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K2 PRODUCTIONS, Inc. and for Defendant KEITH LEWIS

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA — UNLIMITED

8 FOR THE COUNTY OF LOS ANGELES

9 (CENTRAL)

11 CARRIE PREJEAN, an individual, )

12 Plaintiff, )

13 v. )

14 KEITH LEWIS, an individual; SHANNA )  
15 MOAKLER, an individual; K2 )  
16 PRODUCTIONS, INC., a California )  
17 Corporation; ROGER NEAL, an )  
individual; NEAL PUBLIC RELATIONS, )  
a California corporation; and DOES 1-60 )  
inclusive, )

18 Defendants. )

19 K2 PRODUCTIONS, INC., a California )  
20 corporation, )

21 Cross-Complainant, )

22 v. )

23 CARRIE PREJEAN, an individual; and )  
ROES 1 through ROES 30, )

24 Cross-Defendants. )

CASE NO. BC420823

(Assigned to the Honorable Abraham Khan,  
Department 51, for all purposes)

**CROSS-COMPLAINT OF K2  
PRODUCTIONS, INC. AGAINST  
CARRIE PREJEAN:**

- (1) Breach of Written Contract
- (2) Breach of Oral Contract
- (3) Money Had And Received
- (4) Unfair Business Practices
- (5) Constructive Trust

Complaint Filed: August 31, 2009

Discovery Cutoff: None  
Trial: Not Assigned

1 Cross-Complainant K2 Productions, Inc. ("K2 Productions" or "K2"), for its Cross-  
2 Complaint against Carrie Prejean in this matter, alleges the following:

3  
4 **INTRODUCTION**

5 1. K2 Productions, Inc. brings this cross-complaint to remedy contractual violations  
6 and other legal misconduct by Carrie Prejean -- not because of a controversial answer given by  
7 Ms. Prejean at the Miss USA 2009 pageant and not because of Ms. Prejean's religious beliefs.  
8 K2 Productions, Inc. and the Miss California USA organization fully respect Ms. Prejean's right  
9 to express her own opinion, but they cannot tolerate flagrant breaches of the obligations Ms.  
10 Prejean owed while she held the Miss California USA crown.

11 2. Previously a fairly anonymous young woman, Carrie Prejean won the Miss  
12 California USA 2009 title, and then skyrocketed to national notoriety at the Miss USA 2009  
13 pageant, with her controversial final answer opposing gay marriage rights and instead supporting  
14 only "opposite marriage." Even before she became notorious for that answer and the ensuing  
15 media storm, Ms. Prejean was already causing difficulty for the Miss California USA  
16 organization (operated by K2 Productions, Inc.) and flaunting her contractual obligations as Miss  
17 California USA 2009. But Carrie Prejean's attitude and misconduct became increasingly worse  
18 after the Miss USA 2009 pageant, held in April, 2009. With her new-found notoriety, an inflated  
19 sense of self, and the lure of financial gain available to her, Ms. Prejean turned even further  
20 against the Miss California USA organization, abandoned her obligations as the Miss California  
21 USA titleholder, and violated multiple provisions of her contract with K2 Productions. If that  
22 were not damaging enough, Ms. Prejean joined forces with a divisive political organization, the  
23 National Organization for Marriage, and used her title and stature as Miss California USA  
24 without authorization to help to promote NOM's campaign of intolerance against the LGBT  
25 community.

26 3. At the direction, and with the support, of the National Organization for Marriage  
27 and its attorney, Carrie Prejean pursued legal claims against K2 and filed this lawsuit. She  
28

1 attempts to cast herself as a virtuous young woman and the victim in a supposed conspiracy  
2 against her. Had she heeded the guidance of the Gospel of John, who admonished only those  
3 who are without sin to cast stones in judgment, she might have avoided this legal battle -- which  
4 will ultimately reveal the hypocrisy of Carrie Prejean.

5 4. In truth, it is K2 Productions – not Carrie Prejean – who is entitled to legal relief.  
6 Among her many acts of misconduct, Carrie Prejean became completely belligerent and  
7 uncooperative with the Miss California USA organization after she won the state title; refused to  
8 agree to public appearances normally expected of a Miss California USA; made unauthorized  
9 appearances as Miss California USA, including to support and raise money for NOM's war  
10 against same-sex marriage rights; without the required authorization from K2 Productions,  
11 negotiated and evidently entered into a publishing agreement, and began preparations for a book,  
12 about her life and her experience as Miss California USA (including at the Miss USA 2009  
13 pageant) entitled "Still Standing;" failed to repay the money advanced by K2 Productions to pay  
14 for her breast augmentation surgery that made her more competitive for the Miss USA 2009  
15 pageant; and blatantly lied about semi-nude photos of her that surfaced in the national media  
16 after the controversy at the Miss USA 2009 pageant. It is thus no surprise that these were among  
17 the very legitimate reasons Ms. Prejean lost her crown as Miss California USA 2009 and are the  
18 sound legal reasons why K2 Productions is entitled to relief by this cross-complaint.

19 5. Carrie Prejean's transgressions were not just legal violations, but also indicative of  
20 the many ways that Carrie Prejean violated the most fundamental expectation for the young  
21 woman selected to represent the Golden State as Miss California USA: as stated in the contract  
22 for her entry into the Miss California USA pageant, she was expected to conduct, during her  
23 reign, her "activities and life in accordance with the highest ethical and moral standards." It was  
24 not her stance on gay marriage that resulted in Ms. Prejean in being de-crowned. Ethically and  
25 morally, Carrie Prejean no longer deserved to be Miss California USA. And legally, she has  
26 liability to K2 Productions for the damage caused by her blatant malfeasance.

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1 **THE PARTIES**

2 6. Cross-Complainant K2 Productions, Inc. is, and at all times herein mentioned  
3 was, a California corporation doing business in Los Angeles County, California.

4 7. Cross-Defendant Carrie Prejean is a resident of San Diego County, California.

5 8. The true names and capacities of Roe 1 through Roe 30 are unknown to K2 who  
6 therefore sues such Cross-Defendants by such fictitious names. K2 will seek leave to amend its  
7 pleading when the true names of the other defendants become known.

8 9. Cross-Complainant is informed and believes, and thereupon alleges, that at all  
9 times herein mentioned, Cross-Defendants were the agents of each of their co-Cross-Defendants,  
10 and in doing the things hereinafter mentioned, each was acting within the scope of his authority  
11 as such agent and with the permission and consent of her or his co-Cross-Defendants.

12 **THE MISS CALIFORNIA USA PAGEANT**

13  
14 10. K2 runs the Miss California USA pageant (and the Miss California Teen USA  
15 pageant) under franchise from the Miss Universe Organization, an international company that  
16 advances and supports today's women. K2 furthers that mission by providing young California  
17 women a forum and an opportunity to pursue their goals, while at the same time improving  
18 themselves and the lives of others. The Miss Universe Organization and K2 provide mentoring,  
19 career training, resources and valuable life experiences for women who choose to become  
20 involved in pageantry and qualify to compete for the title of Miss California USA.

21 11. To be eligible for the Miss California USA pageant, contestants must be young  
22 women aged 18 to 27, must be of high moral character, and meet other requirements.  
23 Titleholders embark on a year unlike anything they have experienced, and a critical obligation is  
24 to make public appearances at various events (including charitable and social events) as Miss  
25 California USA. The highlight of winning the Miss California USA pageant is the opportunity to  
26 compete for the Miss USA title and, if crowned Miss USA, Miss Universe.

27 12. The Miss USA pageant is not just a showcase for the contestants. It is also a  
28 chance for a national television audience to learn about the states the contestants are from.

1 Because of the high profile that a Miss California titleholder will have, especially on a national  
2 stage, K2 normally provides continuous mentoring, training and support for the young woman  
3 selected each year to represent California in such capacity, to ensure that she presents in the best  
4 possible light the State of California, as well the Miss California USA title and organization.

5 13. In order to further ensure that the young women that compete for the right to  
6 represent California are of the highest ethical and moral standards, each contestant for the Miss  
7 California USA title is required to certify that she has conducted her life with the highest ethical  
8 and moral standards, in a manner that would befit a Miss California USA titleholder.

9  
10 **CARRIE PREJEAN'S CONTRACTUAL OBLIGATIONS**

11 14. In order to compete at the Miss California USA pageant, all contestants must  
12 execute an official entry form/contract. In connection with her entry into the Miss California  
13 2009 pageant, on November 20, 2008, Carrie Prejean executed that official entry form/contract.  
14 Ms. Prejean thus entered into a written agreement with K2 that spelled out the conditions she  
15 needed to satisfy in order to be allowed to participate in the Miss California USA 2009 pageant,  
16 and if she were to win, the standards of conduct and obligations she needed to satisfy during her  
17 reign as Miss California USA (the "Agreement"). A true and correct copy of the Agreement is  
18 attached as Exhibit "1" and by this reference made a part hereof. In the Agreement, Ms. Prejean:

19 (a) certified that, throughout her life: "I have conducted my activities and life  
20 in accordance with the highest ethical and moral standards and that I have  
21 never...engaged in any activities that might bring myself [or the pageant or any of its  
22 affiliates] into public disrepute..."

23 (b) certified that "I have not withheld or mischaracterized any information  
24 regarding myself or my background."

25 (c) she acknowledged that "having appeared in public or permitted myself to  
26 be photographed in a state of partial or total nudity or in a lewd, compromising or  
27 sexually suggestive manner constitutes a violation of this provision..."

28 (d) agreed that to give both the Miss Universe Organization and K2 control

1 over rights to her name, likeness, and image; control over her public appearances; and  
2 control over her provision of any entertainment, literary, endorsement and related  
3 services, both in connection with the State Pageant and during her reign (if she won) as  
4 Miss California USA. Specifically, Ms. Prejean agreed that:

5 (1) "I shall consult with Miss Universe or [K2] regarding any and all  
6 publicity in connection with the State Pageant or my reign as [Miss  
7 California] 2009, and I shall not consent to any publicity without the prior  
8 written approval of [K2]...";

9 (2) K2 has the "exclusive right and control" over all services which she  
10 may "render in the entertainment, literary and related fields...";

11 (3) she would not to make any personal or television appearances without  
12 first obtaining written consent from K2;

13 (4) she would not "endorse any product, service or commercial enterprise"  
14 that referenced the Miss California USA title, or to allow others to "make  
15 use of or reference" the title or her "affiliation with the State Pageant or  
16 the Miss USA Pageant, or make or allow others to make use of or  
17 reference" her State Pageant title or affiliation with the State Pageant or  
18 the Miss USA Pageant for nay other commercial purposes, without first  
19 obtaining written consent from the Miss Universe Organization or, during  
20 her reign as Miss California USA 2009, from K2.

21 (e) agreed to "keep punctually all appointments and appearances" that  
22 required her presence;

23 (f) agreed to "cooperate fully" with K2 and its officials. She agreed to  
24 "follow and obey all rules, instructions, directions and requirements" by K2.

25 In short, Miss Prejean agreed to hold herself to the highest standards of professionalism and  
26 honesty during her reign as Miss California USA.

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1           15.     In addition, Ms. Prejean acknowledged in the Agreement that if her reign as Miss  
2 California USA is terminated for any reason, she shall forfeit and return “any and all Prizes or  
3 other consideration already delivered” to her.  
4

5                   **CARRIE PREJEAN’S TURBULENT REIGN AS MISS CALIFORNIA USA 2009**

6           16.     On November 23, 2008, Carrie Prejean was awarded the Miss California USA  
7 2009 title.

8           17.     As discussed below, Ms. Prejean had a strained relationship with the Miss  
9 California USA organization from almost the get go. She did, however, take help from the Miss  
10 California USA organization when it suited her interests. In or around December 2008, Ms.  
11 Prejean had a meeting with the Miss California USA organization to discuss her preparations for  
12 the Miss USA 2009 pageant. During that meeting, Ms. Prejean disclosed that she had been  
13 thinking about and wanting to have breast augmentation surgery for some time, but did not have  
14 the money to pay for it. She felt that if she had the surgery, in her opinion, she would be more  
15 competitive for the Miss USA pageant. In January, 2009, Ms. Prejean and K2 Productions  
16 entered into an oral agreement whereby K2 Productions agreed to loan Ms. Prejean money  
17 (\$5,200) to pay for breast augmentation surgery so that she (in her opinion) would be more  
18 competitive at the Miss USA 2009 pageant. Ms. Prejean agreed that she would repay the loan,  
19 and proceeded to have her desired breast augmentation surgery. The idea for Ms. Prejean to  
20 have the breast augmentation surgery came from Ms. Prejean herself, not from K2 Productions  
21 or the Miss Universe Organization.

22           18.     From practically the moment the Miss California USA crown was placed on her  
23 head, Ms. Prejean created a strained relationship with the Miss California USA organization.  
24 Typically, the Miss California titleholder works closely and cooperatively with K2 and the Miss  
25 California USA Executive Directors to prepare for the Miss USA pageant; she would benefit  
26 from the wealth of experience and guidance supplied by the Miss California USA organization to  
27 maximize her chances of success on the national stage at Miss USA. Ms. Prejean made it clear  
28 that she had a different agenda in mind. She refused to follow instructions. She initiated

1 arguments and sowed discord over the most minor issues. At almost every opportunity, she  
2 made a point of creating conflict between herself and the Miss California USA Executive  
3 Directors. It got to a point where, despite everyone's best efforts to help her prepare for the Miss  
4 USA pageant, Ms. Prejean shockingly declared she would go it alone at the Miss USA pageant –  
5 without help, support or involvement from the Miss California USA organization. It is almost  
6 unprecedented for a contestant at Miss USA to rebuke her state pageant directors, and compete at  
7 the Miss USA pageant with her directors' guidance and support.

8 19. After Ms. Prejean informed K2 that she wanted to go it alone at the Miss USA  
9 pageant, on March 10, 2009, Keith Lewis sent Ms. Prejean an email to wrap up some logistics  
10 for her departure for the Miss USA pageant based upon her "decision to move forward alone  
11 from this point on." Given the strained relations and Ms. Prejean's uncooperativeness at that  
12 point, Mr. Lewis warned Ms. Prejean to:

13 "please remember that you are under contract to both K2 Productions and  
14 [the Miss Universe Organization.] Should a breach occur we will address  
15 it quickly and with consequence. Take a moment to familiarize yourself  
16 with your obligations because ignorance is not an acceptable excuse. I  
17 will make sure that [one of K2's staff] sends you a copy of both  
18 agreements provided they have not been sent directly to MUO."

19 It is rare to have to warn a beauty queen about her contractual obligations and the consequences  
20 of breaching them. This was indicative of the problems the Miss California USA organization  
21 was having with Ms. Prejean – well before she departed for the Miss USA pageant and the  
22 controversy surrounding her final interview answer.

### 23 **PREJEAN SKYROCKETS TO NOTORIETY AT THE MISS USA 2009 PAGEANT**

24 20. The 2009 Miss USA pageant was held in April in Las Vegas, Nevada,  
25 culminating with the finals telecast on April 19, 2009. Ms. Prejean was one of the five finalists.  
26 As has been widely reported in the news media, during the interview phase of the competition  
27 for the five finalists, Ms. Prejean gave what was considered by many to be a controversial  
28 answer opposing equal marriage rights to same-sex couples marriage and instead supporting only

1 "opposite marriage." Ms. Prejean was selected as 1<sup>st</sup> runner-up for the Miss USA title, and has  
2 improperly tried to claim (with much vigor to news media) that she lost the title because of her  
3 answer to the interview question.

4 21. As a result of the publicity that ensued, the National Organization for Marriage  
5 took notice of Ms. Prejean and enlisted her as a spokesperson for its *raison d'etre* – its war  
6 against granting equal marriage rights to same-sex couples. Ms. Prejean and NOM then  
7 presented Ms. Prejean as a champion for family values and speaking one's truth. Despite the  
8 absence of any need for an attorney, NOM provided Ms. Prejean with the services of its pro bono  
9 general counsel, Charles S. LiMandri, who insinuated himself into Ms. Prejean's affairs,  
10 including her contractual relationship with K2. Presumably at the insistence of NOM and Mr.  
11 LiMandri, Ms. Prejean engaged her own public relations firm (presumably paid for by NOM).

12 22. NOM immediately put Ms. Prejean to work for its war against same-sex marriage  
13 rights. On April 24, 2009, Brian S. Brown, NOM's Executive Director, made an announcement  
14 comparing Ms. Prejean to "Queen Esther" and stated:

15 Thank you, Carrie, for launching a youth counter-revolution on  
16 marriage!...We'll be working hard at NOM to help get Carrie's message  
17 out to the next generation -- and to put politicians and judges bent on  
18 redefining marriage. My goal this week is to find 20 people willing to  
19 make a monthly pledge to NOM. Can you reach down and sacrifice \$1 a  
20 day for marriage? That's a monthly pledge of \$30...Alone they can  
21 intimidate us; together we can stand for truth. Help us be your voice for  
22 our shared values: to defend truth, and decency, and civility and the  
23 liberty of all Americans, including Carrie Prejean, to stand for marriage  
24 in these troubled times.

25 23. K2 objected to Ms. Prejean and NOM's unauthorized use of Ms. Prejean's title  
26 and status as Miss California USA to promote NOM's political platform. Realizing that Ms.  
27 Prejean had no basis to use the Miss California USA title (let alone have Ms. Prejean make  
28 appearances or conduct interviews as Miss California USA) without authorization to promote a  
political cause, in response, Ms. Prejean's public relations agent stated in an April 29, 2009 e-  
mail: "The National Organization of Marriage will not present Carrie as their spokesperson or as  
endorsing their organization."

