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ORIGINAL FILED
LOS ANGELES SUPERIOR COURT

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APR 07 2010

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ROZLYN PAPA

Dept # 47
Judge Debra Katz Weinstock
BY DAWN ALEXANDER, DEPUTY

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

BC434601

11 ROZLYN PAPA,
12 Plaintiff,

Case No.:

COMPLAINT FOR:

13 vs.

14 TMZ PRODCIONS, INC., a California
15 corporation; TIME WARNER, INC., a
16 Delaware corporation; MANSEF.COM, a
17 business entity unknown, dba
18 PORNHUB.COM, PEEPERZ.COM,
19 KEEZMOVIES.COM, TUBE8.COM,
20 EXTREMETUBE.COM, JUGGCASH.COM
21 and BRAZZERS.COM, KEVIN BLATT, an
22 individual; and DOES 1 to 500, inclusive,

- (1) MISAPPROPRIATION OF IMAGE AND LIKENESS (Civ. Code § 3344);
- (2) INVASION OF COMMON RIGHT OF PRIVACY;
- (3) UNFAIR COMPETITION, UNFAIR BUSINESS PRACTICES, UNJUST ENRICHMENT (Bus. & Prof. Code § 17200, *et seq.*);
- (4) FALSE ADVERTISING (Bus. & Prof. Code § 17500, *et seq.*);
- (5) LIBEL (Civil Code § 45);
- (6) LIBEL PER SE (Civil Code § 45(a));
- (7) ACCOUNTING; and
- (8) INJUNCTIVE RELIEF

Defendants.

23 Plaintiff ROZLYN PAPA, an individual ("Plaintiff"), for causes of action against
24 Defendants TMZ PRODCIONS, INC., a California corporation ("TMZ"); TIME WARNER,
25 INC., a Delaware corporation ("TWT"); MANSEF.COM, a business entity unknown, dba
26 PORNHUB.COM, PEEPERZ.COM, KEEZMOVIES.COM, TUBE8.COM,
27 EXTREMETUBE.COM, JUGGCASH.COM and BRAZZERS.COM ("Mansef"); KEVIN
28 BLATT, an individual ("Blatt"); and DOES 1 to 500, inclusive (collectively, "Defendants"),

1 herein alleges as follows:
2

3 **Allegations Common to All Causes of Action**

4 1. Plaintiff ROZLYN PAPA ("Plaintiff") is an individual who resides and conducts
5 business in the County of Los Angeles, State of California. Plaintiff is a recognized, well-known
6 reality television star, already featured in several television series, most recently, the
7 internationally distributed reality show "The Bachelor."

8 2. A reality television star becomes well-known throughout the world, and her
9 public image is essential to her employability, economic advantage and marketability. Most
10 economically successful reality television stars strive to keep their image tasteful, though at
11 times, sexually enticing, and in line with acceptable public moral standards. Being a reality
12 television star often leads to other opportunities in the mainline entertainment or related
13 industries, or boosts an already existing career in said industries, solely on her status as a
14 recognized reality television star. Many reality television stars are chosen solely on their public
15 physical images and personalities. Therefore, Plaintiff's marketability, employability and
16 economic advantage is directly tied into her image as perceived by the general public. Since
17 departing from "The Bachelor," Plaintiff has been approached to appear in other reality
18 television shows, as well as other employment opportunities in the entertainment field. In
19 addition, Plaintiff is the single mother of a seven year old son.

20 3. Plaintiff is informed and believes, and based thereon alleges, that TMZ
21 PRODUCTIONS, INC., ("TMZ") is a corporation duly organized under the laws of the State of
22 California, with its principal place of business in the County of Los Angeles, State of California.
23 TMZ is a celebrity gossip and entertainment news website, controlled by Warner Bros., a
24 subsidiary of Defendant TIME WARNER, INC. ("TWI").

25 4. Plaintiff is informed and believes, and based thereon alleges, that TWI is a
26 corporation duly organized under the laws of the State of Delaware, and conducts business in the
27 County of Los Angeles, State of California. TWI is the parent company of Warner Bros., which
28 Plaintiff is informed and believes, controls and owns Defendant TMZ.

1 5. Plaintiff is informed and believes, and based thereon alleges, that
2 MANSEF.COM, is a business entity unknown, with its principal place of business in the County
3 of Los Angeles, State of California and is doing business under the fictitious names of
4 PORNHUB.COM, PEEPERZ.COM, KEEZMOVIES.COM, TUBE8.COM,
5 EXTREMETUBE.COM, JUGGCASH.COM and BRAZZERS.COM ("Mansef"). Mansef is a
6 web host and/or owner of multiple websites such as pornhub.com, peeperz.com,
7 keezmovies.com, tube8.com, extremetube.com, juggcash.com and brazzers.com, which feature
8 sexually explicit products and accessories, including, but not limited to videotapes.

9 6. Plaintiff is informed and believes, and based thereon alleges, that Defendant
10 KEVIN BLATT ("Blatt") is a writer, internet reporter and self-professed "sex-tape broker," who
11 reports, hosts or writes articles and blogs for, or makes statements on TMZ.

12 7. Plaintiff is ignorant of the true names and capacities of those defendants
13 fictitiously named herein as DOES 1 through 500, inclusive, whether individual, corporate or
14 otherwise, and therefore sues them by such fictitious names pursuant to Code of Civil Procedure
15 Section 474. However, if by way of Plaintiff's continuing investigation, or otherwise, Plaintiff is
16 able to ascertain the true names and capacities of the aforementioned fictitiously named
17 defendants, Plaintiff will seek leave of Court to amend the Complaint to reflect such defendants'
18 true names and capacities.

19 8. Plaintiff is informed and believes, and based thereon alleges, that each of the
20 fictitiously named defendants is responsible, as hereinafter shown, for the occurrences herein
21 alleged, and that Plaintiff's damages as herein alleged were proximately caused by their conduct.

22 9. Plaintiff is informed and believes, and based thereon alleges, that at all times
23 relevant to the acts complained of herein, Defendants were, are, the agents, servants, employees,
24 alter egos, representatives and co-conspirators of all the other defendants, and each of them.

25 Plaintiff is informed and believes, and based thereon alleges, that each of the acts of Defendants
26 complained of herein, was committed and done within the course and scope of the
27 aforementioned agency and employment, and at the advice, order, instruction, direction and
28 control of each of the other defendants, with the knowledge, consent and/or ratification of

1 Defendants, and each of them.

2 10. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
3 each of them, are intertwined both professionally and personally, so much so that it is almost
4 impossible to determine which Defendant is responsible for what act or omission.

5 11. Defendants, and each of them, have caused Plaintiff's name and likeness to be
6 linked with a sexually explicit videotape which is falsely advertising Plaintiff as the principal
7 female actress (the "Videotape"), when, in fact, Plaintiff is not in the Videotape.

8 12. The director and male star of the Videotape, Clifton Todd Britt, professionally
9 known as Lexington Steele ("Steele"), refuted such claims in a public press release, stating that
10 the Videotape came from a pornographic movie titled "Pole Position: Lex POV," that the film
11 was shot in 2004 and featured a young lady named Lucy B. (aka Lucy Ann, Lucy Anne, Lucy
12 Love) from the Czech Republic, not Plaintiff. Attached hereto as collective Exhibit "A" and
13 incorporated herein by this reference as though fully set forth are true and correct copies of
14 various printed pages from website, quoting Steele's pres release regarding the Videotape..

15 13. Despite this press release, Defendants, and each of them, continue to advertise
16 and state that Plaintiff is the principal female actress in the Videotape in order to promote and
17 sell, distribute or disseminate the Videotape for their own personal gain.

18 14. The conduct described herein were performed in the County of Los Angeles, State
19 of California and is therefore within the territorial jurisdiction of this Court.

20
21 **FIRST CAUSE OF ACTION**

22 **Unauthorized Use of Plaintiff's Name and Likeness**

23 **[California Civil Code Section 3344]**

24 **(Against All Defendants)**

25 15. Plaintiff re-alleges and by this reference incorporates each and every allegation
26 contained in paragraphs 1 through 14, inclusive, of this Complaint as if set forth in this cause of
27 action in full.

28 16. Blatt has publicly made statements on TMZ's website and posts that the actress in

1 the Videotape is Plaintiff, even after the director and principal male actor in the Videotape issued
2 a public statement and press release denying that Plaintiff is in the Videotape and correctly
3 identifying the principal female actress therein.

4 17. Mansef offers the Videotape for sale prominently featuring the false statement
5 that it "stars Plaintiff."

6 18. As stated above, the use of Plaintiff's name and likeness in connection with the
7 Videotape is false and misleading, since Plaintiff does not appear in the Videotape, as alleged by
8 Defendants, and each of them, in public statements, advertisements and other printed or
9 electronic media. Their unauthorized use of Plaintiff's name and likeness in the sale,
10 dissemination and distribution of the Videotape is in violation of Civil Code Section 3344.

11 19. Plaintiff has never consented to Defendants', and each of their, use of her name
12 and likeness for any purpose whatsoever, nor did Plaintiff ever sign a release allowing such use,
13 for any purpose whatsoever.

14 20. Defendants at no time contacted Plaintiff to request her consent to use Plaintiff's
15 name and likeness, nor have Defendants ever paid Plaintiff for the use of her name and likeness.

16 21. In committing the acts and omissions described above, Defendants, and each of
17 them, knowingly used, and continue to use, Plaintiff's name and likeness, in any manner, for the
18 purposes of promoting, marketing, advertising or selling, or soliciting purchases of the
19 Videotape, or related products derived therefrom, without Plaintiff's prior consent.

20 22. Defendants have therefore appropriated, and continue to appropriate, Plaintiff's
21 name and likeness, for commercial purposes, without the prior and specific consent of Plaintiff.

22 23. Defendants further misappropriated the commercial value of Plaintiff of her right
23 to publicity, her property rights and legal rights, and otherwise caused Plaintiff injury.

24 24. As a direct and proximate result of Defendants' unauthorized use of Plaintiff's
25 image and likeness, as forth in above, Defendants received, and continues to receive, revenues
26 and realized profits.

27 25. As a direct and proximate result of the misappropriation of the image and likeness
28 Plaintiff, as forth above, Plaintiff has suffered impairment of her reputation, mental anguish and

1 lost revenues, and other damages in an amount to be determined according to proof adduced at
2 trial, but presently believed to be in the minimum amount of One Million Dollars
3 (\$1,000,000.00), and more, together with interest thereon at the legal rate.

4 26. In doing the acts and omissions hereinabove alleged, Defendants, and each of
5 them, acted intentionally, willfully, maliciously, fraudulently and with conscious disregard for
6 the rights of Plaintiff. As a result of said oppressive, fraudulent and malicious acts and
7 omissions of the Defendants, Plaintiff is entitled to exemplary damages in an amount to be
8 determined according to proof adduced at trial.

9 27. Plaintiff has been required to engage the services of the Law Offices of Roderick
10 J. Lindblom to prosecute this action, and has agreed to pay said attorneys their reasonable fees
11 incurred in connection therewith. By reason of Defendants' conduct, Plaintiff has incurred
12 attorneys' fees and costs, and will continue to incur such fees and costs. Pursuant to California
13 Civil Code Section 3344(a), the prevailing party in any action under that Section shall be entitled
14 to attorneys' fees and costs. Should the Court determine that Plaintiff is the prevailing party in
15 this action, Plaintiff is entitled to such reasonable attorneys' fees and costs, in an amount
16 according to proof adduced at trial.

17
18 **SECOND CAUSE OF ACTION**

19 **Invasion of Common Law Right of Privacy**

20 **(Civil Code Section 3344)**

21 **Against All Defendants)**

22 28. Plaintiff re-alleges and by this reference incorporates each and every allegation
23 contained in paragraphs 1 through 14, inclusive, and 16 through 23, inclusive, of this Complaint
24 as if set forth in this cause of action in full.

25 29. The misappropriation and unauthorized use of Plaintiff's name and likeness by
26 Defendants, and each of them, as described above, constitutes a misappropriation of Plaintiff's
27 right of publicity arising out of Plaintiff's common law right of privacy. Such use of Plaintiff's
28 name or likeness, is being done without the consent of Plaintiff, and is, in fact, a false public

1 statement, and is, therefore, a tortious invasion of her right to privacy, in violation of Civil Code
2 Section 3344.

3 30. The misappropriation and unauthorized use of Plaintiff's name and likeness by
4 Defendants, and each of them, as described above, constitutes an invasion of Plaintiff's right of
5 privacy in that it placed, and continues to place, Plaintiff in a false light in the public eye by
6 falsely portraying Plaintiff as the principal female actress in the Videotape.

7 31. The foregoing representations were false and were then, and at all times relevant
8 herein, known by Defendants, and each of them, to be false, when in truth and in fact,
9 Defendants did not intend to do all things necessary to not to put Plaintiff in a false light in the
10 public eye by falsely portraying Plaintiff as the principal female actress in the sexually explicit
11 Videotape, including, but not limited to, committing the acts and omissions alleged in this
12 Complaint.

13 32. As a direct and proximate result of Defendants' placing Plaintiff in a false light
14 which is morally repugnant to certain members of the public, in the public eye, Plaintiff has
15 suffered, and continues to suffer, impairment of professional reputation and standing and
16 economic viability, and has caused her mental anguish, all to Plaintiff's damage.

17 33. Plaintiff has suffered damages in an amount to be determined according to proof
18 adduced at trial, but presently believed to be in excess of One Million Dollars (\$1,000,000.00),
19 together with pre-judgment interest thereon at the legal rate.

20 34. In making the representations and omissions and doing the acts and omissions
21 hereinabove alleged, Defendants, and each of them, acted intentionally, willfully, maliciously,
22 fraudulently and with conscious disregard for the rights of Plaintiff. As a result of said
23 oppressive, fraudulent and malicious acts of the Defendants, and each of them, Plaintiff is
24 entitled to exemplary damages in an amount to be determined according to proof adduced at trial.

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THIRD CAUSE OF ACTION

Unfair Competition, Unfair Business Practices, Unjust Enrichment

(Business and Professions Code Section 17200, et seq.)

(Against All Defendants)

5 35. Plaintiff re-alleges and by this reference incorporates each and every allegation
6 contained in paragraphs 1 through 14, inclusive, 16 through 23, inclusive, and 29 through 31,
7 inclusive, of this Complaint as if set forth in this cause of action in full.

8 36. Defendants, and each of them, misappropriated and used Plaintiff's name and
9 likeness for the purposes of marketing and promoting the sale, distribution and dissemination of
10 the Videotape, as well as enhancing the sales of the Videotape to the public.

11 37. By virtue of the manner in which Defendants, and each of them, improperly
12 exploited and falsely advertised the name, image, likeness and persona of Plaintiff, they have
13 committed unlawful, unfair, and deceptive acts, unfair competition and unfair business practices
14 in violation of California Business & Professions Code §§17200 - 17204.

15 38. As a result of the acts and omissions described above, including, but not limited
16 to, unauthorized use of Plaintiff's likenesses for commercial purposes, Defendants, and each of
17 them, have been unjustly enriched and are liable for damages through the sale, distribution and
18 advertisement of products derived from the Videotape or the Videotape itself. Such damages
19 include, but are not limited to, any profits from the unauthorized use of Plaintiff's name and
20 likeness for commercial purposes.

21 39. Had Plaintiff known that her name and likeness were to be used for the
22 commercial gain of Defendants, and each of them, Plaintiff would have been expected to be paid
23 for such use. Plaintiff did not know of the use nor was she paid anything for that use. Moreover,
24 such use was for deliberately false and misleading purposes, since it fraudulently advertises or
25 claims that Plaintiff appear in the Videotape, when, in fact, she doesn't.

26 40. As a direct and proximate result of the conduct of Defendants, and each of them,
27 Plaintiff is entitled to restitution of the reasonable value of the benefit derived by Defendants,
28 and each of them, for the unauthorized and fraudulent use they made of Plaintiff's name and

1 likeness, including, but not limited to, a disgorgement of any and all profits realized through
2 these deceptive practices. The value of said benefit is an amount to be determined according to
3 proof adduced at trial, but Plaintiff alleges that the same are within the jurisdiction of this Court.

4
5 **FOURTH CAUSE OF ACTION**

6 **False Advertising, Unjust Enrichment**

7 **(Business and Professions Code Section 17200, et seq.)**

8 **(Against All Defendants)**

9 41. Plaintiff re-alleges and by this reference incorporates each and every allegation
10 contained in paragraphs 1 through 14, inclusive, 16 through 23, inclusive, 29 through 31,
11 inclusive, and 36 through 39, inclusive, of this Complaint as if set forth in this cause of action in
12 full.

13 42. Defendants, and each of them, falsely advertise that Plaintiff appears in the
14 Videotape for the purposes of marketing and promoting the sale, distribution and dissemination
15 of the Videotape, as well as enhancing the sales of the Videotape to the public.

16 43. By virtue of the manner in which Defendants, and each of them, falsely advertised
17 the name, image, likeness and persona of Plaintiff, they have committed unlawful, unfair, and
18 deceptive acts, confusing, untrue, and/or misleading advertising, unfair competition and unfair
19 business practices in violation of California Business & Professions Code §§17500 and 17535.

20 44. As a result of the acts and omissions described above, including, but not limited
21 to, misleading and deceptive practices upon the public for their own personal benefit and gain,
22 Defendants, and each of them, have been unjustly enriched and are liable for damages through
23 the sale, distribution and false advertisement of products derived from the Videotape or the
24 Videotape itself. Such damages include, but are not limited to, any profits from falsely
25 advertising that Plaintiff appears in the Videotape for commercial purposes.

26 45. Had Plaintiff known that her name and likeness were to be used for the
27 commercial gain of Defendants, and each of them, Plaintiff would have been expected to be paid
28 for such use. Plaintiff did not know of the use nor was she paid anything for that use. Moreover,

1 such use was for deliberately false and misleading purposes, since it fraudulently advertises or
2 claims that Plaintiff appear in the Videotape, when, in fact, she doesn't.

3 46. As a direct and proximate result of the conduct of Defendants, and each of them,
4 Plaintiff is entitled to restitution of the reasonable value of the benefit derived by Defendants,
5 and each of them, for the unauthorized and fraudulent use they made of Plaintiff's name and
6 likeness, including, but not limited to, a disgorgement of any and all profits realized through
7 these deceptive practices. The value of said benefit is an amount to be determined according to
8 proof adduced at trial, but Plaintiff alleges that the same are within the jurisdiction of this Court.

9
10 **FIFTH CAUSE OF ACTION**

11 **Libel**

12 **(Civil Code Section 45)**

13 **(Against All Defendants)**

14 47. Plaintiff re-alleges and by this reference incorporates each and every allegation
15 contained in paragraphs 1 through 14, inclusive, 16 through 23, inclusive, 29 through 31,
16 inclusive, 36 through 39, inclusive, and 42 through 45, inclusive, of this Complaint as if set forth
17 in this cause of action in full.

18 48. Defendants, and each of them, state in various media advertisements and/or
19 articles appearing on their respective websites that Plaintiff appears in or is the "star" of the
20 Videotape for the purposes of marketing and promoting the sale, distribution and dissemination
21 of the Videotape, as well as enhancing the sales of the Videotape to the public.

22 49. Defendants, and each of them, know, and at all times relevant herein knew, that
23 such statement is false, and that Plaintiff does not appear in the Videotape, which is sexually
24 explicit and considered offensive and distasteful to a large portion of the general public. In fact,
25 the male star and director of the Videotape, Steele, has publicly stated that it came from a
26 pornographic movie titled "Pole Position: Lex POV," that the film was shot in 2004 and featured
27 a young lady named Lucy B. (aka Lucy Ann, Lucy Anne, Lucy Love) from the Czech Republic,
28 not Plaintiff. Even after such public statement, Defendants, and each of them, fail and refuse,

1 and continue to fail and refuse, to remove the false statements from their advertising and other
2 media reference, including, but not limited to, their websites.

3 50. Civil Code Section 45 defines libel as follows:

4 "Libel is a false and unprivileged publication by writing, printing, picture, effigy,
5 or other fixed representation to the eye, which exposes any person to hatred,
6 contempt, ridicule, or obloquy, or which causes him to be shunned or avoided, or
7 which has a tendency to injure him in his occupation."

8 51. Plaintiff is informed and believes, and based thereon alleges, that, in violation of
9 statutory and common law, Defendants published false and unprivileged statements about
10 Plaintiff regarding her participation in the sexually explicit Videotape, as more fully set forth
11 above, as well as other defamatory statements about Plaintiff which will be established according
12 to proof.

13 52. As a direct and proximate result of the acts and omissions described above, such
14 false statements have caused damage and injury, and continue to cause damage and injury, to
15 Plaintiff's professional and public reputation and marketability, has cast Plaintiff in a negative
16 light which is morally repugnant and offensive to a large portion of the general public, and
17 caused mental anguish to Plaintiff, all to Plaintiff's damage.

18 53. Plaintiff has suffered damages in an amount to be determined according to proof
19 adduced at trial, but presently believed to be in excess of One Million Dollars (\$1,000,000.00),
20 together with pre-judgment interest thereon at the legal rate.

21 54. In making the false representations and omissions and doing the acts and
22 omissions hereinabove alleged, Defendants, and each of them, acted intentionally, willfully,
23 maliciously, fraudulently and with conscious disregard for the rights of Plaintiff. As a result of
24 said oppressive, fraudulent and malicious acts of the Defendants, and each of them, Plaintiff is
25 entitled to exemplary damages in an amount to be determined according to proof adduced at trial.

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1 **SIXTH CAUSE OF ACTION**

2 **Libel Per Se**

3 **(Civil Code Section 45(a))**

4 **(Against All Defendants)**

5 55. Plaintiff re-alleges and by this reference incorporates each and every allegation
6 contained in paragraphs 1 through 14, inclusive, 16 through 23, inclusive, 29 through 31,
7 inclusive, 36 through 39, inclusive, 42 through 45, inclusive, and 48 through 51, inclusive, of this
8 Complaint as if set forth in this cause of action in full.

9 56. Defendants, and each of them, state in various media advertisements and/or
10 articles appearing on their respective websites that Plaintiff appears in or is the "star" of the
11 Videotape for the purposes of marketing and promoting the sale, distribution and dissemination
12 of the Videotape, as well as enhancing the sales of the Videotape to the public.

13 57. Defendants, and each of them, know, and at all times relevant herein knew, that
14 such statement is false, and that Plaintiff does not appear in the Videotape, which is sexually
15 explicit and considered offensive and distasteful to a large portion of the general public. In fact,
16 the male star and director of the Videotape, Steele, has publicly stated that it came from a
17 pornographic movie titled "Pole Position: Lex POV," that the film was shot in 2004 and featured
18 a young lady named Lucy B. (aka Lucy Ann, Lucy Anne, Lucy Love) from the Czech Republic,
19 not Plaintiff. Even after such public statement, Defendants, and each of them, fail and refuse,
20 and continue to fail and refuse, to remove the false statements from their advertising and other
21 media reference, including, but not limited to, their websites.

22 58. Civil Code §45(a) provides:

23 "A libel which is defamatory of the plaintiff without the necessity of explanatory
24 matter, such as an inducement, innuendo or other extrinsic fact, is said to be a
25 libel on its face."

26 59. Plaintiff is informed and believes, and based thereon alleges, that, in violation of
27 statutory and common law, Defendants, and each of them, published false and unprivileged
28 statements about Plaintiff in articles, advertisements and on their websites regarding her

1 participation in the sexually explicit Videotape, as more fully set forth above, as well as other
2 defamatory statements about Plaintiff which will be established according to proof.

3 60. As a direct and proximate result of the acts and omissions described above, such
4 false statements have caused damage and injury, and continue to cause damage and injury, to
5 Plaintiff's professional and public reputation and marketability, has cast Plaintiff in a negative
6 light which is morally repugnant and offensive to a large portion of the general public, and
7 caused mental anguish to Plaintiff, all to Plaintiff's damage.

8 61. Plaintiff has suffered damages in an amount to be determined according to proof
9 adduced at trial, but presently believed to be in excess of One Million Dollars (\$1,000,000.00),
10 together with pre-judgment interest thereon at the legal rate.

11 62. In making the false representations and omissions and doing the acts and
12 omissions hereinabove alleged, Defendants, and each of them, acted intentionally, willfully,
13 maliciously, fraudulently and with conscious disregard for the rights of Plaintiff. As a result of
14 said oppressive, fraudulent and malicious acts of the Defendants, and each of them, Plaintiff is
15 entitled to exemplary damages in an amount to be determined according to proof adduced at trial.

16
17 **SEVENTH CAUSE OF ACTION**

18 **Accounting**

19 **(Against All Defendants)**

20 63. Plaintiff re-alleges and by this reference incorporates each and every allegation
21 contained in paragraphs 1 through 14, inclusive, 16 through 23, inclusive, 29 through 31,
22 inclusive, and 36 through 39, inclusive, 42 through 45, inclusive, 48 through 51, inclusive, and
23 56 through 59, inclusive, of this Complaint as if set forth in this cause of action in full.

24 64. The exact nature and extent of the unjust enrichment and liability for damages of
25 Defendants, and each of them, from any product derived from the Videotape or the Videotape
26 itself by the unauthorized and libelous use of Plaintiff's name and likeness are unknown to
27 Plaintiff and cannot be determined without an accounting of the transactions made by
28 Defendants, and each of them, involving any product derived from the Videotape or the

1 Videotape itself utilizing Plaintiff's name and likeness. The amount of damages due from
2 Defendants, and each of them, to Plaintiff is unknown to Plaintiff and cannot be ascertained
3 without an accounting of the projects involving any product derived from the Videotape or the
4 Videotape itself. Plaintiff is informed and believes, and based thereon alleges, that the amount
5 owed, however, exceeds two hundred fifty thousand dollars (\$250,000.00).

6 65. On or about March 15, 2010, Plaintiff demanded that Defendants, and each of
7 them, cease and desist all sale, reproduction, transmission, issuance, distribution, advertising,
8 merchandising, display and/or any and all disseminations of any kind, in any media, print,
9 electronic or otherwise, whether now or contemplated in the future, of any product derived from
10 the Videotape or the Videotape itself utilizing Plaintiff's name and likeness and demanded an
11 accounting of any and all projects regarding same, but, Defendants, and each of them, have
12 refused, and continue to fail and refuse to cease and desist and render the accounting to Plaintiff.

13
14 **EIGHTH CAUSE OF ACTION**

15 **Injunctive Relief**

16 **(Against All Defendants)**

17 66. Plaintiff re-alleges and by this reference incorporates each and every allegation
18 contained in paragraphs 1 through 14, inclusive, 16 through 23, inclusive, 29 through 31,
19 inclusive, and 36 through 39, inclusive, and 42 through 45, inclusive, 48 through 51, inclusive,
20 56 through 59, inclusive, 64 and 65 of this Complaint as if set forth in this cause of action in full.

21 67. The Videotape is a sexually explicit videotape that uses Plaintiff's name and
22 likeness without authorization and fraudulently claims that Plaintiff is the "star," when Plaintiff,
23 in fact, does not appear in said Videotape. Steele, the Director and principal male actor of the
24 Videotape has already issued a press release stating same. The widespread public sale and
25 distribution of the Videotape, as advertised and described above, and any and all merchandise
26 produced therefrom, constitutes appropriation of an individual's likeness for commercial
27 purposes. Such use of Plaintiff's name, voice, photograph or likeness, is being done without the
28 consent of Plaintiff, and is, in fact, a false public statement, and is, therefore, a tortious invasion

1 of her right to privacy.

2 68. Pursuant to California Code of Civil Procedure Section 526(a)(1)), a temporary
3 restraining order, and subsequently, a preliminary and/or permanent injunction may be granted
4 when it appears that the commission or continuance of some act during the litigation would
5 produce great or irreparable injury to a party in the action. In this instant action, Plaintiff's
6 reputation and her public image, as defined in C.C.P. §526(a)(2), may be irreparably injured, and
7 cannot be monetarily compensated. In selling the Videotape utilizing Plaintiff's name and
8 likeness, which contains sexually explicit and "x-rated" material and much of which may be
9 viewed by the general public to be distasteful for a public figure, Defendants, and each of them,
10 threaten irreparable harm to Plaintiff's reputation.

11 69. Moreover, the commission and continuance of the above-described acts by
12 Defendants, and each of them, have violated the common rights of Plaintiff, and with respect to
13 her rights concerning her name and likeness, pursuant to C.C.P. §526(a)(3); and since pecuniary
14 compensation would not afford adequate relief from the above-described acts of Defendants, and
15 each of them, C.C.P. §526(a)(4)) provides that injunctive relief is proper.

16 70. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
17 each of them, wrongfully and unlawfully, for their own benefits or purposes, falsely advertised
18 and continue to falsely advertise that Plaintiff is a participant in the Videotape in order to
19 promote and market the Videotape.

20 71. On or about March 15, 2010, upon discovery of the unauthorized use of Plaintiff's
21 image and likeness as described above, counsel for Plaintiff contacted Defendants, and each of
22 them, and demanded that they cease and desist such conduct, and acknowledge Plaintiff's rights.
23 To date, they have failed and refused, and continue to fail and refuse to cease and desist the
24 aforementioned conduct.

25 72. Defendants' wrongful conduct, unless and until enjoined by order of this Court,
26 will cause great and irreparable injury to Plaintiff. There will be irreparable harm to Plaintiff's
27 professional and personal reputation; severe emotional trauma and distress that she has already
28 suffered and will continue to suffer; and there is other harm she may suffer with the loss of

1 control of her public reputation and likeness.

2 73. The avowed purpose of an interim injunction is to preserve the status quo pending
3 a trial on the merits. Moreover, there a reasonable probability that Plaintiff will succeed on the
4 merits of the case, especially in light of the public fact that it falsely advertises that Plaintiff is in
5 the Videotape; and Plaintiff is likely to suffer greater injury from a denial than Defendants, and
6 each of them, is likely to suffer if the injunction is granted, the injunction must be granted.

7 74. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff's
8 reputation and economic advantages have been damaged in an amount unknown at this time, but
9 estimated to be approximately One Million Dollars (\$1,000,000.00). Plaintiff will further be
10 damaged in like manner so long as Defendants' conduct continues. The full amount of these
11 damages are not now known to Plaintiff, but Plaintiff will amend this Complaint to state these
12 amounts when the same becomes known to them or on proof of the damages.

13 75. Plaintiff is entitled to: (1) the entry of a temporary restraining order and
14 preliminary injunction, prohibiting Defendants, and each of them, from utilizing Plaintiff's name
15 and likeness; and (2) the immediate seizure and impound of all materials under Defendants', and
16 each of their, control, which advertises or relates Plaintiff's name and likeness to the Videotape
17 for the pendency of this Action. Furthermore, Plaintiff requests expedited discovery to support
18 these orders.

19
20 PRAYER

21 WHEREFORE, Plaintiff ROZLYN PAPA prays for judgment against Defendants TMZ
22 PRODCCTIONS, INC.; TIME WARNER, INC.; MANSEF.COM; KEVIN BLATT; and DOES 1
23 to 500, inclusive, as follows:

24
25 **As to the First Cause of Action**

- 26 1. For compensatory damages in the amount of \$1,000,000.00, or more, according to
27 proof;
28 2. For consequential damages according to proof, with prejudgment interest at the

1 legal rate;

2 3. For exemplary damages according to proof, with prejudgment interest at the legal
3 rate;

4 4. For statutory damages, as provided by Civil Code Section 3344;

5 5. For attorneys' fees and costs as authorized by Civil Code Section 3344;

6

7 **As to the Second Cause of Action**

8 6. For compensatory damages in the amount of \$1,000,000.00, or more, according to
9 proof;

10 7. For consequential damages according to proof, with prejudgment interest at the
11 legal rate;

12 8. For exemplary damages according to proof, with prejudgment interest at the legal
13 rate;

14

15 **As to the Third Cause of Action**

16 9. For compensatory damages in the amount of \$1,000,000.00, or more, according to
17 proof adduced at trial;

18 10. For consequential damages according to proof, with prejudgment interest at the
19 legal rate;

20

21 **As to the Fourth Cause of Action**

22 9. For compensatory damages in the amount of \$1,000,000.00, or more, according to
23 proof adduced at trial;

24 10. For consequential damages according to proof, with prejudgment interest at the
25 legal rate;

26

27 **As to the Fifth Cause of Action**

28 6. For compensatory damages in the amount of \$1,000,000.00, or more, according to

1 proof;

2 7. For consequential damages according to proof, with prejudgment interest at the
3 legal rate;

4 8. For exemplary damages according to proof, with prejudgment interest at the legal
5 rate;

6

7

As to the Sixth Cause of Action

8 6. For compensatory damages in the amount of \$1,000,000.00, or more, according to
9 proof;

10 7. For consequential damages according to proof, with prejudgment interest at the
11 legal rate;

12 8. For exemplary damages according to proof, with prejudgment interest at the legal
13 rate;

14

15

As to the Seventh Cause of Action

16 11. For an accounting of the projects involving any product derived from the
17 Videotape or the Videotape itself;

18 12. For disgorgement of any and all profits ascertained from the promotion,
19 marketing, sale, distribution or dissemination of Videotape which utilizes Plaintiff's name and
20 likeness, with prejudgment interest at the legal rate;

21

22

As to the Eighth Cause of Action

23 16. For an order requiring Defendants, and each of them, to show cause, if any they
24 have, why they should not be enjoined as set forth in this Complaint, during the pendency of this
25 action;

26 17. For a temporary restraining order, a preliminary injunction, and a permanent
27 injunction, all enjoining Defendants, and each of them, and their agents, servants and employees,
28 and all persons acting under, in concert with, or for them, as set forth in this Complaint;

