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LOS ANGELES SUPERIOR COURT

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INITIAL CASE MANAGEMENT REVIEW
AND CONFERENCE MAY 18 2009

6 Attorneys for Plaintiff
7 John Landis

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES, WEST DISTRICT

10
11 JOHN LANDIS, an individual,
12 Plaintiff,

Case No. **SC101514**

13 v.

**COMPLAINT FOR
DECLARATORY RELIEF**

14 OPTIMUM PRODUCTIONS, a
California corporation; MICHAEL
15 JACKSON, an individual;
NEDERLANDER ORGANIZATION,
16 INC., a New York Corporation;
NEDERLANDER OF CALIFORNIA,
17 INC., a California Corporation; and DOES
1 through 20, inclusive,
18 Defendants.

ORIGINAL

1 Plaintiff John Landis ("Landis" or "Plaintiff") alleges as follows:

2 **INTRODUCTION**

3 1. In or about 1983, Landis created, wrote, and directed the 14-minute
4 motion picture music video that included Michael Jackson's hit song, "Thriller" (the
5 "Thriller Video"). After a spectacular theatrical premier, the Thriller Video became
6 a worldwide mega-hit and an iconic pop culture phenomenon that has continued to
7 generate profits for Defendants Optimum Productions and Michael Jackson.

8 **THE PARTIES**

9 2. Landis is, and at all times mentioned herein, was a resident of
10 California. Landis is a well-known writer, director, and producer, whose services
11 were furnished by Levitsky Productions, Inc ("Levitsky").

12 3. Upon information and belief, Defendant Michael Jackson, at all times
13 mentioned herein, has done, and currently does, business in the County of Los
14 Angeles. Upon information and belief, Michael Jackson is a resident of the County
15 of Los Angeles.

16 4. Upon information and belief, Defendant Optimum Productions
17 ("Optimum") is a defunct corporation that has been suspended by the California
18 Secretary of State. Upon information and belief, Michael Jackson used Optimum to
19 procure labor, services and/or goods on his behalf and that Optimum was the alter
20 ego of Michael Jackson and was established for the purpose of collecting funds due
21 to Michael Jackson for his various musical works and distributing such funds as
22 required (collectively with Michael Jackson, "Jackson"). Upon information and
23 belief, Michael Jackson was the alter ego of Optimum and that, among other things:
24 Optimum failed to observe proper corporate formalities and served as a mere conduit
25 for transferring wealth from Optimum to Michael Jackson; Michael Jackson is the
26 sole shareholder of Optimum and exercises complete dominion over the corporation;
27 Jackson commingled his funds with those of Optimum; Michael Jackson treated the
28

1 assets of Optimum as his own; Optimum failed to maintain minutes or adequate
2 corporate records.

3 5. Upon information and belief, Optimum and Michael Jackson occupied a
4 relationship constituting a unity of interest and ownership such that any individuality
5 and separateness between those two defendants does not exist. Optimum is, and has
6 been, the alter ego of Michael Jackson and was the vehicle through which Michael
7 Jackson carried on business while exercising complete control and dominion over
8 Optimum to the extent that individuality and separateness between those two
9 defendants does not exist.

10 6. Upon information and belief, because there exists such a unity of
11 interest and ownership between Michael Jackson and Optimum that the separate
12 personality of the individual and the corporation no longer exists, treating the acts of
13 Optimum as those of the corporation alone would lead to an inequitable result.

14 7. In the alternative, to the extent the Court does not find that Optimum is
15 the alter ego of Michael Jackson, upon information and belief, Michael Jackson is the
16 successor in interest to Optimum and personally receives sums representing net
17 profits from the Thriller Video and related documentary that are due to Optimum.

18 8. Upon information and belief, the Nederlander Organization, Inc. is a
19 New York corporation.

20 9. Upon information and belief, Nederlander of California, Inc. is a
21 corporation that does, and at all times herein, has done business in the County of Los
22 Angeles, California. (collectively with the Nederlander Organization,
23 "Nederlander").

24 10. The true names and capacities of defendants DOES ONE through
25 TWENTY are unknown to Plaintiff, and Plaintiff will seek leave of the court to
26 amend this complaint to allege such names and capacities as soon as they are
27 ascertained.

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RELEVANT FACTUAL BACKGROUND

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2 11. On or about September 6, 1983, Landis, through his company, Levitsky,
3 entered into an agreement ("Thriller Agreement") with Jackson for the provision of
4 the directing and co-writing services of Landis for the Thriller Video and a
5 documentary about the making of the Thriller Video (the "Documentary").

6 12. The Thriller Agreement called for Levitsky to provide the creative
7 services of Landis to write, along with Michael Jackson, the Thriller Video and
8 Documentary, and to direct the Thriller Video and Documentary. Thereafter, Landis,
9 along with Michael Jackson, wrote the screenplay for the Thriller Video and
10 Documentary.

11 13. Pursuant to the terms of the Thriller Agreement, Landis, as a writer of
12 the Thriller Video and Documentary, owns at least 50% of the so-called "separated
13 rights" to the Thriller Video and Documentary, including, but not limited to, the
14 dramatic rights based on the Thriller Video and Documentary (the "Dramatic
15 Rights"). The Dramatic Rights include, but are not limited to, the rights to create and
16 exploit a musical theater production based on the Thriller Video or Documentary.
17 Jackson was obligated to obtain Landis' permission and authorization in order to
18 exploit Landis' Dramatic Rights to create and exploit a musical theater production
19 based on the Thriller Video and Documentary.

20 14. Jackson has never obtained Landis' permission or authorization to
21 license, exploit, or transfer Landis' Dramatic Rights.

22 15. Upon information and belief, Jackson and Nederlander have recently
23 negotiated, or are negotiating, an agreement to purportedly license Landis' Dramatic
24 Rights to Nederlander for Nederlander to produce and exploit a musical theater
25 production based the Thriller Video or Documentary. Upon information and belief,
26 Nederlander has paid, or will pay, Jackson in excess of \$400,000 for Landis'
27 Dramatic Rights.
28


PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment against each of the Defendants and each of them as follows:

- 1. For a judicial determination and declaration that:
 - a. Jackson has no right to license or transfer Landis' Dramatic Rights to produce and exploit a musical theater production based on the Thriller Video and Documentary;
 - b. Nederlander does not have any right to utilize Landis' Dramatic Rights to produce and exploit a musical theater production based on the Thriller Video and Documentary; and
 - c. Nederlander does not have the necessary rights to produce or exploit a musical theater production based on the Thriller Video and Documentary; and
- 2. For such other relief as the Court deems just and proper.

Dated: January 28, 2009

LINER YANKELEVITZ
SUNSHINE & REGENSTREIF LLP

By: 
Miles J. Feldman
Attorneys for Plaintiff
John Landis

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