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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

MAR 25 2011

John A. Clarke / Executive Officer / Clerk

By Amber Lafleur-Clayton Deputy
AMBER LAFLEUR-CLAYTON

DA Rex Heeseaman

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

BC458138

BRET MICHAELS, an individual,

Case No. _____

Plaintiff,

COMPLAINT FOR:

v.

- (1) NEGLIGENCE;
- (2) NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE;
- (3) CIVIL BATTERY;
- (4) NEGLIGENT MISREPRESENTATION

TONY AWARDS PRODUCTIONS, a business of unknown origin, WHITE CHERRY ENTERTAINMENT, INC., a New York Corporation, RICHARD KIRSHNER, an individual, GLEN WEISS, an individual, ALAN WASSER ASSOCIATES LLC, New York limited liability company, ALAN WASSER, an individual, ALLAN WILLIAMS, an individual, CBS ENTERTAINMENT, a division of CBS BROADCASTING, INC, a New York corporation and DOES 1-100 inclusive,

DEMAND FOR JURY TRIAL

Defendants.

CIT/CASE: BC458138 LEA/DEF#: _____
 RECEIPT #: CCH503057043
 DATE PAID: 03/25/11 10:27:45 AM
 PAYMENT: \$395.00 0310
 RECEIVED:
 CHECK: 395.00
 CASH:
 CHANGE:
 CARD:

ORIGINAL

03/25/11

1 Plaintiff Bret Michaels ("Michaels") alleges as follows:

2 **INTRODUCTION**

3 1. Bret Michaels is an internationally renowned musician and entertainer. After
4 more than 20 years in the music business, Michaels – both as a solo act and as the lead
5 singer of the band *Poison* – has sold over 25 million records and scored 15 Top 40 singles.
6 Michaels also recently starred in *Rock of Love with Bret Michaels*, which became the
7 highest rated series in the history of cable television network VH1, and won the *Celebrity*
8 *Apprentice*. Eternally thankful for the success he has enjoyed, Michaels devotes a
9 substantial portion of his fame and fortune to philanthropic endeavors, working tirelessly for
10 charities such as St. Jude's Children's Hospital and the Juvenile Diabetes Research
11 Foundation. Moreover, Michaels is a survivor. Not only has he survived two decades in the
12 music business, but has also endured diabetes since childhood and a near fatal car crash in
13 1994. The father of two young children, Michaels is still at the top of his game and his
14 career continues to enjoy new heights.

15 2. In or about the summer of 2009, Michaels was approached by the Tony
16 Awards and asked to perform during the show. Despite a rigorous professional schedule
17 that kept him touring across the nation, Michaels agreed to take a brief respite from the road
18 and do the Tony's. A consummate professional who is familiar with complicated and
19 intricate stage productions, Michaels arrived at the venue for the awards early seeking to
20 rehearse and familiarize himself with the stage and surroundings. Michaels specifically
21 asked the producers of the show whether or not they had any particular "blocking"
22 instructions for him – directions about where he should stand or not stand during any
23 portion of his performance. They responded by telling him that there were no special
24 instructions and that when his performance was over, he should simply exit from the stage
25 rear.

26 3. Michaels then proceeded to rock the Tony's. At the conclusion of his
27 performance of the *Poison* hit *Nothin' But a Good Time*, Michaels was struck in the head by

1 a piece of scenery. The enormous set piece was being quickly lowered for a subsequent
2 performance when it smacked Michaels in the face – throwing him to the ground and
3 ultimately sending him to the hospital for X-Rays and stitches with a cut lip and broken
4 nose. Michaels was never told that the scenery piece would be descending or given any
5 warning of the existence of the dangers it presented. Quite the opposite, Michaels
6 specifically asked for instructions regarding how to exit after his performance and was just
7 told to walk off the rear of the stage – in what was ultimately the danger zone.

8 4. Video of the incident immediately spread across the internet like wildfire and
9 the episode quickly became fodder for tabloids and late night talk show hosts, even
10 becoming one of the 10 most viewed clips on YouTube (notching an estimated 27 million
11 hits on the site). Despite the fact that they had seriously injured Michaels, spokesmen for
12 the Tony's had the audacity to publicly blame the singer – claiming that he “missed his
13 mark.” Further, despite the fact that they could have prevented the footage of Michaels
14 being slammed to the ground by the giant set piece from airing, via the standard seven
15 second broadcast delay employed with live performances, the Defendants took no such
16 measures – presumably because the incident would lead to greater publicity and ratings for
17 the show. Accordingly, they literally added insult to injury.

18 5. As a result of the injuries he sustained during the Tony Awards, *inter alia*,
19 Michaels was forced to cancel multiple concert dates that had already been booked. Then,
20 months later, which is not uncommon when dealing with head traumas, Michaels suffered a
21 near fatal subarachnoid hemorrhage. Subarachnoid hemorrhage is bleeding in the area
22 between the brain and the thin tissues that cover the brain. This area is called the
23 subarachnoid space. One of the most common causes of this type of hemorrhage is head
24 trauma – exactly like the one Michaels suffered at the hands of the Tony Awards.
25 Approximately one-quarter of patients suffering from this sort of injury die within the first
26 week, with half not living past six months. The pain associated with this injury is almost
27 unimaginable – Michaels has been quoted in the press as it feeling like he was being
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1 whacked in the head by a baseball bat over and over again.

2 6. Through his sheer will to live, to see his children grow up, Michaels was able
3 to survive this trauma. Although he put a brave face on for the public, the fact is that the
4 injury left Michaels clinging for his life and in excruciating agony. It was only through
5 months of hard work and dedication – that continue to this day – that Michaels has been
6 able to resume some semblance of his life and career.

7 7. Michaels and his representatives have made repeated efforts to take the high
8 road and come to some reasonable accommodation with these Defendants that does what is
9 fair. Defendants, however, have failed and refused to do anything other than delay,
10 obfuscate and make excuses. Through this action, Michaels just wants what he has always
11 asked for, what is fair.

12 **PARTIES**

13 8. Michaels is a resident of Los Angeles County who also maintains his principal
14 place of business here as well.

15 9. Michaels is informed and believes and based thereon alleges that Defendant
16 Tony Awards Production is a business of unknown origin that conducts business in Los
17 Angeles, California.

18 10. Michaels is informed and believes and based thereon alleges that Defendant
19 White Cherry Entertainment is a corporation organized under the laws of the State of New
20 York with its principal place of business located at [REDACTED]
21 [REDACTED] that conducts business in Los Angeles, California.

22 11. Michaels is informed and believes and based thereon alleges that Defendant
23 Alan Wasser Associates LLC is a limited liability company organized under the laws of the
24 State of New York with its principal place of business located at [REDACTED]
25 [REDACTED] that conducts business in Los Angeles, California.

26 12. Michaels is informed and believes and based thereon alleges that Defendant
27 Richard Kirshner is, and at all times mentioned herein was, doing business in the County of

1 Los Angeles, State of California.

2 13. Michaels is informed and believes and based thereon alleges that Defendant
3 Glen Weiss is, and at all times mentioned herein was, doing business in the County of Los
4 Angeles, State of California.

5 14. Michaels is informed and believes and based thereon alleges that Defendant
6 Alan Wasser is, and at all times mentioned herein was, an individual residing and doing
7 business in the County of Los Angeles, State of California.

8 15. Michaels is informed and believes and based thereon alleges that Defendant
9 Allan Williams is, and at all times mentioned herein was, an individual residing and doing
10 business in the County of Los Angeles, State of California.

11 16. Michaels is informed and believes and based thereon alleges that Defendant
12 CBS Entertainment is a division of CBS Broadcasting, Inc., a New York corporation, with
13 its principal place of business located at [REDACTED] Los Angeles, California
14 [REDACTED]

15 17. Michaels is unaware of the names and true capacities of defendants, whether
16 individual, corporate and/or partnership entities, named herein as DOES 1 through 10,
17 inclusive and therefore sues them by their fictitious names. Michaels will seek leave to
18 amend this complaint when the true names and capacities of DOES 1 through 10, inclusive,
19 are ascertained. Michaels is informed and believes, and based thereon alleges that the
20 above-listed defendants and DOES 1 through 10, inclusive, are in some manner responsible
21 for the wrongs alleged herein, and that at all times referenced each was the agent and
22 servant of the other defendants and was acting within the course and scope of said agency
23 and employment.

24 18. Michaels is informed and believes, and based thereon alleges, that at all
25 relevant times herein, each of the defendants, including DOES 1 through 10, inclusive
26 (collectively "Defendants") directed, knew or reasonably should have known of the acts and
27 behavior alleged herein and the damages caused thereby, and by their actions and/or
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1 inaction directed, ratified and encouraged such acts and behavior. Michaels further alleges
2 that Defendants had a non-delegable duty to prevent such acts and the behavior described
3 herein, which duty Defendants failed and/or refused to perform.

4 **JURISDICTION AND VENUE**

5 19. Jurisdiction is proper in this Court as the amount in controversy exceeds
6 \$25,000.00.

7 20. Venue is proper in this Court because Michaels is a resident of Los Angeles
8 County, as is at least one of the Defendants.

9 **FIRST CAUSE OF ACTION**

10 **NEGLIGENCE**

11 **Against All Defendants**

12 21. Michaels incorporates by reference each of the allegations contained in
13 paragraphs 1 through 20, inclusive, in this claim for relief.

14 22. Defendants owed a duty to exercise the use of ordinary care to prevent injury
15 to others, including Michaels.

16 23. Defendants breached their duty to Michaels by failing to act in a manner
17 consistent with the standard of care exercised by the average reasonable person.

18 24. Defendants' negligent acts or omissions were a substantial factor in bringing
19 about Michaels' injury.

20 25. As a direct and legal result of said conduct, Michaels has suffered substantial
21 injury causing damages in an amount according to proof at trial, but in no event less than the
22 jurisdictional minimums of this Court.

23 **SECOND CAUSE OF ACTION**

24 **NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC**

25 **ADVANTAGE**

26 **Against All Defendants**

27 26. Michaels incorporates by reference each of the allegations contained in
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1 paragraphs 1 through 25, inclusive, in this claim for relief.

2 27. Michaels had concert tour dates booked for dates immediately following the
3 Tony Awards in 2009. He also had multiple other dates and professional engagements in
4 the months and year following the 2009 Tony Awards.

5 28. Defendants owed a duty of care to the Michaels based on the existence of a
6 special relationship between the parties.

7 29. Defendants wrongfully interfered with the relationship between Michaels and
8 promoters for the concert tour dates at issue.

9 30. As an actual and foreseeable result of Defendants' negligent interference,
10 Michaels has suffered damages in an amount to be proven at the time of trial, but in no
11 event less than the jurisdictional minimums of this Court.

12 **THIRD CAUSE OF ACTION**

13 **CIVIL BATTERY**

14 **Against All Defendants**

15 31. Michaels incorporates by reference each of the allegations contained in
16 paragraphs 1 through 30, inclusive, in this claim for relief.

17 32. Defendants intended to lower the enormous scenery piece onto the stage at the
18 conclusion of Michaels' performance during the Tony awards. This piece ultimately struck
19 Michaels in the head in a harmful and offensive manner.

20 33. This contact, which resulted in Michaels being thrown to the ground with a
21 broken nose and bloody lip was harmful and offensive to a reasonable person. The contact
22 ultimately led to Michaels suffering from a subarachnoid hemorrhage.

23 34. Michaels did not consent to the contact with the set piece.

24 35. As an actual and foreseeable result of Defendants' civil battery, Michaels has
25 sustained damages in an amount to be proven at the time of trial, but in no event less than
26 the jurisdictional minimums of this Court.

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FOURTH CAUSE OF ACTION
NEGLIGENT MISREPRESENTATION

Against All Defendants

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4 36. Michaels incorporates by reference each of the allegations contained in
5 paragraphs 1 through 35, inclusive, in this claim for relief.

6 37. Defendants, and each of them, affirmatively misrepresented to Michaels that
7 when his performance was completed, that he should simply exit to the rear of the stage and
8 that there were no special warnings or blocking instructions of which he must take heed.

9 38. These representations by Defendants, and by each of them, to Michaels were
10 of material facts, essential to the actions undertaken by Michaels and such that Michaels
11 would not have acted as he did without such representations.

12 39. Defendants, and each of them, made these unwarranted and untrue negligent
13 misrepresentations to Michaels without any reasonable ground for believing them to be true.

14 40. Defendants, and each of them, intended to induce Michaels to act in reliance
15 on these negligent misrepresentations and to alter his position based on their negligent
16 misrepresentations.

17 41. Michaels actually relied on the negligent misrepresentations made by
18 Defendants, and by each of them, to his detriment. Moreover, Michaels' reliance on
19 Defendants' negligent misrepresentations was justifiable, reasonable and foreseeable.

20 42. As an actual and foreseeable result of Defendants' negligent
21 misrepresentation, Michaels has suffered damages in an amount to be proven at the time of
22 trial, but in no event less than the jurisdictional minimums of this Court.

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PRAYER FOR RELIEF

WHEREFORE, Michaels requests the following judgment against Defendant:

1. For an order of compensatory, special, consequential and incidental damages caused by the conduct of Defendants, and each of them, in an amount to be proven at trial but in no event less than the jurisdictional minimums of this Court;
2. For an order of exemplary and punitive damages according to proof;
3. For interest, reasonable attorneys fees and costs of suit.
4. Such other and further relief as the Court deems just and proper.

Dated: March 25, 2011

SPILLANE WEINGARTEN LLP
Alex M. Weingarten
Jeffrey K. Logan

By: 
Alex M. Weingarten
Attorneys for Plaintiff
BRET MICHAELS



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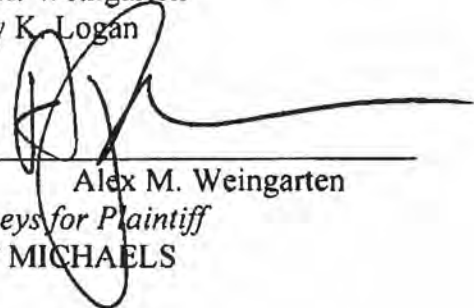
DEMAND FOR JURY TRIAL

Plaintiff BRET MICHAELS demands a trial by jury.

Dated: March 25, 2011

SPILLANE WEINGARTEN LLP
Alex M. Weingarten
Jeffrey K. Logan

By: _____



Alex M. Weingarten

Attorneys for Plaintiff

BRET MICHAELS



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