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CLERK OF DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES, CALIFORNIA

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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 WESTERN DIVISION

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12
13 Keith E. Pettle and Lee H. Pettle,

14 Plaintiffs,

15 v.

16 Sony Pictures Entertainment, Inc., Sony
17 Pictures Home Entertainment, Inc., Showtime
18 Networks, Inc., All Channel Films, Inc., and
19 Does 1 Through 50, Inclusive,

20 Defendants.

CASE NO. CV08-07580 GHK (RZx)

COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF FOR:

- 1) DIRECT COPYRIGHT INFRINGEMENT
- 2) CONTRIBUTORY COPYRIGHT INFRINGEMENT
- 3) INDUCEMENT OF COPYRIGHT INFRINGEMENT
- 4) VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE §17200

[DEMAND FOR JURY TRIAL]

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25 Plaintiffs Keith E. Pettle, and Lee H. Pettle (collectively, "Plaintiffs" or "the Pettles"), for
26 their Complaint against Defendants Sony Pictures Entertainment, Inc., Sony Pictures Home
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1 Entertainment, Inc., Showtime Networks, Inc., All Channel Films, Inc., and Does 1 Through 50,
2 inclusive (collectively, "Defendants") as those claims form part of the same case or controversy.
3 Plaintiffs allege as follows:

4 **JURISDICTION AND VENUE**

5 1. This is a civil action seeking damages and injunctive relief for copyright
6 infringement under the Copyright Act, 17 U.S.C. §§ 101 *et seq.* This court has subject matter
7 jurisdiction over these federal questions pursuant to 17 U.S.C. §501 and 28 U.S.C. §§ 1331 and
8 1338(a). This court also has supplemental jurisdiction over Plaintiffs' claims arising under
9 California Business and Professions Code §§ 17200 *et seq.* pursuant to 28 U.S.C. § 1367, as
10 those claims form part of the same case or controversy. By this action Plaintiffs seek damages
11 caused by Defendants' copyright infringement; an injunction to stop further infringement;
12 statutory damages; restitution; as well as prejudgment interest and attorneys' fees.

13 2. This Court has personal jurisdiction over defendants because Defendant Sony
14 Pictures Entertainment, Inc.'s principle place of business is in this jurisdiction. Defendant Sony
15 Pictures Home Entertainment, Inc.'s principle place of business is in this jurisdiction.
16 Defendant All Channel Films' principle place of business is in this jurisdiction; and, many of the
17 actions that gave rise to the injury occurred in this jurisdictional area.

18 3. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c).
19

20 **NATURE OF THE CASE**

21 4. This action arises out of the infringement by Defendants of the copyrights held by
22 Plaintiffs for the motion picture entitled "Bottoms Up" ("the Copyrighted Motion Picture").

23 5. Through a series of transactions Freddy Braidy ("Braidy"), one of the producers
24 of the motion picture "Bottoms Up," transferred and assigned all rights, including the copyright
25 to the motion picture to Defendants. Subsequent to this transfer, Braidy continued to execute
26 various contracts and agreements transferring various rights, including copyrights to the motion
27 picture which he no longer possessed and was not lawfully authorized to transfer.
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1 6. Braidy made false and fraudulent statements to the Defendants as to his
2 ownership of the copyright on the motion picture entitled "Bottoms Up," inducing them to
3 execute various licensing and distribution agreements and subsequently violate Plaintiffs'
4 copyright.

5 7. Based on the various licensing and distribution agreements executed with Braidy,
6 Defendants subsequently sold and distributed the motion picture entitled "Bottoms Up" in the
7 form of digital video discs (DVDs) in the United States; licensed the further distribution of the
8 motion picture entitled "Bottoms Up" in DVD format in several foreign nations; and exhibited
9 the motion picture entitled "Bottoms Up" on the Showtime cable television network, as well as
10 other cable television channels owned by Defendants, violating Plaintiffs' copyright.

THE PARTIES

11
12 8. Plaintiffs Keith E. Pettle and Lee H. Pettle are and have been at all times relevant
13 to this action individuals residing in the State of Texas.

14 9. Defendant Sony Pictures Entertainment, Inc., is, and has been at all times relevant
15 to this action, a corporation organized under the laws of the State of Delaware, with its principal
16 place of business in Culver City, California.

17 10. Defendant Sony Pictures Home Entertainment, Inc., is, and has been at all times
18 relevant to this action, a corporation organized under the laws of the State of Delaware, with its
19 principal place of business in Culver City, California.

20 11. Defendant Showtime Networks, Inc., is, and has been at all times relevant to this
21 action, a corporation organized under the laws of the state of Delaware, with its principal place
22 of business in New York, New York.

23 12. Defendant All Channel Films, Inc., is, and has been at all times relevant to this
24 action, a corporation organized under the laws of the State of California, with its principal place
25 of business in Los Angeles, California.

26 13. Plaintiffs do not know the true names and capacities of those defendants sued as
27 Does 1 through 50, and therefore sue those defendants by such fictitious names. Plaintiffs will
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1 seek leave to amend this Complaint to allege those defendants' true names and capacities when
2 they are ascertained. Upon information and belief, each of the fictitiously-named defendants
3 acted as an agent, employee, servant, principal, partner, shareholder, or co-conspirator or are
4 otherwise responsible for the acts and omissions alleged in this Complaint.

5 14. Upon information and belief, defendants, and each of them in committing the acts
6 and omissions alleged in this Complaint, acted as agents and servants of the other defendants;
7 acted within the scope of their authority as such agents and servants of the other defendants; and
8 approved and ratified the acts and omissions of the other defendants.

9
10 **FACTS PERTINENT TO ALL CLAIMS FOR RELIEF**

11 15. Defendants each serve a role in the motion picture business. Defendant All
12 Channel Films, Inc. ("All Channel") is a distributor for the domestic television rights to various
13 motion pictures. Defendant Showtime Networks, Inc. ("Showtime") exhibits motion pictures on
14 its various cable television channels. Defendants Sony Pictures Home Entertainment, Inc. and
15 Defendant Sony Pictures Entertainment, Inc. (collectively "Sony") are domestic distributors for
16 motion pictures in theatrical and digital video disc (DVD) format which are subsequently sold to
17 the general public and others.

18 16. Each of the defendants in their role in the motion picture business has infringed
19 Plaintiffs' copyrights in the motion picture entitled "Bottoms Up." On December 10, 2005, the
20 Plaintiffs received all rights to the motion picture entitled "Bottoms Up" through a quitclaim
21 signed by Freddy Braidy ("Braidy") and Francesco Juilland ("Juilland"), the original owners of
22 Cameo FJ Entertainment, Inc. ("Cameo") and other entities owned by Braidy and Juilland,
23 individually or collectively. On May 8, 2006, Braidy and Juilland assigned all of their interest in
24 Cameo FJ Entertainment, Inc., the 99.99% owner of Bottom Up Productions, LLC ("BUP"), the
25 former rights holder to the motion picture "Bottoms Up" to Plaintiffs. They also assigned to
26 Plaintiffs all individual owners rights, titles and interests in motion picture projects, including the
27 motion picture "Bottoms Up."
28

1 17. Notwithstanding the fact that Braidy no longer directly or indirectly owned the
2 copyright or any other legal or equitable rights to "Bottoms Up" and was no longer authorized to
3 act as an agent of BUP, Braidy, ostensibly on behalf of BUP, continued to seek out and make
4 commercial agreements for the distribution and exhibition of the motion picture "Bottoms Up,"
5 executing various contracts and other agreements purporting to transfer rights to this motions
6 picture, including copyright, which were not his to transfer or assign. By doing so, Braidy
7 contributed to and induced the infringement of Plaintiffs copyrights by the Defendants.

8 18. Starting in September 2006, Sony began to distribute DVDs of "Bottoms Up"
9 throughout the United States. In doing so, Sony infringed Plaintiffs copyrights by reproducing
10 "Bottoms Up" in DVD copies and distributing those copies to stores throughout the United
11 States. Sony also executed various licensing agreements with various distributors outside the
12 United States for the foreign distribution of DVD copies in nations including, but not limited to
13 the United Kingdom, Australia, Finland, Japan, Iceland and elsewhere. In doing so, Sony
14 infringed Plaintiffs copyrights by authorizing the reproduction and distribution of "Bottoms Up"
15 outside the United States.

16 19. On or about October 3, 2007, Braidy signed a document entitled "Representative
17 Agreement" with Defendant All Channel, by which All Channel would be the domestic
18 television distributor for the motion picture "Bottoms Up."

19 20. On or about September 25, 2007, Defendant All Channel executed a licensing
20 agreement with Defendant Showtime granting non-exclusive pay television rights to Defendant
21 Showtime, authorizing Showtime to exhibit the motion picture "Bottoms Up" on the various
22 cable television channels operated by Showtime and its affiliates. By doing so, All Channel
23 contributed to and induced Showtime to infringe Plaintiffs' copyrights. Beginning in August
24 2008 and continuing through October 2008 Showtime began airing "Bottoms Up" in heavy
25 rotation on its various cable television channels. In doing so, Showtime infringed Plaintiffs'
26 copyrights by publicly exhibiting the motion picture "Bottoms Up" without a valid license to do
27 so.

1 21. None of the Defendants have or have had a valid licensing agreement for the
2 copyright to the motion picture "Bottoms Up."

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4 **FIRST CLAIM FOR RELIEF**

5 **DIRECT COPYRIGHT INFRINGEMENT**

6 **[Against Defendants Sony Pictures Entertainment, Inc., Sony Pictures Home**
7 **Entertainment, Inc., Showtime Networks, Inc., and Does 1 through 50]**

8 22. Plaintiffs reallege and incorporate by reference each and every allegation
9 contained in paragraphs 1 through 21 above.

10 23. Through their conduct alleged herein, Defendants have infringed Plaintiffs
11 copyrights in the Copyrighted Motion Picture by reproducing and distributing the copyrighted
12 material in digital video disc (DVD) format, and by publicly exhibiting the copyrighted material
13 on various cable television channels without authorization in violation of sections 106, and 501
14 of the Copyright Act. 17 U.S.C. §§ 106, and 501.

15 24. Each infringement by Defendants in and to the Copyrighted Motion Picture
16 constitutes a separate and distinct act of infringement.

17 25. Defendants' acts were willful, in disregard of and with indifference to the rights
18 of Plaintiffs.

19 26. As a direct and proximate result of the infringements by Defendants, Plaintiffs are
20 entitled to damages and Defendants' profits in amounts to be proven at trial, which are not
21 currently ascertainable. If necessary, Plaintiffs will seek leave to amend this complaint to state
22 the full amount of such damages and profits when such amounts have been ascertained.

23 27. Alternatively, Plaintiffs are entitled to the maximum statutory damages in the
24 amount of \$150,000 with respect to each work infringed, or for such other amounts as may be
25 proper under 17 U.S.C. § 504(c).

26 28. Further, Plaintiffs are entitled to their attorneys' fees and full costs pursuant to 17
27 U.S.C. § 505.

1 29. As a direct and proximate result of the foregoing acts and conduct, Plaintiffs have
2 sustained and will continue to sustain substantial, immediate, and irreparable injury, for which
3 there is no adequate remedy at law. Plaintiffs are informed and believe and on that basis aver
4 that unless enjoined and restrained by this Court, Defendants will continue to infringe Plaintiffs’
5 rights in the Copyrighted Motion Picture. Plaintiffs are entitled to preliminary and permanent
6 injunctive relief.

7 **SECOND CLAIM FOR RELIEF**

8 **CONTRIBUTORY COPYRIGHT INFRINGEMENT**

9 **[Against Defendants All Channel Films, Inc., and Does 1-50]**

10 30. Plaintiffs reallege and incorporate by reference each and every allegation
11 contained in paragraphs 1 through 29 above.

12 31. Through their conduct alleged herein, Defendants knowingly have and continue to
13 contribute to, intentionally induce, and/or cause unauthorized reproductions, distributions, and/or
14 public performances of the Copyrighted Motion Picture and thus materially contributed to,
15 intentionally induce, and/or cause the infringement of Plaintiffs’ copyrights and exclusive rights
16 in the Copyrighted Motion Picture.

17 32. Each infringement by Defendants in and to the Copyrighted Motion Picture
18 constitutes a separate and distinct act of infringement.

19 33. Defendants acts were willful, in disregard of and with indifference to the rights of
20 Plaintiffs.

21 34. As a direct and proximate result of the infringements by Defendants, Plaintiffs are
22 entitled to damages and Defendants’ profits in amounts to be proven at trial, which are not
23 currently ascertainable. If necessary, Plaintiffs will seek leave to amend this complaint to state
24 the full amount of such damages and profits when such amounts have been ascertained.

25 35. Alternatively, Plaintiffs are entitled to the maximum statutory damages in the
26 amount of \$150,000 with respect to each work infringed, or for such other amounts as may be
27 proper under 17 U.S.C. § 504(c).
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1 36. Further, Plaintiffs are entitled to their attorneys' fees and full costs pursuant to 17
2 U.S.C. § 505.

3 37. As a direct and proximate result of the foregoing acts and conduct, Plaintiffs have
4 sustained and will continue to sustain substantial, immediate, and irreparable injury, for which
5 there is no adequate remedy at law. Plaintiffs are informed and believe and on that basis aver
6 that unless enjoined and restrained by this Court, Defendants will continue to infringe Plaintiffs'
7 rights in the Copyrighted Motion Picture. Plaintiffs are entitled to preliminary and permanent
8 injunctive relief.

9 **THIRD CLAIM FOR RELIEF**

10 **INDUCEMENT OF COPYRIGHT INFRINGEMENT**

11 **[Against Defendants All Channel Films, Inc., and Does 1-50]**

12 Plaintiffs reallege and incorporate by reference each and every allegation contained in
13 paragraphs 1 through 37 above.

14 38. Through their conduct alleged herein, Defendants have infringed Plaintiffs'
15 copyrights in the Copyrighted Motion Picture by inducing others to reproduce, distribute, and/or
16 publicly perform the Copyrighted Motion Picture without authorization in violation of sections
17 106 and 501 of the Copyright Act. 17 U.S.C. §§ 106 and 501.

18 39. Each infringement by Defendants in and to the Copyrighted Motion Picture
19 constitutes a separate and distinct act of infringement.

20 40. Defendants acts were willful, in disregard of and with indifference to the rights of
21 Plaintiffs.

22 41. As a direct and proximate result of the infringements by Defendants, Plaintiffs are
23 entitled to damages and Defendants' profits in amounts to be proven at trial, which are not
24 currently ascertainable. If necessary, Plaintiffs will seek leave to amend this complaint to state
25 the full amount of such damages and profits when such amounts have been ascertained.

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1 42. Alternatively, Plaintiffs are entitled to the maximum statutory damages in the
2 amount of \$150,000 with respect to each work infringed, or for such other amounts as may be
3 proper under 17 U.S.C. § 504(c).

4 43. Further, Plaintiffs are entitled to their attorneys' fees and full costs pursuant to 17
5 U.S.C. § 505.

6 44. As a direct and proximate result of the foregoing acts and conduct, Plaintiffs have
7 sustained and will continue to sustain substantial, immediate, and irreparable injury, for which
8 there is no adequate remedy at law. Plaintiffs are informed and believe and on that basis aver
9 that unless enjoined and restrained by this Court, Defendants will continue to infringe Plaintiffs'
10 rights in the Copyrighted Motion Picture. Plaintiffs are entitled to preliminary and permanent
11 injunctive relief.

12 **FOURTH CLAIM FOR RELIEF**

13 **VIOLATIONS OF CALIFORNIA BUSINESS AND PROFESSIONS CODE**

14 **SECTION 17200**

15 **[Against Defendants Sony Pictures Entertainment, Inc., Sony Pictures Home**
16 **Entertainment, Inc., Showtime Networks, Inc., All Channel Films, Inc., and Does 1-50]**

17 45. Plaintiffs reallege and incorporate by reference each and every allegation
18 contained in paragraphs 1 through 44 above.

19 46. By infringing on the Copyrighted Motion Picture, as well as by inducing,
20 contributing, and causing the infringement of the Copyrighted Motion Picture, Defendants have
21 engaged in and continue to engage in unlawful, unfair, and/or fraudulent conduct in violation of
22 California Business and Professions Code, Section 17200.

23 47. As a direct and proximate result of Defendants' unlawful, unfair, and/or deceptive
24 acts and practices, Plaintiffs have been deprived of money to which they would have otherwise
25 been entitled. Plaintiffs are entitled to restitution of such sums, in an amount to be proven at trial
26 which is not currently ascertainable. If necessary, Plaintiffs will seek leave to amend this
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1 complaint to state the full amount of such damages and profits when such amounts have been
2 ascertained.

3 48. As a direct and proximate result of the foregoing acts and conduct, Plaintiffs have
4 sustained and will continue to sustain substantial, immediate, and irreparable injury, for which
5 there is no adequate remedy at law. Plaintiffs are informed and believe and on that basis aver
6 that unless enjoined and restrained by this Court, Defendants will continue to engage in conduct
7 violative of California Business and Professions Code, Section 17200. Plaintiffs are entitled to
8 preliminary and permanent injunctive relief.

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10 **PRAYER FOR RELIEF**

11 WHEREFORE Plaintiffs pray for judgment against Defendants and each of them as follows:

12 1. For Plaintiffs' damages and Defendants' profits in such amount as may be found;
13 in the alternative, for maximum statutory damages in the amount of \$150,000 with respect to
14 each copyrighted work infringed either directly or indirectly, and with respect to each act of
15 inducing another to infringe the Copyrighted Motion Picture, or for such other amounts as may
16 be proper pursuant to 17 U.S.C. § 504(c).

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18 2. For a preliminary and permanent injunction enjoining Defendants and each of
19 them, and their respective agents, servants, employees, officers, successors, licensees, and
20 assigns, and all persons acting in concert or participation with each or any of them from:

21 (i) directly or indirectly reproducing, distributing or authorizing the
22 distribution in digital video disc (DVD) format or any other manner any of Plaintiffs copyrights
23 (whether now in existence or hereafter created);

24 (ii) publicly exhibiting on cable television or any other media, or otherwise
25 infringing in any manner any of Plaintiffs copyrights (whether now in existence or hereafter
26 created); and
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1 (iii) causing, contributing to, inducing, enabling, facilitating, or participating in
2 the infringement of any of Plaintiffs copyrights.

- 3 3. For restitution.
4
5 4. For interest to the full extent provided by law.
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7 5. For reasonable attorneys' fees and costs incurred herein; and
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9 6. For such other and further relief as the Court may deem just and proper.

10 DATED: November 17, 2008

11 LAW OFFICES OF ABRAHAM R. WAGNER

12
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14 By: _____

Abraham R. Wagner

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16 Attorneys for Plaintiffs
17 Keith E. Pettle and Lee H. Pettle
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DEMAND FOR JURY TRIAL

In accordance with Fed. R. Civ. P. 38(b), Plaintiffs Keith E. Pettle and Lee H. Pettle demand a trial by jury on all issues triable by a jury.

DATED: November 17, 2008

LAW OFFICES OF ABRAHAM R. WAGNER

By: 

Abraham R. Wagner

Attorneys for Plaintiffs
Keith E. Pettle and Lee H. Pettle

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