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LOS ANGELES SUPERIOR COURT

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Attorney for plaintiff Ola Ray

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, WEST DISTRICT**

OLA RAY, an individual,

Plaintiff,

v.

**MICHAEL JACKSON, an individual;
OPTIMUM PRODUCTIONS, a
California Corporation; and DOES 1
through 10, inclusive,**

Defendants.

CASE NO. **SC102953**

John H. Reid

COMPLAINT FOR:

1. BREACH OF CONTRACT;
2. ACCOUNTING;
3. CONVERSION; AND
4. BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING

INITIAL CASE MANAGEMENT REVIEW
AND CONFERENCE AUG 19 2009

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1 Plaintiff Ola Ray hereby alleges as follows:

2 ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

3 1. Plaintiff Ola Ray ("Ray") is an individual currently residing in Sacramento,
4 California. Ray is the lead actress in the fourteen (14) minute music video, "Thriller" and
5 the hour long documentary, "The Making of Thriller" (the "Thriller Videos").

6 2. Ray is informed and believes that at all times material hereto, defendant
7 Michael Jackson ("Jackson") is a mega musical performer, producer and publisher. In
8 addition to his role as a performer and lead actor in the Thriller Videos, Jackson is also the
9 producer. Further, based upon information and belief, Jackson, at all times material hereto,
10 has worked, and continues to work, in Los Angeles County California.

11 3. Ray is informed and believes that at all times material hereto, that defendant
12 Optimum Productions ("Optimum") is a defunct California Corporation currently in
13 "suspended" status. Optimum was the alter ego of Jackson. Jackson used Optimum to
14 procure labor, services and/or goods on his behalf and was established for the purpose of
15 collecting funds due to Jackson for his various musical works and distributing such funds as
16 required. Upon information and belief, Jackson was the alter ego of Optimum and that,
17 among other things: Optimum failed to observe proper corporate formalities and served as a
18 mere conduit for transferring wealth from Optimum to Jackson; Jackson is the sole
19 shareholder of Optimum and exercises complete dominion over the corporation; Jackson
20 commingled his funds with those of Optimum; Jackson treated the assets of Optimum as his
21 own; Optimum failed to maintain minutes or adequate corporate records.

22 4. Upon information and belief, Jackson and Optimum's relationship constituted
23 a unity of interest and ownership such that any individuality and separateness between
24 those two defendants does not exist. Optimum is, and has been, the alter ego of Jackson
25 and was the vehicle through which Jackson carried on business while exercising complete
26 control and dominion over Optimum to the extent that individuality and separateness
27 between those two defendants does not exist.

1 advance against 5% of 90% royalty if Jackson and Optimum used Ray's voice for any
2 commercial purpose.

3 12. Further, the Employment Agreement attached hereto as Exhibit 1 was
4 explicitly entered into subject to the Producer-Screen Actors Guild Codified Basic
5 Agreement of 1977 and as such agreement may be supplemented or amended ("SAG
6 Agreement"). Accordingly, the Employment Agreement, as subject to the SAG
7 Agreement, additionally entitles Ray to royalties and a percentage of gross profits in an
8 amount to be determined.

9 13. Upon information and belief, Jackson and Optimum utilized Ray's name,
10 likeness and voice in exploiting the Thriller Videos and continue to utilize Ray's name,
11 likeness and voice in exploiting the Thriller Videos including, but not limited to, licensing
12 rights to create "Thriller"-based video games, toys, comic books, special CD/DVD
13 collections, dramatic and musical works as well as many other works. Jackson and
14 Optimum have received profits from such exploitation of the rights to the Thriller Videos.
15 Jackson and Optimum now receive and will receive in the future, additional profits derived
16 from the exploitation of the Thriller Videos.

17 14. Ray has fully performed all of the covenants and conditions on its part to be
18 performed under the Employment Agreement except those covenants and conditions that
19 have been prevented or excused by the conduct of defendants.

20 15. Jackson and Optimum have breached the Employment Agreement by, among
21 other things, failing in each of the last four years, and earlier, to pay Ray sums representing
22 Ray's royalties and share of the gross monies received as the sums became due.

23 16. As a result of the breaches contained in paragraph 14 above, Ray is entitled to
24 Compensation and has been damaged in a sum to be proven at trial with interest thereon at
25 the legal rate from the date of said breaches.

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1 SECOND CAUSE OF ACTION

2 (For Accounting Against Defendants Jackson and Optimum)

3 17. Ray realleges paragraphs 1 through 16, inclusive, of the allegations as if fully
4 set forth herein.

5 18. Upon information and belief, Jackson and Optimum are, and have been,
6 exploiting the rights to the Thriller Videos and earning gross monies as well as net profits
7 from the exploitation thereof.

8 19. The Employment Agreement between the parties, as subject to the SAG
9 Agreement, requires, among other things, Jackson and Optimum to give an accounting to
10 the Screen Actors Guild and Ray within at least 60 days of the expiration of each calendar
11 quarter and to make available to the Screen Actors Guild and Ray all distributor's
12 statements delivered to the Jackson and Optimum as they relate to gross monies received.

13 20. Upon information and belief, Ray is entitled to receive honest, full and
14 accurate accounting information as to the revenues and profits derived from the exploitation
15 of rights associated with the Thriller Videos.

16 21. Upon information and belief, Jackson and Optimum have intentionally and
17 continuously failed to provide timely or complete reports, so as to prevent Ray from
18 collecting sums due to Ray under the Employment Agreement, all to the detriment of Ray.

19 22. Upon information and belief, Jackson and Optimum have failed to provide
20 Ray with an accounting, and the balance due to Ray under the Employment Agreement
21 cannot be ascertained without an accounting.

22 23. Accordingly, upon information and belief, Ray is entitled to an order of this
23 Court compelling Jackson and Optimum to make a full and complete accounting of all
24 revenue and profits earned by Jackson and Optimum for the exploitation of the Thriller
25 Videos.

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1 THIRD CAUSE OF ACTION

2 (For Conversion Against Defendants Jackson and Optimum)

3 24. Ray realleges paragraphs 1 through 23, inclusive, of the allegations as if fully
4 set forth herein.

5 25. Pursuant to the Employment Agreement, Ray is entitled to ownership and
6 possession of her royalties and share of gross monies derived from the Thriller Videos.

7 26. Upon information and belief, by agreeing to collect the gross monies from the
8 Thriller Videos on Ray's behalf, Jackson and Optimum agreed to act on behalf of Ray and
9 had an obligation to distribute Ray's royalties and percentage of gross monies under the
10 Employment Agreement.

11 27. Upon information and belief, in committing the acts alleged herein, Jackson
12 and Optimum have exercised dominion over and have deprived Ray of ownership and
13 possession of monies due to Ray under the Employment Agreement.

14 28. Upon information and belief, as a result of the foregoing conversion, Ray has
15 suffered and will continue to suffer damages including, but not limited to, the loss of her
16 share of the royalties and gross monies derived from the exploitation of the Thriller Videos,
17 the exact amount of which will be proven at trial, but which is in excess of the jurisdictional
18 amount of this court.

19 29. Upon information and belief, in engaging in the foregoing conduct, and as a
20 result thereof, Ray is entitled to exemplary and punitive damages in an amount according to
21 proof.

22 FOURTH CAUSE OF ACTION

23 (For Breach of the Implied Covenant of Good Faith and Fair Dealing

24 Against Defendants Jackson and Optimum)

25 30. Ray realleges paragraphs 1 through 29, inclusive, of the allegations as if fully
26 set forth herein.

27 31. There was a contract of employment, attached hereto and marked Exhibit 1,
28 between Ray, on the one hand, and Jackson and Optimum, on the other hand.

- 1 2. For punitive and exemplary damages sufficient to punish and make an example
2 out of Jackson and Optimum;
3 3. For an accounting;
4 4. For costs of suit, including reasonable attorney's fees, incurred herein; and
5 5. For such other and further relief as this Court may deem just and proper.
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7 DATED: April 30 2009

Law Offices of Jason K. Feldman

8 By: 

9 Jason K. Feldman

10 Attorney for Plaintiff Ola Ray
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EXHIBIT 1

EMPLOYMENT OF DAY PLAYER

Company OPTIMUM PRODUCTIONS Date OCTOBER 7, 1983
Date Employment Starts o/a October 11, 1983 Name Ola Ray
c/o David Wilder
Part Lead Female Address 8721 Sunset Blvd.,
Los Angeles, CA 90069
Production Title "THRILLER" Telephone No. _____
Production Number N/A Social Security No. _____
Daily Rate _____ Legal Resident of What State: _____
Flat Rate \$2,500.00 Citizen of U.S. Yes
Weekly Conversion Rate N/A Quota No. N/A
Married _____ Date of Birth _____ Date of Entry U.S. N/A

The employment is subject to all of the provisions and conditions applicable to the employment of DAY PLAYERS contained or provided for in the Producer-Screen Actors Guild Codified Basic Agreement of 1977 as the same may be supplemented and/or amended.

The Player (does (does not) hereby authorize the Producer to deduct from the compensation hereinabove specified an amount equal to one (1) per cent of each installment of compensation due the Player hereunder, and to pay the amount so deducted to the Motion Picture and Television Relief Fund of America, Inc.

PRODUCER OPTIMUM PRODUCTIONS

PLAYER Ola Ray

John Branca
JOHN BRANCA

Ola Ray
OLA RAY

RIDER — EMPLOYMENT OF DAY PLAYER

Name of Player: OLA RAY
Photoplay: "THRILLER"

I. Producer shall have the exclusive right to make one or more promotional films of sixty (60) minutes or less in length, and to utilize the results and proceeds of Player's services therein upon all of the terms and provisions set forth in the SAG Agreement. Player agrees to render such services for said promotional films during the term of his employment hereunder as Producer may request and Player further agrees to the use by Producer in such promotional films of film clips from the Photoplay and behind-the-scenes shots in which Player may appear. If Player shall appear in such a promotional film, Producer shall pay to Player the sum of Three Hundred Twenty-Eight Dollars (\$328.00) per day for each day of filming of the promotional film from which footage is derived for use embodying Player's performance in such promotional film, within ten (10) days after the first use of each such promotional film on television or before a paying audience.

II. Producer shall have the exclusive right to use and license the use of Player's name, sobriquet, photograph, likeness, voice and/or caricature and shall have the right to simulate Player's voice, signature and appearance by any means in and in connection with the Photoplay and advertising, publicizing, exhibition and/or other exploitation thereof in any manner and by any means, and in and in connection with commercial advertising and publicity tie-ups.

III. Producer is also granted the further exclusive right and license, but only in connection with the role portrayed by Player in the Photoplay, to use and to license the use of Player's name, sobriquet, photograph, likeness, caricature and/or signature (collectively referred to herein as "name and likeness") in and in connection with any merchandising and/or publishing undertakings. In consideration thereof, Producer shall pay to Player a pro rata share (payable among all players whose names or likenesses are used) of two and one-half percent (2-1/2%) of the gross monies actually derived by Producer as a license fee for the use of such name or likeness on merchandising and publishing items which so utilize Player's name and likeness, other than in a listing of cast credits.

IV. Producer is also granted the further exclusive right to use and to license the use of and to advertise and publicize the use of Player's voice from the soundtrack of the Photoplay on commercial phonograph records and albums and the exclusive right to use Player's name and likeness on jackets and labels of such commercial phonograph records and albums. If Producer issues or authorizes the issuance of such record or album using Player's voice, Producer will pay to Player a sum equal to the applicable AFTRA scale as an advance against a five percent (5%) of ninety percent (90%) royalty, reducible and otherwise to be computed and accounted for in accordance with the usual and standard practices of the record company concerned.

V. Player's guaranteed compensation shall be deemed to cover and be payment in full for: One (1) day of rehearsals on or about October 9, 1983 and two (2) full weeks of principal photography.

VI. Compensation for a full day worked in connection with principal photography of the Photoplay in excess of the aggregate number of days (i.e., ten (10) days) will be paid at the rate of Two Hundred Twenty-Eight Dollars and Forty Cents (\$228.40) per day or a prorata portion thereof if less than a full day is utilized.

VII. Player shall receive credit, all characteristics thereof to be in Producer's sole distretion, on the positive prints of the Photoplay in which George Folsey receives credit and in which Player completes Player's services and in which Player's performance appears in a form recognizable to the general public; Player's failure to receive credit pursuant to this paragraph due to inadvertence, or the acts or omissions of third parties, shall not be a breach. Player's sole remedy for breach of any credit requirements shall be damages in an action at law, and Player shall not be entitled to injunctive or other equitable relief. Upon receipt by Producer of notice from Player specifying in detail a breach of this provision, Producer agrees to exercise its reasonable business efforts to prospectively cure such breach.