief as the Court may deem just and proper.

F) On Plaintiff's Sixth Claim

1. That judgment be entered for plaintiff and against defendants for plaintiff's actual damages according to proof, and for defendants' profits attributable to defendants' unjust enrichment;

2. That defendants be required to account for all gains, profits, and advantages derived from their unjust enrichment;

3. That all gains, profits, and advantages derived by defendants from their unjust enrichment be deemed to be held in constructive trust for the benefit of plaintiff and that plaintiff be awarded such amount, plus interest;

4. That plaintiff have judgment against defendants for punitive damages in an amount to be determined at trial, and plaintiff's costs and attorneys' fees as permitted by law; and

5. That the Court grant to plaintiff such other and further relief as the Court may deem just and proper.

G) On Plaintiff's Seventh Claim

1. That judgment be entered for plaintiff and against defendant Miller for plaintiff's actual damages according to proof;

2. That the Court grant to plaintiff such other and further relief as the Court may deem just and proper.

H) On Plaintiff's Eighth Claim

1. That judgment be entered for plaintiff and against defendant Miller for plaintiff's actual damages according to proof;

2. That the Court grant to plaintiff such other and further relief as the Court may deem just and proper.

DEMAND FOR A JURY TRIAL

Plaintiff demands a trial by jury on all issues relating to this Complaint and any and all issues triable to a jury that will be raised by defendants' responsive pleadings.

BRAGAR WEXLER & EAGEL, PC

By: s\ Ronald D. Coleman
Ronald D. Coleman (RC-3875)

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Dated: June 28, 2006