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 13 Sister Sledge, LLC

14 **UNITED STATES DISTRICT COURT**
 15 **DISTRICT OF ARIZONA**

16 Sister Sledge, LLC, an Arizona Limited
 17 Liability Company,

18 Plaintiff,

19 v.

20 Kathy Sledge Lightfoot and Philip
 21 Lightfoot Sr., husband and wife; Kristen
 22 Lightfoot, an individual; and Susan
 23 Wingate and Kim (male) Wingate, husband
 24 and wife,

25 Defendants.

Case No. _____

COMPLAINT

(Jury Trial Demanded)

26 Plaintiff Sister Sledge, LLC (“Sister Sledge”), by and through its undersigned
 27 counsel of the firm of Weiss & Moy, P.C., for its Complaint against Defendants Kathy
 28 Sledge Lightfoot (“Sledge Lightfoot”), Phil Lightfoot (“P. Lightfoot”), Kristen
 Lightfoot (“K. Lightfoot”), Susan Wingate (“Wingate”), and Kim Wingate (male) (“K.
 Wingate”), states and alleges as follows:

1 **NATURE OF THE ACTION**

2 1. This action (brought pursuant to 15 U.S.C. §§ 1114, 1116, 1125(a), and
3 Arizona law), seeks injunctive relief, in the form of a temporary restraining order,
4 preliminary injunction, and permanent injunction, and damages arising out of
5 Defendants' unauthorized use of Plaintiff's valuable and federally-registered SISTER
6 SLEDGE trademark ("SS Mark") and passing themselves off as the musical group
7 "Sister Sledge". Plaintiff Sister Sledge owns all right and interest in and to the SS Mark
8 and its use in connection with musical entertainment.

9 **THE PARTIES**

10 2. Plaintiff Sister Sledge, at all times relevant to this Complaint, was and is
11 an Arizona Limited Liability Company having a principal place of business in
12 Scottsdale, Arizona.

13 3. On information and belief, Defendant Sledge Lightfoot, at all times
14 relevant to this Complaint, was and is a resident of the Commonwealth of Pennsylvania,
15 residing in Newtown, Pennsylvania, and purports to have legitimate rights in and to the
16 SS Mark, including the use thereof for musical entertainment in a musical group along
17 with K. Lightfoot and Wingate. Moreover, at all times relevant hereto, Sledge
18 Lightfoot was and is acting for her own interest and benefit, as well as in the interest
19 and benefit of her marital community.

20 4. On information and belief, Defendant P. Lightfoot, at all times relevant to
21 this Complaint, was and is a resident of the Commonwealth of Pennsylvania, residing in
22 Newtown, Pennsylvania, and married to Sledge Lightfoot. At all times relevant hereto,
23 P. Lightfoot was and is acting for his own interest and benefit, as well as in the interest
24 and benefit of his marital community.

25 5. On information and belief, Defendant K. Lightfoot, at all times relevant to
26 this Complaint, was and is a resident of the Commonwealth of Pennsylvania, residing in
27 Philadelphia Metropolitan Area, and performs in a musical group headed by Defendant
28 Sledge Lightfoot under the SS Mark without authorization.

1 him to general and specific personal jurisdiction of this Court. Defendant P. Lightfoot
2 has directed his conduct at the State of Arizona, including, without limitation, through
3 committing acts of infringement and unfair competition within and directed at this state.

4 11. This Court has personal jurisdiction over Defendant K. Lightfoot because
5 she has sufficient contacts with the State of Arizona and this judicial District subjecting
6 her to general and specific personal jurisdiction of this Court. Defendant K. Lightfoot
7 has directed her conduct at the State of Arizona, including, without limitation, through
8 committing acts of infringement and unfair competition within and directed at this state
9 by, *inter alia*, conducting business with and marketing to consumers within this judicial
10 district, improperly doing business as “Sister Sledge”, and the unlawful use of the SS
11 Mark in association with musical entertainment.

12 12. This Court has personal jurisdiction over Defendant Wingate because she
13 has sufficient contacts with the State of Arizona and this judicial District subjecting her
14 to general and specific personal jurisdiction of this Court. Defendant Wingate has
15 directed her conduct at the State of Arizona, including, without limitation, through
16 committing acts of infringement and unfair competition within and directed at this state
17 by, *inter alia*, conducting business with and marketing to consumers within this judicial
18 district, improperly doing business as “Sister Sledge”, and the unlawful use of the SS
19 Mark in association with musical entertainment.

20 13. This Court has personal jurisdiction over Defendant K. Wingate because
21 he has sufficient contacts with the State of Arizona and this judicial District subjecting
22 him to general and specific personal jurisdiction of this Court. Defendant K. Wingate
23 has directed his conduct at the State of Arizona, including, without limitation, through
24 committing acts of infringement and unfair competition within and directed at this state.

25 14. Venue is proper in this judicial District pursuant to 28 U.S.C. § 1391
26 because (i) the Court has personal jurisdiction over Defendants; (ii) Defendants are
27 doing business in this judicial district and are considered to “reside” herein for venue
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1 purposes; and (iii) because a substantial part of the events or omissions and resulting
2 harm giving rise to Sister Sledge's claims herein occurred in this judicial district.

3 15. Defendants' acts complained of herein have been and continue to be
4 committed in interstate commerce. Sister Sledge has been harmed in this judicial
5 district by such acts, with such acts also specifically targeted at this judicial district.

6 **ALLEGATIONS COMMON TO ALL COUNTS**

7 16. Plaintiff Sister Sledge is an internationally acclaimed musical group.

8 17. Sister Sledge first used the SS Mark in interstate commerce on December
9 31, 1972, which is protected by Registered Trademark No. 3,776,936 dated April 20,
10 2010 in International Class 41 for "entertainment in the nature of a musical group;
11 entertainment, namely, live music concerts; entertainment, namely, live performances
12 by a musical band; entertainment, namely, live performances by musical bands;
13 entertainment, namely, live performances by rock groups". A true and correct copy of
14 the Registration Certificate for the SS Mark is attached hereto as **Exhibit A**.

15 18. Sister Sledge owns all right and interest in and to the SS Mark.

16 19. Sister Sledge released the first single for ATCO Records in 1972 entitled
17 "Weatherman" featuring lead vocals by Debbie Sledge. Subsequently, Sister Sledge
18 had chart topping hits in the United Kingdom and Japan before launching in the USA
19 with their "We Are Family" Album in 1978 which sold millions internationally and
20 received Grammy Award for "Song of the Year" in 1979.

21 Highlights of this iconic album include "We Are Family" led by Kathy Sledge,
22 with over 250,000,000 digital downloads to date, and "Lost in Music ", led by Joni
23 Sledge, with over 280,000,000 digital downloads to date.²⁰ Upon information and
24 belief, Defendant Sledge Lightfoot left the musical group to pursue her solo career in
25 1989. After Sledge Lightfoot's departure, Sister Sledge continued as a trio, performing
26 in six out of seven continents and enjoying success on the pop, R&B, and dance charts
27 with hits spanning over two decades, producing, licensing and releasing over twenty
28 albums.

1 20. Sister Sledge's most popular songs have been re-released, re-recorded,
2 and remixed since Sledge Lightfoot's departure.

3 21. Sister Sledge has continued to be successful in the concert touring circuit,
4 performing an extensive tour in Germany in February 2013 and most recently
5 headlining in the Caribana Festival in, Zurich, Switzerland and the Ameristar Casino in
6 St. Louis, Missouri.

7 22. Sister Sledge has extended the invitation to Defendant Sledge Lightfoot to
8 rejoin and perform with them. However, these overtures were rebuffed by Defendant
9 Sledge Lightfoot who instead, impermissibly using the "Sister Sledge" designation,
10 established her own talent/agency contacts and contracts to perform as "Sister Sledge",
11 including but not limited to non-party Carlos Keyes, currently with Red Entertainment
12 but formerly agent for Sister Sledge while he was with Pyramid Entertainment Group.

13 23. In addition, Sister Sledge promotes its musical entertainment business
14 through, *inter alia*, the internet site "sistersledge.com", a true and correct printout of
15 which, including its WhoIs record, is attached hereto as **Exhibit B**.

16 24. Although Defendant Sledge Lightfoot left Sister Sledge nearly twenty-
17 five years ago, she has sought to and does trade off the goodwill engendered by the SS
18 Mark and the popularity of Sister Sledge and its hit records by using these as a vehicle
19 for her career. Specifically, along with Defendants Wingate and Lightfoot, Defendant
20 Sledge Lightfoot has formed a group passing itself off as "Sister Sledge" and/or "Sister
21 Sledge featuring Kathy Sledge".

22 25. Under these infringing designations, Defendants have offered services for
23 musical entertainment and booked concerts. For example, in 2012, Defendants
24 promoted a tour of Australia as "Sister Sledge", offering concerts in Melbourne,
25 Sydney, and Brisbane, as evidenced by a printout from "Starobserver.com.au",
26 Australia's largest gay and lesbian news source, a true and correct copy of which is
27 attached hereto as **Exhibit C**. In the news report, it was reported that Defendants'
28 advertising campaign went so far as to falsely state that the four original members of

1 the band (Defendant Sledge Lightfoot; Joan (“Joni”) Sledge and Debra (“Debbie”)
2 Sledge de Bruine, who are the managers and principal members of Sister Sledge; and
3 Kim Allen née Sledge) would be performing when, in fact, neither Joan, Debra, or Kim
4 would be performing with Sledge Lightfoot who, upon information and belief, sought
5 to perform instead with Defendants Wingate and K. Lightfoot.

6 26. Upon information and belief, the Australian tour was booked from the
7 United States by and through Defendants’ agent(s) Cleaveland Anderson and/or Carlos
8 Keyes.

9 27. Moreover, performances by Defendants as “Sister Sledge” have created
10 actual confusion, mistake, and deception of consumers who wrongly believed that
11 Sister Sledge, and not an imposter group, would perform. Such confusion is evidenced
12 by commentary from concertgoers in the online blog “Discomusic.com”, a true and
13 correct copy of which is attached hereto as **Exhibit D** wherein such consumers stated,
14 *inter alia*, that “Sister Sledge: they ARE family, but not in concert...”, the performers
15 would “in fact be just [Defendant] Kathy Sledge and some backup singers” as “a
16 substitute for the real thing” which seems like false advertising”, the billing of the tour
17 as “‘Sister Sledge ft Kathy Sledge Australian Tour’ as a little bit of a sneaky title for a
18 tour,” and “I’d personally be ticked off to pay[] expecting a [Sister Sledge] appearance,
19 and not getting it.”

20 28. Furthermore, Defendant Sledge Lightfoot had been promoting musical
21 appearances advertised on and through “divasanddjs.com” wherein, under the
22 “Pop/Dance Divas” link, an internet user was directed, by clicking on the hyperlink
23 “Sister Sledge featuring Kathy Sledge”, to Sledge Lightfoot’s own website
24 “kathysledge.com”, not the official website of Sister Sledge, “sistersledge.com”.

25 29. Counsel for Sister Sledge brought this to the attention of the owner of the
26 Diva DJ Website in correspondence dated May 21, 2013, a true and correct copy of
27 which is attached hereto as **Exhibit E**.

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1 30. Although the demand set forth in Exhibit E was complied with,
2 Defendant Sledge Lightfoot is still holding herself out as “Sister Sledge” and
3 improperly, and without authorization, using the SS Mark. For example, through agent
4 Carlos Keyes and his Red Entertainment and Talent Agency, Defendant Sledge
5 Lightfoot is offering entertainment services, protected by the SS Mark, as “Sister
6 Sledge”, “Sister Sledge featuring Kathy Sledge” and/or “Kathy Sledge of Sister Sledge”
7 as is evidenced from true and correct copies of the Red Website attached hereto as
8 **Exhibits F and G.**

9 31. Upon information and belief, for musical performances booked through
10 Mr. Keyes, Defendant Sledge Lightfoot impermissibly uses the SS Mark and performs
11 as “Sister Sledge” with Defendants Wingate and Lightfoot.

12 32. Defendants have also used Creative Souls Artists, another booking/talent
13 agency, as a platform to perpetuate their willful infringement, false advertising, and
14 unfair competition by touting themselves as “Sister Sledge Featuring Kathy Sledge” as
15 is evidenced in a true and correct copy of a printout of Creative Souls Artists’ website,
16 <http://www.screenshots.com/cainternationalartists.com>, which is attached hereto as
17 **Exhibit H.**

18 33. Furthermore, upon information and belief, Defendants, without
19 authorization or permission of any kind from Sister Sledge, have booked concerts
20 through agencies and third parties as “Sister Sledge” at rates far below artists fees
21 established and accepted by Sister Sledge, thus decreasing the value and goodwill in
22 and to the SS Mark and the reputation of Sister Sledge.

23 34. Additionally, upon information and belief, Defendant Sledge Lightfoot
24 falsely represents to third parties that she is the “only” or “real” Sister Sledge and that
25 the remaining original members of the band are inactive or retired.

26 35. Moreover, upon information and belief, when Defendant Sledge Lightfoot
27 has been confronted with infringement and unfair competition claims by third parties
28 with whom she has contracted using the SS Mark, Defendant Sledge Lightfoot has

1 falsely stated that there is no foundation or basis for the claim of infringement or unfair
2 competition, casting it off as merely a family squabble when, in fact, it is not.

3 36. Despite Sister Sledge having repeatedly warned, directly and through
4 counsel, Defendant Sledge Lightfoot, the other Defendants, and those acting in concert
5 with the that the unabated unlawful infringement, unfair competition, and trading off of
6 Sister Sledge's goodwill in and to the SS Mark would not go without legal
7 repercussions, Defendants have not ceased their unlawful and tortious activities.

8 37. Such willful and wanton acts committed with an utter disregard for
9 Plaintiff's legitimate rights in and to the SS Mark, which is solely owned by Plaintiff
10 with no license to any Defendant, warrants the immediate imposition of a temporary
11 restraining order, followed by a preliminary and permanent injunction, and an award of
12 damages, attorney's fees, and costs to Sister Sledge for Defendants' wrongful actions.

13 **COUNT I: Trademark Infringement under Federal Law (15 U.S.C. §1114(1)**

14 **[Lanham Act § 32(1)]**

15 38. Plaintiff repeats and by this reference incorporates each and every
16 allegation set forth in the preceding paragraphs as those set forth in full herein.

17 39. Plaintiff owns all right and interest in and to the SS Mark in connection
18 with musical entertainment and the offering of such services.

19 40. Defendants have used and is using the SS Mark or marks or tradenames
20 confusingly similar thereto on or in connection with the offering of musical
21 entertainment in interstate commerce without the express or implied permission or
22 authorization of Plaintiff.

23 41. Defendants' advertising, promotion, and sale of services using marks or
24 tradenames identical or confusingly similar to the SS Mark is certain and/or likely to
25 cause confusion in the marketplace.

26 42. Defendants' actions were and are intended, and are likely to, cause
27 confusion, mistake, or deception as to the source, origin, sponsorship, or approval of the
28 services marketed by Defendants using marks and trade names that are identical and/or

1 confusingly similar to the SS Mark in that consumers are likely to mistakenly believe
2 that Defendants' services are rendered by or under the sponsorship of or in affiliation
3 with Plaintiff.

4 43. Defendants' services are rendered through the same channels of trade to
5 the same types of end customers as those rendered by Plaintiff.

6 44. Defendants' actions complained of herein constitute trademark
7 infringement in violation of 15 U.S.C. § 1114(1).

8 45. Plaintiff has no control over Defendants' services that feature identical or
9 confusingly similar imitations of the SS Mark, with the result that Plaintiff's valuable
10 goodwill with respect to the SS Mark is irreparably damaged by Defendants' acts
11 completed of herein.

12 46. On information and belief, Defendants will continue to infringe the rights
13 secured by Plaintiff by the SS Mark unless immediately and temporarily restrained,
14 thereafter preliminarily enjoined during the pendency of this action, and thereafter
15 permanently enjoined by this Court.

16 47. As a result of said trademark infringement by Defendants, Plaintiff has
17 continued to suffer and continues to suffer serious and substantial injury, including
18 irreparable injury for which it has no adequate remedy at law.

19 48. Defendants' actions complained of herein were done willfully with
20 knowledge of Plaintiff's unfettered right and interest in and to the SS Mark, warranting
21 an enhancement, up to a trebling, of damages awarded to Plaintiff.

22 **COUNT II: Trademark Infringement under Arizona Common Law**

23 49. Plaintiff repeats and by this reference incorporates each and every
24 allegation set forth in the preceding paragraphs as though set forth in full herein.

25 50. Defendants' aforementioned conduct, in adopting and using marks and/or
26 tradenames that are identical or confusingly similar to the SS Mark, has infringed and is
27 infringing upon Plaintiff's common law rights under Arizona law in and to the SS
28 Mark.

1 51. Defendants' aforementioned conduct constitutes common law trademark
2 infringement under Arizona common law.

3 52. As a result of said infringement, Plaintiff has continued to suffer and
4 continues to suffer serious and substantial injury, including irreparable injury, for which
5 it has no adequate remedy at law.

6 **COUNT III: Unfair Competition under Federal Law (15 U.S.C. § 1125(a)(1)(A)**

7 **[Lanham Act § 43(a)(1)(A)]**

8 53. Plaintiff repeats and by this reference incorporates each and every
9 allegation set forth in the preceding paragraphs as though set forth in full herein.

10 54. Defendant's use of marks and/or tradenames identical and/or confusingly
11 similar to the SS Mark were and are intended, and are likely to cause confusion or
12 mistake or deceive consumers as to the affiliation, connection, or association of
13 Defendants with Plaintiff, or as to the origin, sponsorship, approval of Defendants'
14 services by Plaintiff.

15 55. As a result, consumers are likely to be confused, misled, or deceived to
16 believe that Defendants' services are associated with Plaintiff or its services, or that
17 Defendants' services are legitimately connected with or related to Plaintiff or its
18 services such that Defendants' actions complained of herein constitute unfair
19 competition (likelihood of confusion) in violation of 15 U.S.C. § 1125(a)(1)(A).

20 56. Plaintiff has no control over the quality of services rendered, promoted,
21 advertised, or sold by Defendants, with the result that Plaintiff's valuable goodwill with
22 respect to the SS Mark has been, is, and will continue to be irreparably injured by
23 Defendants' acts complained of herein.

24 57. As a result of said unfair competition, Plaintiff has continued to suffer and
25 continues to suffer serious and substantial injury, including irreparable injury for which
26 it has no adequate remedy at law.

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1 58. Defendants' actions complained of herein were done willfully with
2 knowledge of Plaintiff's unfettered right and interest in and to the SS Mark, warranting
3 an enhancement, up to a trebling, of damages awarded to Plaintiff.

4 **COUNT IV: Unfair Competition under Federal Law (15 U.S.C. § 1125(a)(1)(B)**

5 **[Lanham Act § 43(a)(1)(B)]**

6 59. Plaintiff repeats and by this reference incorporates each and every
7 allegation set forth in the preceding paragraphs as though set forth in full herein.

8 60. Defendants have, in using the SS Mark and marks and/or tradenames
9 confusingly similar thereto in commercial advertising or promotion of services for
10 musical entertainment in interstate commerce, misrepresented the nature,
11 characteristics, qualities, and/or connection of such services in that consumers exposed
12 to such advertising or promotion have believed or are likely to believe that such
13 services emanate from Plaintiff when, in fact, they do not, thereby causing Plaintiff
14 damage.

15 61. Such continued misrepresentation by Defendants is likely to cause
16 Plaintiff further damage in that Plaintiff has no control over the quality of services
17 rendered, promoted, advertised, or sold by Defendants, with the result that Plaintiff's
18 valuable goodwill with respect to the SS Mark has been, is, and will continue to be
19 irreparably injured by Defendants' acts complained of herein.

20 62. Defendants' actions complained of herein constitute unfair competition
21 (false advertising) in violation of 15 U.S.C. § 1125(a)(1)(B).

22 63. As a result of said unfair competition, Plaintiff has continued to suffer and
23 continues to suffer serious and substantial injury, including irreparable injury for which
24 it has no adequate remedy at law.

25 64. Defendants' actions complained of herein were done willfully with
26 knowledge of Plaintiff's unfettered right and interest in and to the SS Mark, warranting
27 enhancement, up to a trebling, of damages awarded to Plaintiff.

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1 **COUNT V: Unfair Competition under Arizona Common Law**

2 65. Plaintiff repeats and by this reference incorporates each and every
3 allegation set forth in the preceding paragraphs as though set forth in full herein.

4 66. By the acts and activities complained of herein, Defendants are in a
5 position to pass off their services as services produced by, under license from, or with
6 the approval of Plaintiff.

7 67. Defendants' aforementioned contact constitutes unfair competition under
8 Arizona common law.

9 68. By means and as a result of said unfair competition, Plaintiff has suffered
10 and continues to suffer serious and substantial injury, including irreparable injury for
11 which it has no adequate remedy at law.

12 **COUNT VI: Unjust Enrichment under Arizona Common Law**

13 69. Plaintiff repeats and by this reference incorporates each and every
14 allegation set forth in the preceding paragraphs as though set forth in full herein.

15 70. Defendants have been unjustly enriched at Plaintiff's expense as the result
16 of the actions complained of herein.

17 71. Such unjust enrichment is proscribed under the common law of Arizona.

18 72. As a result of said unjust enrichment, Plaintiff has continued to suffer and
19 continues to suffer serious and substantial injury, including irreparable injury for which
20 it has no adequate remedy at law.

21 **JURY DEMAND**

22 Pursuant to Fed. R. Civ. P. 38, Plaintiff hereby sets forth its demand for a jury
23 trial on all issues for which they are entitled to a jury trial.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff Sister Sledge, LLC respectfully prays for relief and
26 judgment against Defendants Kathy Sledge Lightfoot, Philip Lightfoot Sr., Kristen
27 Lightfoot, Susan Wingate, and Kim Wingate, jointly and severally, as follows:
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- i. That, pursuant to 15 U.S.C. § 1116 and/or Arizona common law, Defendants, their partners, agents, representative, servants, employees, contractors, associates, attorneys, successors, and assigns, and any and all persons or entities acting by, through, under, or in active concert or in participation with any or all of them, be (1) immediately restrained, (2) thereafter preliminarily enjoined during the pendency of this action, and (3) subsequently permanently enjoined upon conclusion of this action by Order of this Court from doing, causing, aiding, or abetting any of the following:
 - a. Directly or indirectly infringing the SS Mark;
 - b. Passing off, inducing, or enabling others to sell or pass off any service as or services rendered by Plaintiff that are not Plaintiff's, or are not rendered by or under the control, supervision, or approval of Plaintiff;
 - c. Directly or indirectly engaging in any acts or activities calculated to trade upon and/or tarnish the SS Mark or the reputation or goodwill of Plaintiff, or in any manner to compete with Plaintiff unfairly;
 - d. Using in the sale, offering for sale, promotion, advertising, marketing, and/or distribution of their services any mark, tradename, or domain name that includes the SS Mark or any mark, trade name, or domain name confusingly similar thereto in such a manner as to deceive, falsely describe, or represent the source of the services, or otherwise create confusion or mistake in the minds of consumers;
 - e. Further violating Plaintiff's right and interest in and to the SS Mark and goodwill related thereto; and

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- f. Otherwise unfairly competing with Plaintiff in any manner whatsoever;
- ii. That Defendant be required to pay over to Plaintiff all profits and derived from their unlawful acts complained of herein pursuant to 15 U.S.C. § 1117(a) and/or Arizona common law;
- iii. That, pursuant to 15 U.S.C. § 1117(a), Defendant be required to pay over to Plaintiff all damage suffered by Plaintiff as a result of Defendants’ acts complained of herein, and that such damages be enhanced, up to a trebling, due to the willful violations of Defendants;
- iv. That Plaintiff be awarded, under Arizona common law, punitive damages for the willful and wanton acts by Defendants of trademark infringement, unfair competition, and unjust enrichment complained of herein;
- v. That Plaintiff be awarded its reasonable attorney’s fees and costs under 15 U.S.C. § 1117(a) and/or Arizona common law;
- vi. That Plaintiff be awarded pre- and post-judgment interest, from the earliest dates and at the highest rates allowed for by law; and
- vii. That Plaintiff be awarded such other and further relief as the Court deems just and proper.

Dated this 2nd day of July, 2013.

Respectfully submitted,

WEISS & MOY, P.C

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