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Attorneys for Plaintiffs, Olivia Hussey and Leonard Whiting

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

Olivia Hussey and Leonard Whiting,

Plaintiffs,

vs.

Paramount Pictures Corp., Criterion
Collections, Inc., a wholly owned
subsidy of Janus Films, LLC, Janus
Films, LLC a New York Limited
Liability Company and DOES I through
D, Inclusive,

Defendants.

Case Number: 24STCV03814

COMPLAINT FOR DAMAGES

[Civ. Code §§ 1708.85; 3344;
Dramatic and Musical Performers'
Protection Act 1958 (UK Public
General Acts 1958 c. 44 (Regnal.
6_and_7_Eliz_2), § 1)]

**JURY TRIAL DEMANDED BY
PLAINTIFFS**

COMES NOW Olivia Hussey (“Hussey”) and Leonard Whiting (“Whiting”) and
for a cause of action allege:

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FACTS COMMON TO ALL CAUSES OF ACTION

1. Defendant Paramount Pictures Corp. (“Paramount”) is a Delaware Corporation with its headquarters located in the County of Los Angeles, California.
2. Defendant Criterion Collections, Inc. (“Criterion”) is a wholly owned subsidiary of defendant Janus Films, LLC, a New York Limited Liability Corporation. (“Janus”)
3. Defendant Paramount is and at all times material hereto was the assignee, financier, and/or partner of British Home Entertainment Productions, operating under the trade name of B.H.E. Productions Ltd., a business association organized as a Limited Corporation under the laws of the United Kingdom.
4. On or about May 18, 1967, during Hussey’s minority, her lawful guardian entered into a written agreement with B.H.E. Productions, Ltd. agreeing that Hussey would perform as an actor in a motion picture project, the purpose of which was to create and distribute publicly a motion picture to be entitled *Romeo and Juliet* and that was to be a performance of the eponymous drama authored by William Shakespeare (“Shakespeare”) distinguished from folios of Shakespeare’s dramatic works by its intended performance using actors of similar age as the characters in Shakespeare’s drama. (“Original Work.”) It was then and there contemplated that the Original Work was being produced and would be owned and copyrighted by B.H.E. Productions, Ltd. (“B.H.E.”)

1 Nothing in the agreement for Hussey's performance with B.H.E. granted, or
2 recognized a right in B.H.E. to recreate, republish, or redistribute
3 photographs of her performance in the Original Work in any other medium or
4 format than 35 mm analogue cinematographic photographs.

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6 5. Nothing in the Agreement entered into on behalf of Hussey with B.H.E.
7 provided that Hussey would be required to allow herself to be photographed
8 immodestly without clothing as part of her agreed upon performance and the
9 script of the production that was made available to Hussey and her guardian
10 did not contain, nor describe any scene in which Hussey would be expected to
11 perform without modest clothing of the period described in Shakespeare's
12 drama. Nothing in any folio collection of Shakespeare's drama contained or
13 suggested that anyone performing the role of Romeo, or Juliet would be
14 required at any time during the performance to do so without wearing modest
15 clothing contemporaneous with the location and period described by
16 Shakespeare in the drama.
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20 6. At the time of the performance, Whiting was also a minor. Neither Whiting,
21 nor his guardian ever consented in writing to perform as an actor in the
22 Original Work, nor did he ever purport to give, or recognize any rights in his
23 performance to B.H.E., or any other entity, including, but not limited to the
24 right to recreate, republish, or redistribute photographs of his performance in
25 the Original Work in any other medium or format than 35 mm analogue
26 cinematographic photographs.
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7. B.H.E. entered into a contract with Franco Zeffirelli (“Zeffirelli”) that engaged Zeffirelli’s services as an independent contractor to provide artistic and editorial control over the Original Work.
8. During the creation and production of the Original Work, Zeffirelli demanded that Hussey and Whiting perform a part of their performance while immodestly wearing no clothing whatsoever and totally in the nude and allow themselves to be photographed in this state of undress.
9. Both Hussey and Whiting acceded to Zefferilli’s demand that they perform a honeymoon bedroom sequence in the nude in consideration of Zefferilli’s express undertaking that they would not be photographed in any way to reveal their private parts, that all photographs taken of their performance while in a state of undress would be taken in a private studio in the presence only of key photography personnel and that any photograph that may inadvertently depict their private body parts would remain the exclusive property of Zeffirelli and never be distributed, or displayed publicly without due obscuration of those private body parts and any such photos would never be included as part of the Original Work for any reason.
10. At the time the Original Photos were taken, Franco Zefferilli was engaged in a contractual service relationship with B.H.E. Productions, the scope of which service included creating the Original Work, but did not include taking the Original Photos, or causing them to be taken, or retaining them.

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11. On or about July 7, 1967, supplemented on May 6, 1968, B.H.E. entered into written agreements with Paramount that, among other things, assigned B.H.E.’s rights in the Original Work to Paramount in consideration of one dollar paid by Paramount.
12. On or about February 14, 2023, without the consent of either Whiting, or Hussey, Paramount authorized and caused by agreement with Defendant Janus through its wholly owned subsidiary Criterion the publication and distribution of a digital motion picture (“Digital Release”) which was a digital, computer created rendition of the Original Work.
13. The Digital Release contained computer created, among other things, digitally enhanced photographs of Whiting and Hussey lying together in the nude in a bed simulating a newly married couple luxuriating after a session of marital coitus. It also contained computer created, digitally enhanced photographs of the aureoles and nipples on Hussey’s naked breasts. (“Digital Photos”)
14. Among other things, the Digital Photos rendered, in extremely high definition detail, the contents of several analog color photographs taken in the private studio in the presence only of key photography personnel while Hussey and Whiting were minors during the production of the Original Project, depicting Hussey’s complete naked breasts and Whiting’s complete naked buttocks (“Original Photos”)

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15. The Original Photos were included gratuitously, without the consent of either Hussey, or Whiting, in the Original Work. The presentation of Hussey’s and Whiting’s private areas was gratuitous in the Original Work and was not required, nor intended to enhance the Original Work, but rather to appeal to the prurient interests of the audience. The script for the Original Work did not mention the requirement—for ambience, or any other reason—that Hussey and Whiting perform immodestly while wearing no clothing in any part of that Original Work, nor that they be presented without clothing appropriate to the scene being performed in any part of that Original Work.

16. However, the copies of the Original Work was not digitally enhanced and the Original Photos contained in the copies of the Original Work that were publicly distributed and displayed were of such extremely low resolution because they were made with very rudimentary image copying technology available at the time that Hussey’s and Whiting’s private areas shown in those photographs were arguably obscured by their extremely low resolution of that presentation in the Original Work. Accordingly, Hussey and Whiting acquiesced in the inclusion of the Original Photos in the Original Work as published and distributed by Paramount because Hussey and Whiting did not feel that the presentation in the Original Work so far exceeded Zefferilli’s undertaking as to be actionable as a breach of that undertaking.

17. Hussey’s and Whiting’s acquiescence in the distribution of the Original Film continued until Hussey and Whiting became convinced, as a result of a major

1 change in societal norms popularly known as the “Me Too Movement”
2 persuaded them that they had been victims of Zeffirelli’s “grooming” of them
3 as illicit targets of his sexual proclivity while they were minors and began to
4 believe that the “ambience of the film” excuse given by Zeffirelli for his
5 insistence that they perform without clothing was not a creature of his
6 genuine artistic conceit, but rather of his sexual desire. Accordingly, they
7 commenced litigation against defendant Paramount alleging, among other
8 things, that the photographs of their private areas constituted child
9 pornography in violation of California and U.S. law. (“Litigation”)
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12 18. The Litigation concluded in May of 2023 with an order of the above-entitled
13 court granting Paramount’s special motion to strike on the rationale that
14 Hussey and Whiting were not able to prove satisfactorily that distributing
15 the Original Photos by including them in the Original Work did not
16 constitute violation of California, or Federal laws prohibiting possession
17 and/or distribution of child pornography and that, therefore, all causes of
18 action pled in the Litigation against Paramount for including the Original
19 Photos in the Original Work, whether or not that inclusion was otherwise
20 unlawful, was barred by the applicable statute of limitation.
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24 19. At the time they drafted the pleadings framing the Litigation, neither
25 Hussey, nor Whiting were aware that Paramount and Janus through its
26 wholly owned subsidiary Criterion intended to release and distribute, or had
27 released and distributed the Digital Release containing the Digital Photos.
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20. Upon their first time viewing the Digital Release, subsequent to the dismissal of the Litigation and entry of judgment upon that dismissal, both Whiting and Hussey were made aware thereby that the obscured depiction of their naked buttocks and breasts in the publicly distributed copies of the Original Work had been digitally enhanced such that, unlike the Original Work, the Digital Release depicted their private areas in such high detail that the gratuitous display was lewd and lascivious and demeaning to them. Hussey and Whiting thereby became concerned that the Digital Release containing the Digital Photos could wreak havoc upon their professional reputations and subject them to critical obloquy and professional ridicule and contempt. As a result, Hussey and Whiting demanded that Paramount immediately cease and desist from publishing, or allowing to be published the Digital Photos and further demanded that publication and display of the Digital Release be forthwith discontinued as long as it displayed the Digital Photos in any part of it. Paramount responded by arguing that Hussey’s and Whiting’s written agreements include the Original Photos and the Digital Photos and that their position is that Hussey and Whiting have irrevocably consented to Paramount’s absolute right to use and license the use of those Original Photos in any manner it sees fit.

21. Notwithstanding that Paramount and Criterion knew, or should have known that Hussey and Whiting did not consent and had never consented to the publication or distribution of the Digital Photos in the Digital Release,

1 Paramount and Criterion distributed and/or caused to be distributed the
2 Digital Release containing the Digital Photos.

3
4 22. Paramount and Criterion knew, or should have known that the Digital
5 Photos were not created under any agreement with Whiting and Hussey for
6 the public use and distribution of the Digital Photos, or were otherwise
7 intended by Hussey and Whiting for public use and distribution.
8

9 23. Paramount and Criterion knew, or should have known that neither Hussey,,
10 nor Whiting gave their permission that the Digital Photos, or the Original
11 Photos depicted in the Digital Photos could be produced, reproduced,
12 published, or republished by any means, or posted on an internet website.
13

14 24. Paramount and Criterion knew, or should have known, that the Digital
15 Photos enhanced the depiction of an intimate body part of Hussey within the
16 definition of Civil Code section 1708.85, subdivision (b) as well it enhanced to
17 photographs of Whiting and Hussey lying uncovered and obviously naked
18 together after being portrayed in the same scene—although covered with
19 bedclothes—with Whiting lying on top of Hussey, substantially enhanced the
20 intended portrayal of the actors engaging in an act of intercourse.
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23 25. Paramount and Criterion knew, or should have known that the Digital
24 Photos reproduced analog photographs taken, upon the unequivocal condition
25 of Hussey and Whiting that as a condition of their performance, they would
26 actually perform without clothing only in a private, closed set in the presence
27 only of the persons essential to the production of the photographs and that no
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1 photograph taken would display any part of the intimate areas of their bodies
2 including, but not limited to Hussey's naked breasts from the aureoles to the
3 nipples and Whiting's naked buttocks, nor that any photograph taken would
4 display them in such resolution that the conclusion that they were engaging
5 in an act of intercourse.
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8 26. Neither Hussey, nor Whiting have ever consented to, nor acquiesced in the
9 creation, publication, or distribution of the Digital Photos in the Digital
10 Release.

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12 27. Paramount's advance commission, or consent for the making and distribution
13 of the Digital Release constituted the *sine qua non* of Criterion's production
14 and distribution of the Digital Release. Paramount knowingly and
15 intentionally commissioned, or consented to Criterion's production and
16 distribution of the Digital Release.
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19 28. Neither the Digital Release, nor any of its contents including, but not limited
20 to the Digital Photos constituted a matter of any public concern whatsoever.

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22 29. Neither Hussey, nor Whiting ever waived their privacy rights in the Digital
23 Photos, nor made, nor allowed the making of the Digital Photos accessible to
24 the general public.

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26 30. Plaintiffs Hussey and Whiting are ignorant of the true names and capacities
27 of defendants sued as Does I through D, inclusive and therefore sues such
28 defendants by such fictitious names. Plaintiffs will amend this complaint to
allege their true names and capacities when ascertained. Except as

1 otherwise expressly herein alleged, each and every defendant in the above-
2 entitled matter is and at all times material hereto was the servant, joint
3 venturer, partner, or agent of each and every other defendant and in doing
4 the things herein alleged, was then and there acting in the course and scope
5 of that service, joint venture, partnership, or agency.
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7 **FIRST CAUSE OF ACTION**

8 **(Unlawful Distribution of Intimate Photographs)**

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10 31. By this reference Plaintiffs reallege as if set out in full in this cause of action
11 each and every allegation set forth in paragraphs 1 through 30 inclusive of
12 this complaint.
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14 32. Paramount's commissioning, authorizing the inclusion of the Digital Photos
15 in the Digital Release, and/or distributing the Digital Release was intentional
16 and Paramount knew, or should have known that Hussey and Whiting had a
17 reasonable expectation that the Digital Photos would remain private and in
18 the exclusive custody of Franco Zeffirelli in his personal capacity and not in
19 the course, or scope of his agency, or service of B.H.E. and therefore B.H.E.
20 did not and could not transfer any interest in the Digital Photos to
21 Paramount and Paramount had no right to authorize, or commission Janus
22 through its subsidiary Criterion, or in any other capacity to reproduce and
23 distribute the Digital Original Photos.
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26 33. As a direct and proximate consequence of the actions of Paramount and
27 Janus through its subsidiary Criterion and Criterion, Hussey and Whiting
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were injured in their economic ability to receive compensation for their performances as serious film actors because by their publication and distribution, the Digital Photos falsely portrayed them as willing participants in the purveyance of prurient abuse of youthful pulchritude in the service of monetary gain and rendered them the subject of ridicule and obloquy rather than respect and praise for their virtuoso performances, all to Hussey's and Whiting's damage in a sum exceeding thirty-five thousand dollars, and according to proof.

34. As a further direct and proximate result of the conduct of Paramount and Janus through its wholly owned subsidiary Criterion and Criterion, as alleged, Hussey and Whiting suffered, and continued to suffer general damages including, but not limited to, emotional distress, embarrassment, humiliation, and mental anguish in a sum exceeding thirty-five thousand dollars and according to proof.

35. In doing the things herein alleged, Paramount and Janus through its wholly owned subsidiary Criterion and Criterion were acting intentionally as retribution against Hussey and Whiting for bringing earlier legal action against Paramount and/or were acting cruelly and unjustly in conscious disregard of the rights of Hussey and Whiting to preserve their modesty by suppressing public display of lewd and lascivious photographs of their private areas, warranting the imposition of punitive, or exemplary damages against

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defendants and each of them in a sum sufficient to punish Defendants, make an example of them, and deter similar conduct in the future.

WHEREFORE, Plaintiffs prays that judgment be entered against defendants Paramount, Janus through Criterion as its wholly owned subsidiary, and Criterion as hereinafter more particularly set forth.

SECOND CAUSE OF ACTION

(Unlawful Use of Likeness)

36. By this reference Plaintiffs reallege as if set out in full in this cause of action each and every allegation set forth in paragraphs 1 through 30 inclusive of this complaint.

37. At all relevant times herein mentioned, Defendants, and each of them, without obtaining prior consent from Plaintiffs Hussey and Whiting, have knowingly used and continue to use the Digital Photos for the purpose of advertising, selling, and distributing the Digital Release, for which release, no valid consent, nor valid permission has been obtained.

38. Defendants did not at any time have consent from Plaintiffs Hussey and Whiting to use the Digital Photos, or the contents thereof for any public purpose whatsoever.

39. The technology used to enhance and distribute the Digital Photos was not in existence at the time of photography of Zefferilli's "Romeo and Juliet" in 1968 and neither the Digital Photos, nor their contents were displayed in the Original Work.

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40. As a direct and proximate result of the unauthorized use of Plaintiffs' likenesses in the Digital Photos by Paramount, Janus through its wholly owned subsidiary Criterion, and Criterion, Hussey and Whiting have suffered and continue to suffer economic injury in their ability to receive compensation for their performances as serious film actors because by their publication and distribution, the Digital Photos falsely portrayed them as willing participants in the purveyance of prurient abuse of youthful pulchritude in the service of monetary gain and rendered them the subject of ridicule and obloquy rather than respect and praise for their virtuoso performances, all to Hussey's and Whiting's damage in a sum exceeding thirty-five thousand dollars, and according to proof.

41. As a further direct and proximate result of the conduct of Paramount and Janus through its wholly owned subsidiary Criterion, and Criterion as alleged, Hussey and Whiting suffered, and continued to suffer general damages including, but not limited to, emotional distress, embarrassment, humiliation, and mental anguish in a sum exceeding thirty-five thousand dollars and according to proof.

42. As a further direct and proximate result of the conduct of Paramount and Janus through its wholly owned subsidiary Criterion and Criterion, as alleged, Hussey and Whiting suffered, and continued to suffer general damages including, but not limited to, emotional distress, embarrassment,

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humiliation, and mental anguish in a sum exceeding twenty-five thousand dollars and according to proof.

43. In doing the things herein alleged, Paramount and Janus through its wholly owned subsidiary Criterion and Criterion were acting intentionally as retribution against Hussey and Whiting for bringing earlier legal action against Paramount and/or were acting cruelly and unjustly in conscious disregard of the rights of Hussey and Whiting to preserve their modesty by suppressing public display of lewd and lascivious photographs of their private areas, warranting the imposition of punitive, or exemplary damages against defendants and each of them in a sum sufficient to punish Defendants, make an example of them, and deter similar conduct in the future.

WHEREFORE, Plaintiffs prays that judgment be entered against Paramount, Janus through Criterion as its wholly owned subsidiary, and Criterion as hereinafter more particularly set forth.

THIRD CAUSE OF ACTION

(Violation of Performers Rights Act of the United Kingdom)

44. By this reference Plaintiffs reallege as if set out in full in this cause of action each and every allegation set forth in paragraphs 1 through 30 inclusive of this complaint.

45. Paramount did not obtain, through any agreement with B.H.E., and/or Zeffirelli the right to produce, publish, commission, or authorize the

1 production, reproduction, distribution, or redistribution of the Original
2 Photos in any format whatsoever.

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4 46. On or about February 14, 2023, Paramount authorized and/or commissioned
5 Janus through its wholly owned subsidiary Criterion to produce, reproduce,
6 distribute, or redistribute the Digital Photos and Janus through its wholly
7 owned subsidiary Criterion and Criterion produced, reproduced, distributed,
8 or redistributed the Digital Photos in violation of the provisions of the
9 Dramatic and Musical Performers' Protection Act 1958 (UK Public General
10 Acts 1958 c. 44 (Regnal. 6_and_7_Eliz_2), § 1) ("UK Act") by making the
11 Digital Release: a record, directly or indirectly made from or by means of the
12 performance of the private bedroom scene in the Original Work: a dramatic
13 work, without the consent in writing of Hussey and Whiting, the performers
14 in that scene and by selling or letting for hire, or distribution for the purposes
15 of trade, or by way of trade exposing or offering for sale or hire, the Digital
16 Release: a record made in contravention of the UK Act and/or by using for the
17 purposes of a public performance the Digital Release: a record so made.

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19 47. As a direct and proximate result of the unauthorized use of Plaintiffs'
20 likenesses in the Digital Photos by Paramount, Janus through its wholly
21 owned subsidiary Criterion, and Criterion, Hussey and Whiting have suffered
22 and continue to suffer economic injury in their ability to receive
23 compensation for their performances as serious film actors because by their
24 publication and distribution, the Digital Photos falsely portrayed them as
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1 willing participants in the purveyance of prurient abuse of youthful
2 pulchritude in the service of monetary gain and rendered them the subject of
3 ridicule and obloquy rather than respect and praise for their virtuoso
4 performances, all to Hussey's and Whiting's damage in a sum exceeding
5 twenty-five thousand dollars, and according to proof.
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8 48. As a further direct and proximate result of the conduct of Paramount and
9 Janus through its wholly owned subsidiary Criterion, and Criterion as
10 alleged, Hussey and Whiting suffered, and continued to suffer general
11 damages including, but not limited to, emotional distress, embarrassment,
12 humiliation, and mental anguish in a sum exceeding thirty-five thousand
13 dollars and according to proof.
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15 49. In doing the things herein alleged, Paramount and Janus through
16 its wholly owned subsidiary Criterion and Criterion were acting intentionally
17 as retribution against Hussey and Whiting for bringing earlier legal action
18 against Paramount and/or were acting cruelly and unjustly in conscious
19 disregard of the rights of Hussey and Whiting to preserve their modesty by
20 suppressing public display of lewd and lascivious photographs of their private
21 areas, warranting the imposition of punitive, or exemplary damages against
22 defendants and each of them in a sum sufficient to punish Defendants, make
23 an example of them, and deter similar conduct in the future.
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26 WHEREFORE, Plaintiffs pray for judgment against Defendants,
27 and each of them, as follows:
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PRAYER

1. For judgment against Paramount, Janus, and/or Criterion in favor of Hussey and Whiting as and for damages in a sum according to proof that is adequate to compensate Hussey and Whiting for their economic injuries suffered as hereinabove alleged;
2. For judgment against Paramount, Janus, and/or Criterion in favor of Hussey and Whiting as and for damages in a sum according to proof that is adequate to compensate Hussey and Whiting for the general injuries suffered as hereinabove alleged;
3. For judgment against Paramount, Janus, and/or Criterion for punitive, or exemplary damages in a sum sufficient to punish and/or make an example of them and/or to deter such conduct in the future;
4. For preliminary and permanent injunction that the Digital Release not be distributed with the Digital Photos included;
5. For costs of this action and;
6. For such other and further relief as the court may deem appropriate.

Dated: February 14, 2024

Romaine Lokhandwala Law Group, by:

____s/ Zishan Lokhandwala_____
Zishan Lokhandwala, Attorneys for Plaintiff

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