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FILED
Los Angeles Superior Court

JUL 16 2009

Attorneys for Plaintiff, DAVID ELLIOTT

John A. Clarke, Executive Officer/Clerk
By SHAUNYA WESLEY Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

11 DAVID ELLIOTT, an individual,
12 Plaintiff,

Case No. **BC417904**

13 -vs-

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

14 BLATANT ENTERTAINMENT, INC., a
15 California corporation, BARRY LEVINE, an
16 individual, MATTHEW I. BERGER, an
17 individual, JESSE BERGER, an individual,
18 and DOES 1 through 100, inclusive,
19 Defendants.

20 Plaintiff, DAVID ELLIOTT, alleges:

21 1. Plaintiff DAVID ELLIOTT ("ELLIOTT") is, and at all times mentioned in this
22 complaint was, a resident of the City of New York, State of New York.

23 2. ELLIOTT is informed and believes and on that basis alleges that at all
24 herein mentioned defendant, BLATANT ENTERTAINMENT, INC. ("BLATANT"), a
25 corporation organized under the laws of the State of California, and doing business in the County
26 of Los Angeles, State of California. At all times herein mentioned, BLATANT was and now is
27 engaged in the business of developing, producing and distributing comic books, graphic novels,
28 video games and motion pictures as well as other ancillaries based on graphic novels. At various

CIT/CASE: BC417904 LEA/DEF: 93
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1 times, BLATANT was known as RADICAL PUBLISHING, INC. and BLATANT PICTURES,
2 INC. BLATANT conducts business under the trade names RADICAL COMICS, RADICAL
3 BOOKS, RADICAL KIDZ, RADICAL TOYS (RADCO), RADICAL INTERACTIVE and
4 RADICAL PICTURES.

5 3. Plaintiff is informed and believes, and thereon alleges that defendants BARRY
6 LEVINE and JESSE BERGER are individuals residing in and/or conducting business within
7 County of Los Angeles, State of California and that defendant MATTHEW I. BERGER is an
8 individual residing in the County of Santa Barbara who is conducting business within County of
9 Los Angeles, State of California. All three of these defendants will be referred to herein as the
10 "Individual Defendants." The Individual Defendants are officers, directors and shareholders of
11 BLATANT.

12 4. Plaintiff does not know the true names of defendants sued herein as DOES 1
13 through 100, inclusive, and therefore sues them by those fictitious names. Plaintiff is informed and
14 believes that DOE defendants are California residents.

15 5. Unless otherwise alleged in this complaint, Plaintiff is informed and believes, and
16 on the basis of that information and belief alleges, that at all times mentioned in this complaint,
17 each of the defendants was an agent and/or employee of their codefendants, and in doing the things
18 alleged in this complaint, was acting within the course and scope of that agency and employment.

19 6. Plaintiff is informed and believes, and thereon alleges, that each of the individual
20 and corporate defendants exercised such control and dominion over the other corporate
21 codefendants so as to make them its mere alter egos and instrumentalities and, as a result, each of
22 the corporate codefendants' corporate shields should be disregarded.

23 **FACTS COMMON TO ALL CAUSES OF ACTION**

24 7. ELLIOTT is a co-founder, shareholder and former Co-Publisher and Editor-in-
25 Chief of Radical Publishing and Blatant Entertainment, Inc. (collectively referred to herein as
26 "BLATANT"). Since August 2006, ELLIOTT has been instrumental in building the Radical
27 brand from a fledgling start-up to a well-recognized multimedia company. He is the driving
28 force behind many of BLATANT's projects, including, but not limited to, Hercules, Caliber,

1 Freedom Formula, City of Dust, Legends, Ryder on the Storm, Hotwire, Lords of Misrule,
2 Oblivion, Medieval, FVZA and Assassins, and also is the sole creator of his reimagining of
3 Aladdin. ELLIOTT owns six hundred fifty thousand (650,000) shares of BLATANT's stock,
4 representing ten percent (10%) of BLATANT's outstanding shares.

5 8. ELLIOTT is informed and believes that he was the only employee of BLATANT
6 with extensive comic book and graphic novel experience. It was his reputation and experience
7 with creators, retailers and distributors in the comic book industry that has enabled BLATANT to
8 become the company that it is today. ELLIOTT's background, reputation and expertise gave
9 BLATANT the credibility to attract its current investor pool and to raise funds to operate.

10 9. Despite ELLIOTT's vital contributions, BLATANT has never lived up to its legal
11 obligations to ELLIOTT. Indeed, his employment as *Editor-in-Chief* was terminated by
12 BLATANT as of May 1, 2009, after giving him two weeks notice on April 14th.

13 10. ELLIOTT was assured by BLATANT, through its officers, defendants BARRY
14 LEVINE, MATTHEW I. BERGER and JESSE BERGER, that he would be provided with a fair
15 employment severance package and that his ownership of BLATANT shares was secure. These
16 representations were false. Instead, BLATANT initially refused to pay ELLIOTT's last two
17 weeks of salary, and only paid it after being notified what "two weeks notice" meant. Thereafter,
18 BLATANT communicated to him a "severance package" which required ELLIOTT to surrender
19 325,000 shares of BLATANT's shares for \$26,000. When this offer was rejected, BLATANT
20 disputed that ELLIOTT was ever issued any shares.

21 11. In addition, during his employment, BLATANT failed to pay ELLIOTT his full
22 salary. Despite being promised in writing by BLATANT, through its officer defendant JESSE
23 BERGER, that starting on June 1, 2008 he would be paid \$106,000 per year, BLATANT instead
24 paid ELLIOTT \$90,000 per year through May 1, 2009, for a difference of \$14,666.

25 12. Furthermore, BLATANT failed to accord ELLIOTT appropriate credit on several
26 projects created and /or developed by him, including but not limited to Hercules and Aladdin.

27 13. ELLIOTT is the creator of Aladdin and is the sole copyright owner of that project.
28 He is also a considerable contributor to Hercules and holds an interest in that project's copyright.

1 In fact it was his contributions that first secured a \$60,000 three month option from Rogue
2 Pictures, where he signed the contracts as a Co-Producer on the project, which then led to the
3 sale to Universal Pictures and Spyglass Entertainment for Peter Berg to potentially direct as a
4 \$125,000,000 motion picture.

5 14. In addition, ELLIOTT, though his creative contributions, owns a portion of the
6 copyrights in the following BLATANT projects: Caliber, City of Dust, Legends, Oblivion,
7 Freedom Formula, Medieval, FVZA, Assassins, as well as the co-creation of Ryder on the Storm.
8 He has not been fully compensated for his contributions nor afforded proper credit or even given
9 permission to defendants for their use.

10 15. Plaintiff is informed and believes that based thereon alleges that BLATANT is
11 exploiting Hercules, Aladdin, Caliber, City of Dust, Legends, Oblivion, Freedom Formula,
12 Medieval, FVZA, Assassins and Ryder on the Storm (hereinafter collectively referred to as "the
13 ENTERTAINMENT PROJECTS") without regard to ELLIOTT's contributions and in violation
14 of ELLIOTT's rights, even going so far as to assume credit and execution of his ideas. ELLIOTT
15 has not been compensated for Hotwire, Cholly & Flytrap and the Lords of Misrule, three projects
16 that he discovered and thereafter acquired for BLATANT.

17 16. Furthermore, BLATANT and its officers, consisting of Individual Defendants,
18 have engaged in a pattern of abuse of minority shareholders' and investors' rights. Its
19 management team consists almost entirely of persons related to each other. All of them are
20 receiving grossly overinflated salaries, given their complete lack of entertainment, publishing and
21 graphic novel experience. Defendant JESSE BERGER, without any applicable prior experience,
22 was awarded a salary nearly twice ELLIOTT's. Defendant BARRY LEVINE's salary is two and
23 three-quarter times that amount. BLATANT management has hired additional relatives who are
24 equally lacking in skills. BLATANT management also failed to disclose several felony drug
25 distribution convictions of its Senior Vice President, CEO and Treasurer, defendant JESSE
26 BERGER. Defendant JESSE BERGER was represented in the criminal proceedings by his
27 father, defendant MATTHEW BERGER, who acts as General Counsel for BLATANT, in what
28 was and continues to be a clear conflict of interest. His trial was ongoing at this time and he

1 served his sentence at the weekends. He then hired his godson, Barrett Weislow, as his executive
2 assistant. Based on information and belief, plaintiff alleges that Barrett was on parole/probation
3 for a similar drug conviction when he was hired.

4 17. BLATANT's management failed to have any of its employees sign work-for-hire
5 agreements and/or assignments of copyrights, thereby clouding title to all of BLATANT's
6 projects, and making it impossible for BLATANT to provide proper chain of title documents and
7 guarantees to investors, production companies, studios, and insurers, to the detriment of its
8 shareholders.

9 **FIRST CAUSE OF ACTION FOR BREACH OF IMPLIED CONTRACT**

10 **(Against Defendant BLATANT and DOES 1-10)**

11 18. Plaintiff incorporates by reference paragraphs 1-17, inclusive, of this complaint as
12 if fully set forth herein.

13 19. Plaintiff was employed with defendants under an implied contract. The terms of
14 the contract relied on by plaintiff included but were not limited to plaintiff receiving a salary of
15 \$106,000 per year and defendants following their written personnel policies, which provided that
16 employees would be treated fairly and in accordance with the laws of the State of California, and
17 not discriminated against and harassed due to age;

18 20. Defendants breached their contract with plaintiff by:

- 19 (a) Failing to pay plaintiff his agreed upon salary;
20 (b) Refusing to give plaintiff the opportunity to succeed at his job;
21 (c) Failing to treat plaintiff in accordance with defendant's stated policies;
22 (d) Treating plaintiff differently based solely due to his disability and medical
23 condition, and age, over forty;
24 (e) Terminating plaintiff in breach of the promises made to him to provide his
25 with a severance package; and

26 (f) Terminating plaintiff without following defendants' policies and practices.
27 21. Defendants have refused and continue to refuse to allow plaintiff the benefits of
28 his employment contract and to perform under this contract in the agreed on manner.

1 22. As a direct, foreseeable, and proximate result of defendants' breach, plaintiff has
2 suffered and continues to suffer substantial losses in earnings, bonuses, and job benefits, and
3 expenses incurred in the search for comparable employment in an amount which will be proven
4 at trial, as well as in his earning capacity.

5
6 **SECOND CAUSE OF ACTION FOR BREACH OF**
7 **THE COVENANT OF GOOD FAITH AND FAIR DEALING**

8 **(Against Defendants BLATANT and DOES 1-10)**

9 23. Plaintiff incorporates by reference paragraphs 1-22, inclusive, of this complaint as
10 if fully set forth herein.

11 24. As a result of the employment relationship which existed between plaintiff and
12 defendants, the expressed and implied promises made in connection with that relationship, and
13 the acts, conduct, and communications resulting in these implied promises, defendants promised
14 and were required by law to act in good faith toward and deal fairly with plaintiff which requires,
15 among other things, that:

16 (a) Each party in the relationship must act with good faith toward the other
17 concerning all matters related to the employment;

18 (b) Each party in the relationship must act with fairness toward the other
19 concerning all matters related to the employment;

20 (c) Neither party would take any action to unfairly prevent the other from
21 obtaining the benefits of the employment relationship;

22 (d) Defendants would similarly treat employees who are similarly situated;

23 (e) Defendants would comply with their own representations, rules, policies,
24 and procedures in dealing with plaintiff;

25 (f) Defendants would not treat plaintiff differently or retaliate against plaintiff
26 due to age, over forty;

27 (g) Defendants would give plaintiff's interests as much consideration as they
28 gave their own interests.

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25. Defendants' termination of plaintiff was wrongful, in bad faith, and unfair, and therefore a violation of defendants' legal duties. Plaintiff further alleges that defendants breached the covenant of good faith and fair dealing when they:

(a) Repeatedly refused to abide by their own policies when dealing with plaintiff;

(b) Repeatedly denied the existence of the contract and the agreements made with plaintiff, including that to provide plaintiff with a severance package;

(c) Unfairly prevented plaintiff from obtaining the benefits of his employment relationship;

(d) Terminated plaintiff's employment because of his age, over forty;

(e) Terminated plaintiff's employment for false reasons and in a manner that was inconsistent with defendants' stated policies and practices and with the laws of the State of California; and

26. Defendants' breach of the covenant of good faith and fair dealing was a substantial factor in causing damage and injury to plaintiff. As a direct and proximate result of defendants' unlawful conduct alleged in this complaint, plaintiff has lost substantial employment benefits with defendants, including loss of reputation, lost wages, and other employee fringe benefits in an amount which will be proven at trial, as well as future wages and employment benefits.

THIRD CAUSE OF ACTION FOR WRONGFUL TERMINATION

IN VIOLATION OF PUBLIC POLICY

(Against Defendants BLATANT and DOES 1-10)

27. Plaintiff incorporates by reference paragraphs 1-26, inclusive, of this complaint as if fully set forth herein.

28. Plaintiff further alleges that defendants' termination of Plaintiff was in violation of the public policy of the State of California which prohibits employers from discriminating against employees due to age, over 40.

1 29. As a direct, foreseeable, and proximate result of defendant employer's wrongful
2 termination of plaintiff in violation of the public policy of the State of California, plaintiff has
3 lost and will continue to lose income and benefits, and has suffered and continues to suffer
4 humiliation, embarrassment, mental and emotional distress, and discomfort all to plaintiff's
5 damage in an amount which will be proven at trial.

6 30. Because the acts taken toward plaintiff were carried out by managerial employees
7 acting in a deliberate, cold, callous, malicious, oppressive, and intentional manner in order to
8 injure and damage plaintiff, plaintiff requests the assessment of punitive damages against
9 defendant employer in an amount appropriate to punish and make an example of defendants.

10
11 **FOURTH CAUSE OF ACTION FOR BREACH OF FIDUCIARY DUTY**

12 (Against All Defendants)

13 31. Plaintiff incorporates by reference paragraphs 1-30, inclusive, of this complaint as
14 if fully set forth herein.

15 32. Defendants, as officers, directors and shareholders of BLATANT, a California
16 corporation in which plaintiff owns a ten percent (10%) ownership interest, owe the plaintiff a
17 fiduciary duty of loyalty and a fiduciary duty of care imposed by California Corporations Code
18 Section 16404(a)-(3).

19 33. Defendants breached their duty of loyalty and due care towards plaintiff and
20 BLATANT by terminating plaintiff in order to attempt to obtain his shares at a discount, and
21 engaging in a pattern of abuse of minority shareholders' and investors' rights, which includes but
22 is not limited to hiring relatives and friends of each other, not qualified for jobs for which they
23 were hired, paying each other and their relatives grossly overinflated salaries, failing to disclose
24 felony convictions of officers and senior managers, spending corporate funds on personal
25 ventures, spending funds on unnecessary events, and failing to protect corporate assets and
26 copyrights, and have any of its employees sign work-for-hire agreements and/or assignments of
27 copyrights, thereby clouding title to all of BLATANT's entertainment projects, and making it
28

1 impossible for BLATANT to provide proper chain of title documents and guarantees to
2 investors, production companies, studios, and insurers, to the detriment of its shareholders.

3 34. As a proximate result of defendants' conduct described above, plaintiff suffered
4 damages in an amount to be ascertained at trial, but in excess of the jurisdictional minimum of
5 this court.

6 35. The aforementioned acts of defendants were willful, wanton, malicious and
7 oppressive, were undertaken with the intent to defraud, and justify the award of exemplary and
8 punitive damages against defendants and each of them.

9
10 **FIFTH CAUSE OF ACTION FOR FRAUD AND DECEIT**

11 **(Against All Defendants)**

12 36. Plaintiff incorporates by reference paragraphs 1-35, inclusive, of this complaint
13 as if fully set forth herein.

14 37. On and prior to March 2009, in Los Angeles, California, defendants, orally and in
15 writing willfully, maliciously, falsely, and fraudulently represented to the plaintiff that if he were
16 to terminate his employment with BLATANT, he would receive a substantial severance package
17 and that his ownership of BLATANT shares would remain secure.

18 38. At the time these representations were made by defendants to the plaintiff,
19 plaintiff is informed and believes, and thereon alleges, that defendants knew that the
20 representations were false.

21 39. These misrepresentations were made pursuant to a design and scheme by
22 defendants to force plaintiff from his employment with BLATANT and to acquire plaintiff's
23 shares for a fraction of their value.

24 40. At the time these representations were made, plaintiff was ignorant of their falsity,
25 but believed them to be true. If plaintiff knew of the falsity of defendants' representations, he
26 would not have so acted and would not have terminated his employment with BLATANT in
27 reliance on these representations.
28

1 41. As a proximate result of the willful, malicious, false, and fraudulent
2 misrepresentations made by defendants to plaintiff, he has been damaged in an amount to be
3 proved at trial.

4 42. The conduct of defendants described herein was oppressive, fraudulent and
5 malicious, thereby entitling plaintiff to an award of punitive damages in an amount appropriate to
6 punish and make an example of defendants.

7
8 **SIXTH CAUSE OF ACTION FOR COPYRIGHT INFRINGEMENT**

9 (Against All Defendants)

10 43. Plaintiff incorporates by reference paragraphs 1-42, inclusive, of this complaint as
11 if fully set forth herein.

12 44. The ENTERTAINMENT PROJECTS contain a large amount of material wholly
13 original with plaintiff and is copyrightable subject matter under the laws of the United States and
14 the State of California.

15 45. Plaintiff has notified defendants that defendants have infringed the copyright of
16 plaintiff, and defendant has continued to infringe the copyright by exploiting the
17 ENTERTAINMENT PROJECTS without plaintiff's authority and permission.

18 46. By failing to afford plaintiff credit on the ENTERTAINMENT PROJECTS,
19 defendants have thereby been engaging in unfair trade practices and unfair competition against
20 plaintiff to plaintiff's irreparable damage.

21 47. Plaintiff requests that defendants, their agents, and servants be enjoined during the
22 pendency of this action and permanently from infringing the copyright of plaintiff in any manner,
23 and from publishing, selling, marketing, or otherwise disposing of the ENTERTAINMENT
24 PROJECTS.

25 48. As a direct, foreseeable, and proximate result of defendants' copyright
26 infringement and unfair trade practices, plaintiff has suffered and continues to suffer substantial
27 losses in earnings, bonuses, and harm to reputation in an amount which will be proven at trial.
28

1 49. The conduct of defendants described herein was oppressive, fraudulent and
2 malicious, thereby entitling plaintiff to an award of punitive damages in an amount appropriate to
3 punish and make an example of defendants.
4

5 **SEVENTH CAUSE OF ACTION FOR PERMANENT INJUNCTIVE RELIEF**

6 (Against All Defendants)

7 50. Plaintiff incorporates by reference paragraphs 1-49, inclusive, of this complaint as
8 if fully set forth herein.

9 51. ELLIOTT is informed and believes and on that basis alleges that unless restrained
10 and enjoined, defendants, and each of them, will continue to violate ELLIOTT's interest in the
11 ENTERTAINMENT PROJECTS, fail to compensate ELLIOTT for Hotwire, Cholly & Flytrap
12 and the Lords of Misrule, misappropriate the ideas and trade secrets presented by ELLIOTT to
13 defendants in confidence and will continue to exploit such ideas and trade secrets and
14 ENTETAINMENT PROJECTS without any compensation and credit to ELLIOTT.

15 52. ELLIOTT has no adequate or speedy remedy at law to enforce his rights and,
16 unless restrained, defendants will cause ELLIOTT to suffer irreparably damage, injury and harm.

17 53. ELLIOTT requests that defendants be restrained and enjoined from using and
18 exploiting the ENTERTAINMENT PROJECTS, Hotwire, Cholly & Flytrap and the Lords of
19 Misrule any of the ideas and trade secrets of ELLIOTT, including but not limited to producing,
20 distributing, syndicating, broadcasting, and otherwise exploiting the ENTERTAINMENT
21 PROJECTS, Hotwire, Cholly & Flytrap and the Lords of Misrule and any of their ancillary
22 rights, in any and all media and markets.
23

24 **EIGHTH CAUSE OF ACTION FOR RESCISSION**

25 (Against Defendants BLATANT and DOES 1-10)

26 54. Plaintiff incorporates by reference paragraphs 1-53, inclusive, of this complaint as
27 if fully set forth herein.
28

1 55. Plaintiff brought the Aladdin project to BLATANT based on defendants'
2 representations that he would receive appropriate compensation and credit for it.

3 56. As alleged above, all of these representations, on which plaintiff reasonably relied,
4 were false, thereby resulting in a fraud in the inducement of the contract between plaintiff and
5 defendants pertaining to Aladdin, warranting rescission thereof and reversion of all rights in
6 Aladdin to plaintiff.

7
8 **NINTH CAUSE OF ACTION FOR DECLARATORY RELIEF**

9 **(Against Defendants BLATANT and DOES 1-10)**

10 57. Plaintiff incorporates by reference paragraphs 1-56, inclusive, of this complaint as
11 if fully set forth herein.

12 58. An actual controversy has arisen between plaintiff and defendants, wherein
13 plaintiff contends that he is the owner of six hundred fifty thousand (650,000) shares of
14 BLATANT stock, which stock represents ten percent (10%) of BLATANT's outstanding stock,
15 and defendants deny this contention.

16 59. A declaration of the rights and obligations of the parties is necessary in order to
17 determine plaintiff's ownership of the stock.

18
19 **TENTH CAUSE OF ACTION FOR MANDATORY INJUNCTION**

20 **(Against Defendants BLATANT and DOES 1-10)**

21 60. Plaintiff incorporates by reference paragraphs 1-59, inclusive, of this complaint as
22 if fully set forth herein.

23 61. Plaintiff is the owner of six hundred fifty thousand (650,000) shares of
24 BLATANT stock, which shares represent ten percent (10%) of BLATANT's outstanding stock.
25 Defendants refused to issue plaintiff a stock certificate representing his ownership of the shares.

26 62. A mandatory injunction is required to mandate defendants to issue plaintiff a
27 share certificate for six hundred fifty thousand (650,000) shares of BLATANT stock.
28

ELEVENTH CAUSE OF ACTION FOR
ACCOUNTING AND APPOINTMENT OF A RECEIVER

(Against Defendants BLATANT and DOES 1-10)

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4 63. Plaintiff incorporates by reference paragraphs 1-62, inclusive, of this complaint as
5 if fully set forth herein.

6 64. Plaintiff, as a shareholder of BLATANT, has demanded an accounting of its
7 books and records, as well as a review of its financial records. None of the information
8 demanded has been forthcoming and defendants remain in sole possession, custody and control
9 of BLATANT's books and records. An order of the court mandating an accounting is required.

10 65. Unless a receiver is appointed by the court to take possession of, care for and to
11 manage and operate BLATANT and its assets, such assets are in danger of being lost, removed or
12 materially destroyed, since BLATANT's officers and directors are engaged in a pattern of
13 conduct detrimental to the interest of BLATANT and its shareholders, as alleged above.

14
15 WHEREFORE, plaintiff demands judgment against defendants, and each of them, as
16 follows:

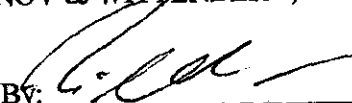
- 17 1. For compensatory damages, including lost wages and benefits, profits, general
18 damages, harm to reputation and emotional distress damages and according to
19 proof at the time of trial but no less than \$1,000,000;
- 20 2. For disgorgement of all of defendants' profits derived from THE
21 ENTERTAINMENT PROJECTS and associated with their misappropriation of
22 ELLIOTT's proprietary and confidential information and trade secrets, and their
23 failure to provide plaintiff with any compensation and/or credit;
- 24 3. For a temporary restraining order, a preliminary injunction, and a permanent
25 injunction, all requiring defendants and their agents, servants, and employees, and
26 all persons acting under, in concert with or for them to be prohibited from using
27 and exploiting any of the ENTERTAINMENT PROJECTS, by producing,
28 distributing, syndicating, broadcasting, and otherwise exploiting the

ENTERTAINMENT PROJECTS and any of its ancillary rights, in any and all media and markets;

4. For mandatory injunction requiring defendants to issue plaintiff a share certificate evidencing his owner of six hundred fifty thousand (650,000) shares of BLATANT stock;
5. For an order rescinding the transfer of rights in Aladdin to defendants and a reversion of all such rights to plaintiff;
6. For an accounting of BLATANT's books and records, from its inception to date;
7. For an appointment of a receiver to take over management and control of BLATANT;
8. For treble damages;
9. For punitive damages;
10. For attorneys' fees and costs;
11. For prejudgment interest on all amounts claimed; and
12. For any other and further relief that the court considers proper.

DATE: July 16, 2009

BARANOV & WITTENBERG, LLP

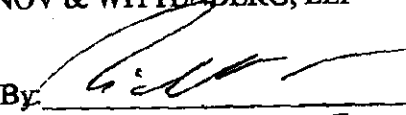
By: 
 Michael M. Baranov, Esq.
 Attorneys for Plaintiff, DAVID ELLIOTT

DEMAND FOR TRIAL BY JURY

Plaintiff demands that this case be tried by a jury.

DATE: July 16, 2009

BARANOV & WITTENBERG, LLP

By: 
 Michael M. Baranov, Esq.
 Attorneys for Plaintiff, DAVID ELLIOTT

07/16/09

FOR COURT USE ONLY
Los Angeles Superior Court

JUL 16 2009

John A. Clarke, Executive Officer/Clerk
By SHAUNYA WESLEY, Deputy

CASE NUMBER: **BC417004**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

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BARANOV & WITTENBERG, LLP
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SUITE 2250
LOS ANGELES, CA 90067

TELEPHONE NO.: 310.229.3500 FAX NO:

ATTORNEY FOR (Name): PLAINTIFF, DAVID ELLIOTT

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

STREET ADDRESS: 111 N. HILL STREET
MAILING ADDRESS: 111 N. HILL STREET
CITY AND ZIP CODE: LOS ANGELES, CA 90012
BRANCH NAME: CENTRAL

CASE NAME: ELLIOTT V. BLATANT

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

JUDGE:
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other P/PI/PD/W (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/W (23) Non-PI/PD/W (Other) Tort <input checked="" type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/W tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): ELEVEN
 5. This case is is not a class action suit.
 6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: JULY 16, 2009
 MICHAEL M. BARANOV, SBN145137
 (TYPE OR PRINT NAME)

[Signature]
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE
 Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
 File this cover sheet in addition to any cover sheet required by local court rule.
 If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
 Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

**CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to LASC Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:
 JURY TRIAL? YES CLASS ACTION? YES LIMITED CASE? YES TIME ESTIMATED FOR TRIAL 7 HOURS/ DAYS

Item II. Select the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet Form, find the main civil case cover sheet heading for your case in the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column B below which best describes the nature of this case.

Step 3: In Column C, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Los Angeles Superior Court Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (See Column C below)

1. Class Actions must be filed in the County Courthouse, Central District.
2. May be filed in Central (Other county, or no Bodily Injury/Property Damage).
3. Location where cause of action arose.
4. Location where bodily injury, death or damage occurred.
5. Location where performance required or defendant resides.
6. Location of property or permanently garaged vehicle.
7. Location where petitioner resides.
8. Location wherein defendant/respondent functions wholly.
9. Location where one or more of the parties reside.
10. Location of Labor Commissioner Office.

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage	2.
		<input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1., 2., 4.
		<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 2., 4.
Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1., 2., 4.	
	<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1., 2., 4.	
	<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress	1., 2., 3.	
	<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 2., 4.	
Non-Personal Injury/Property Damage/Wrongful Death Tort	Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 2., 3.
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.

Non-Personal Injury/Property Damage/
Wrongful Death Tort (Cont'd.)

SHORT TITLE: ELLIOTT V. BLATANT	CASE NUMBER
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Employment

Contract

Real Property

Judicial Review
Unlawful Detainer

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice	1., 2., 3.
	<input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3.
	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Other (35)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
	<input type="checkbox"/> A6024 Other Employment Complaint Case	1., 2., 3.
	<input type="checkbox"/> A6109 Labor Commissioner Appeals	10.
Wrongful Termination (36)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not Unlawful Detainer or wrongful eviction)	2., 5.
	<input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence)	2., 5.
	<input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud)	1., 2., 5.
	<input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	1., 2., 5.
Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff	2., 5., 6.
	<input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5.
Collections (09)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Insurance Coverage (18)	<input checked="" type="checkbox"/> A6009 Contractual Fraud	1., 2., 3., 5.
	<input type="checkbox"/> A6031 Tortious Interference	1., 2., 3., 5.
	<input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 8.
Other Contract (37)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
	<input type="checkbox"/> A6018 Mortgage Foreclosure	2., 6.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A6032 Quiet Title	2., 6.
	<input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6.
	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Wrongful Eviction (33)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.
	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.
Unlawful Detainer - Commercial (31)		
Unlawful Detainer - Residential (32)		
Unlawful Detainer - Drugs (38)		
Asset Forfeiture (05)		
Petition re Arbitration (11)		

SHORT TITLE: ELLIOTT V. BLATANT	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review (Cont'd.)	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ / Judicial Review	2., 8.
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction defect	1., 2., 3.
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only	1., 2., 8.
		<input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment)	2., 8.
		<input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex)	1., 2., 8.
		<input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8.
Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.	
Miscellaneous Civil Petitions	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment	2., 3., 9.
		<input type="checkbox"/> A6123 Workplace Harassment	2., 3., 9.
		<input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case	2., 3., 9.
		<input type="checkbox"/> A6190 Election Contest	2.
		<input type="checkbox"/> A6110 Petition for Change of Name	2., 7.
		<input type="checkbox"/> A6170 Petition for Relief from Late Claim Law	2., 3., 4., 8.
		<input type="checkbox"/> A6100 Other Civil Petition	2., 9.

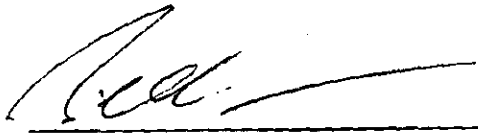
SHORT TITLE: ELLIOTT V. BLATANT	CASE NUMBER
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Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: CHECK THE NUMBER UNDER COLUMN C WHICH APPLIES IN THIS CASE		ADDRESS:
<input type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.		7421 BEVERLY BLVD.
CITY: LOS ANGELES	STATE: CA	ZIP CODE: 90036

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the LOS ANGELES COUNTY SUPERIOR courthouse in the CENTRAL District of the Los Angeles Superior Court (Code Civ. Proc., § 392 et seq., and LASC Local Rule 2.0, subs. (b), (c) and (d)).

Dated: JULY 16, 2009



(SIGNATURE OF ATTORNEY/FILING PARTY)
MICHAEL M. BARANOV, ESQ.

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet form CM-010.
4. Complete Addendum to Civil Case Cover Sheet form LACIV 109 (Rev 01/07), LASC Approved 03-04.
5. Payment in full of the filing fee, unless fees have been waived.
6. Signed order appointing the Guardian ad Litem, JC form FL-935, if the plaintiff or petitioner is a minor under 18 years of age, or if required by Court.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.