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 10 UNITED STATES DISTRICT COURT
 11 CENTRAL DISTRICT OF CALIFORNIA

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 13 PETER KREDENSER

14
 15 PLAINTIFF,

16 VS.

17 POMEGRANATE PRESS, LTD; THE
 18 PERSEUS BOOKS, LLC dba
 19 PERSEUS BOOKS GROUP;
 20 AMAZON.COM, INC.; and DOES 1-
 50.

21 DEFENDANTS.
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Case No. 2:14-cv-03621

**COMPLAINT FOR BREACH OF
 CONTRACT AND COPYRIGHT
 INFRINGEMENT**

DEMAND FOR JURY TRIAL

**Complaint For Breach of Contract and Copyright Infringement;
 Demand for Jury Trial**

1 Plaintiff, PETER KREDENSER (“Plaintiff”), alleges against Defendants
2 POMEGRANATE PRESS, LTD; PERSEUS BOOKS, LLC dba PERSEUS
3 BOOKS GROUP; AMAZON.COM, INC.; and DOES 1-50 (“Defendants”) as
4 follows:

5 **I.**

6 **THE PARTIES**

7 1. Plaintiff is a world-acclaimed and sought-after editorial/advertising
8 photographer who is well known in the entertainment industry. Many of
9 Plaintiff’s images, including those at issue in this action, are of iconic actors
10 and/or television shows and/or movies that Plaintiff licenses to magazines,
11 advertising agencies and other media outlets. Plaintiff’s images have regularly
12 appeared in magazines and other media outlets, promotional materials, including
13 but not limited to such U.S. publications as Time, People, Esquire, Vogue, Elle,
14 In Style, Entertainment Weekly, Architectural Digest and TV Guide, as, well as,
15 most major Europeans publications, such as Paris Match, London Sunday
16 Times, Hello & Hola!, Bravo, and Italian Panorama. In addition, Plaintiff’s
17 images have been used in numerous advertising and publicity campaigns, such
18 as, CBS’s Dr. Quinn, Medicine Woman and ABC Television’s Moonlighting,
19 publicity campaign for Clint Eastwood’s movie Unforgiven, numerous motion
20 pictures, campaigns for Pepsi, Mitsubishi, Suntory Whiskey, Rodeo Drive,
21 International Fashion Brand Esprit and Ralph Lauren. Additionally, his fashion
22 photographs were featured at several art exhibitions, including but not limited to
23 the Los Angeles Museum of Fine Art (LACMA)’s groundbreaking “LA Flash”
24 exhibition both in 1973 and 2008, at the Oakland Museum of California’s
25 exhibition entitled “Iconic to Ironic: Fashioning California Identity,” and at the
26 Whitney Museum of American Art. Plaintiff’s photographs are copyrighted
27 images to which he owns all rights and title.

1 2. Plaintiff is informed and believes that Defendant POMEGRANATE
2 PRESS, LTD (“Pomegranate”) is a limited corporation with its principal place of
3 business located in Los Angeles County at 1606 Benedict Canyon Drive,
4 Beverly Hills, California 90210.

5 3. Plaintiff is informed and believes that Pomegranate is a publishing
6 company that specializes, in part, in non-fiction books on all aspects of the
7 entertainment industry.

8 4. Plaintiff is informed and believes that, at all relevant times, Defendant
9 Pomegranate owned, operated, and controlled the website www.pompress.com.

10 5. Plaintiff is informed and believes that Defendant PERSEUS BOOKS, LLC
11 dba PERSEUS BOOKS GROUP (“Perseus”) is a limited liability corporation
12 with its principal place of business in New York, New York and offices
13 throughout the United States, including California.

14 6. Plaintiff is informed and believes that Defendant Perseus directly publishes
15 and distributes books and also provides sales, marketing, and distribution services
16 to independent publishers.

17 7. Plaintiff is informed and believes that Defendant AMAZON.COM, INC. is
18 a corporation with its principal place of business in Seattle, Washington.

19 8. Plaintiff is informed and believes that Defendant AMAZON.COM, INC. is
20 an on-line retailer.

21 9. Plaintiff is informed and believes that Defendants AMAZON.COM, INC.
22 owns, operates, and controls the website www.amazon.com and associated sub
23 URLs.

24 10. Plaintiff does not presently know the true names and capacities of the
25 defendants named as Does 1 through 50 and therefore sues such defendants by
26 these fictitious names. Plaintiff believes that the Doe Defendants are persons or
27 entities who are involved in the acts set forth below, either as independent
28

**Complaint For Breach of Contract and Copyright Infringement;
Demand for Jury Trial**

1 contractors, agents, or employees of the known defendants, or through entering
2 into a conspiracy and agreement with the known Defendants to perform these
3 acts, for financial gain and profit, in violation of Plaintiff's rights. Plaintiff is
4 informed and believes that Does 1 through 50 include but are not limited to
5 sellers/retailers not yet identified who have unlawfully uploaded or downloaded,
6 reproduced, published, displayed, and/or distributed the copyrighted images at
7 issue on the World Wide Web either through www.amazon.com,
8 www.itunes.com, and/or other third party websites. Plaintiff will request leave
9 of Court to amend this Complaint to set forth their true names, identities and
10 capacities when Plaintiff ascertains them. The Doe defendants and the known
11 Defendants are referred to hereinafter collectively as "Defendants."

12 11. Plaintiff is informed and believes that Defendants have been or are the
13 principals, officers, directors, agents, employees, representatives, and/or co-
14 conspirators of each of the other Defendants, and in such capacity or capacities
15 participated in the acts or conduct alleged herein and incurred liability therefore.
16 Plaintiff is informed and believes that at some unknown time, the Defendants or
17 some of them entered into a conspiracy with other of the Defendants to commit
18 the wrongful acts described herein; the actions described below were taken in
19 furtherance of such conspiracy; and Defendants aided and abetted each other in
20 the wrongful acts alleged herein. Plaintiff is informed and believes that each of
21 the Defendants acted for personal gain or in furtherance of their own financial
22 advantage in doing the acts alleged below.

23
24 **II.**

25 **JURISDICTION AND VENUE**

26 12. Plaintiff incorporates by references paragraphs 1-11 above as if fully set
27 forth herein.

28 **Complaint For Breach of Contract and Copyright Infringement;
Demand for Jury Trial**

1 13. This action is for copyright infringement arising under the provision of the
2 Copyright Act of the United States, as amended, 17 U.S.C § 101 *et seq.* and 17
3 U.S.C § 501 *et seq.*, and for breach of contract under California Code of Civil
4 Procedure section 337.

5 14. Subject Matter Jurisdiction. This Court has jurisdiction over the subject
6 matter of the copyright infringement action under 28 U.S.C. § 1331 and §
7 1338(a), and has supplemental jurisdiction over the breach of contract claim
8 under 28 U.S. Code § 1367, as the State law claim is so related to the copyright
9 infringement claims that all form part of the same case or controversy.

10 15. Venue. Venue is proper in this district under 28 U.S.C § 1391(b) and (c)
11 and 28 U.S.C. § 1400.

12 16. Personal Jurisdiction. Plaintiff is informed and believes that personal
13 jurisdiction is proper over the Defendants because for years and continuing to the
14 date of this Complaint Defendants operate commercial businesses through which
15 Defendants knowingly, systematically, and continuously transact business and
16 enter into contracts on an ongoing basis with and provide services to individuals
17 or companies in California, including within this judicial district; and Defendants
18 have engaged in intentional acts that willfully infringed or assisted in the
19 infringement of Plaintiff's copyrights within California.

20 17. As to Defendant Pomegranate, Plaintiff is informed and believes that
21 personal jurisdiction is also proper because its principal place of business is
22 located in Los Angeles, California and Defendant Pomegranate signed a contract
23 with Plaintiff whereby it agreed to jurisdiction within Los Angeles, California.

24 18. As for Defendants Amazon, Pomegranate Press, and Perseus, Plaintiff is
25 further informed and believes that Defendants committed intentional acts directed
26 at California or California residents, including but not limited to:

27 a. Defendants with actual and/or constructive knowledge caused or
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**Complaint For Breach of Contract and Copyright Infringement;
Demand for Jury Trial**

1 contributed to copyrighted images belonging to Plaintiff, a
2 California resident, of a well-known California television show
3 “Charlie’s Angels” and featuring three famous California actors –
4 Kate Jackson, Farrah Fawcett, and Jaclyn Smith – to be posted on
5 the World Wide Web;

6 b. Have continuously and deliberately exploited the California market;

7 c. Caused, assisted, and knowingly contributed to infringing images
8 being distributed and displayed to and copied by persons in Los
9 Angeles County and California;

10 d. The California viewer base and/or clients are an integral component
11 of Defendants’ business model and profitability;

12 e. Defendants enter into substantial and ongoing contracts with
13 advertising and marketing companies some of which are located
14 within the State of California (such as, Google, Inc.) with the
15 knowledge and purpose that such advertisements and marketing for
16 their services be directed to, received by, and target persons within
17 the State of California;

18 f. Defendants maintain and operate highly interactive websites on a
19 “.com” based site designed to solicit, market, and serve customers
20 within California and the United States through which Defendants
21 enter into substantial and significant ongoing transactions for
22 services with California customers, and through which a great
23 volume of California customers consistently and actively order,
24 change, monitor, and maintain services;

25 g. Solicit, market, obtain, and enter into substantial and continuing
26 partner or reseller contracts with persons and/or entities located
27 within California who in turn also market, partner, and resell
28

**Complaint For Breach of Contract and Copyright Infringement;
Demand for Jury Trial**

1 services to those within the United States;

2 h. As to Defendant Perseus, it knowingly solicited, marketing,
3 obtaining, and/or entered into a business relationship with Defendant
4 Pomegranate, a California corporation, for the marketing, sale and
5 distribution of a book about a well-known California television show
6 “Charlie’s Angels,” featuring three famous California actors– Kate
7 Jackson, Farrah Fawcett, and Jaclyn Smith;

8 i. Knowingly and with constructive knowledge communicate in
9 writing, email, and/or telephonically with customers, partners, or
10 resellers, located within California and within this judicial district to
11 market materials, provide technical assistance and solicit additional
12 services and opportunities;

13 j. Knowingly and/or with constructive knowledge store images and
14 data uploaded to its servers by California customers and managed by
15 California customers, and transmit or deliver such images and data
16 to its customers or customers’ customers (final users or viewers)
17 located within California and then volitionally engage in conduct
18 such as renewing such agreements, maintenance, and other conduct
19 they know or foresee will result in the continuing of such conduct
20 directed to and having effect in California;

21 k. Caused harm that Defendants knew was likely to be suffered in
22 California in that Defendants knowingly published, distributed,
23 publicly displayed and continued to publish, distribute, and publicly
24 display Plaintiff’s copyrighted photographs of a popular California
25 based television show and actors, even after receiving notice of the
26 copyright claim by Plaintiff with a Los Angeles, California address;

27 l. As to Defendant Amazon, enter into payment processing agreements
28

**Complaint For Breach of Contract and Copyright Infringement;
Demand for Jury Trial**

1 with California-based companies such as Visa and PayPal and
 2 communicate with and receive payment from California residents
 3 through such California entities.

4 19. Defendants own property within the State of California, which includes but
 5 is not limited to Internet Protocol (IP) addresses and website domains that
 6 are located within the State of California and within this judicial district,
 7 and without which Defendant would not be able to successfully operate. In
 8 the event that the Court finds any insufficient basis to exercise in personam
 9 jurisdiction, the Plaintiff will request the Court exercise quasi in rem
 10 jurisdiction over the Defendants based on the property owned within this
 11 judicial district.

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 13 **III.**

14 **FACTUAL ALLEGATIONS**

15 20. Plaintiff incorporates by reference paragraphs 1-19 above as if fully set
 16 forth herein.

17 21. Plaintiff created the photographs at issue in this case (hereinafter the
 18 “Photographs”), which are duly registered as follows with the United States
 19 Copyright Office:

Name and/or Description	Copyright Registration
21 “Charlie’s Angels” (Front). Hereinafter 22 this Photograph when referred to 23 independently shall be referred to as 24 Charlie’s Angels I.	VA 1-030-761
25 “Charlie’s Angels” (Back). Hereinafter 26 this Photograph when referred to 27 independently shall be referred to as	VA 1-030-761

1	Charlie's Angels II.	
2	"Cheryl Ladd (images 1-98)"	VA 1-803-421
3	Hereinafter this Photograph when	
4	referred to independently shall be	
5	referred to as "Cheryl Ladd."	

6 True and correct copies of the certificates of registration for the
7 Photographs are attached as Exhibits 1 and 2.

8 22. Plaintiff is informed and believes that the Photographs were registered
9 prior to the infringements alleged herein occurring.

10 23. The Photographs are original works to which Plaintiff, as the sole
11 copyright owner, holds the exclusive rights to reproduce, publicly distribute, and
12 publicly display, pursuant to 17 U.S.C § 106 and 501.

13 24. On or about September 15, 1999, at Defendant Pomegranate's request,
14 Plaintiff provided copies of the Photographs to Pomegranate for consideration in
15 Pomegranates "Charlie's Angels Case Book." Plaintiff specifically informed
16 Defendant Pomegranate in writing that he was only providing the Photographs
17 for viewing and consideration by Pomegranate for the casebook and that
18 permission for use, including "comp" use, was not granted and would require a
19 separate agreement/invoice. The notice provided with the Photographs
20 specifically stated:

21
22 "Submission is for **examination only**. Images may not be
23 reproduced, copied, projected, electronically reproduced, stored
24 digitally or otherwise or used in any way, including, but not limited to
25 "comp" use or use on the Internet without (a) express written
26 permission on Photographer's invoice stating the rights granted and
27 the terms thereof and (b) payment of said invoice. Client agrees the
28 reasonable and stipulated fee for any other use shall be three times
Photographer's normal fee for such usage."

**Complaint For Breach of Contract and Copyright Infringement;
Demand for Jury Trial**

1 25. On or about February 28, 2000, at Pomegranates request, Plaintiff granted
2 a limited license to Defendant Pomegranate via a written agreement for a one
3 time reproduction use of **only the Charlie's Angels I Photograph** to use solely
4 for the cover of the book entitled "Charlie's Angels Casebook" (hereinafter the
5 "Restricted License").

6 26. The Restricted License was solely for the first print run of 5,000 or less for
7 sales in North America **only**. The license specifically contained the following
8 language:

9
10 "Unless otherwise provided herein, no rights are granted for 'comp'
11 use, advertising or promotion of cover or inside pages, including, but
12 not limited to use on the Internet. Unless otherwise provided herein,
13 any grant or rights is limited to ninety (90) days from the date thereof,
14 in print media only, unless otherwise stated herein, to the territory of
15 the United States."

16 The front page of the invoice/license specifically stated:

17 "Upon receipt of payment in full, Pomegranate Press, LTD. is granted
18 permission for one time reproduction use of one photograph of
19 Charlie's Angels, (delivery memo #2922, dated 9/15/99) for the cover
20 of the book, "Charlie's Angels casebook", first print run 5000 or less
21 only, sales in North America only. Additional usage requires express
22 written permission.

23 27. In addition, the Restricted License specifically provided that Plaintiff's
24 copyright notice, "i.e. © (Year of first publication) PETER KREDENSER must
25 accompany each use of the adjacent credit line."

26 28. The terms in paragraphs 25-27 above were material to the contract between
27 Plaintiff and Defendant Pomegranate.

28 29. On reliance that Defendant Pomegranate would comply with the terms of
the Contract, including the material terms in paragraphs 25-27 above, Plaintiff
provided Pomegranate with the copies of the Charlie's Angels I Photograph to

1 use on the cover of the “Charlie’s Angels Casebook.”

2 30. Plaintiff fully performed all terms under the contract with Pomegranate.

3 31. For four years following the expiration of the Restricted License, Plaintiff
4 via his authorized representative, reached out to Defendant Pomegranate in
5 writing inquiring whether Defendant Pomegranate wanted to do a second print
6 run of the “Charlie’s Angeles Casebook,” since the February 28, 2000 agreement
7 was for first print of 5,000 or less. Plaintiff also inquired as to whether
8 Defendant Pomegranate required additional use rights, e.g. European or Asian
9 rights, as international usage required additional permission. Defendant
10 Pomegranate never sought any further licensing of the image beyond the
11 Restricted License issued on or about February 28, 2000.

12 32. Within the last three years, Plaintiff discovered that, unbeknownst to
13 Plaintiff, Defendant Pomegranate knowingly and materially breached the terms
14 of the Restricted License, including but not limited to:

- 15 a. Unlawfully using or causing others to use, display, distribute, and
16 publish, Plaintiff’s Charlie’s Angels I Photograph for advertising
17 and promotion by displaying the cover of the “Charlie’s Angels
18 Casebook” containing the Charlie’s Angels I Photograph on its
19 website www.pompress.com at the following link:
20 <http://pompress.com/store/classic-tv/charlies-angels-casebook/> and
21 through other third party vendor websites, including but not limited
22 to www.itunes.com and www.amazon.com.
- 23 b. Failing to attribute the Charlie’s Angels I Photograph to Plaintiff,
24 including by omitting Plaintiff’s copyright notice, i.e. © (Year of
25 Publication) PETER KREDENSER from the Charlie’s Angels I
26 Photograph displayed, published, and distributed online on its
27 websites www.pompress.com and third party vendor sites, including
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- 1 but not limited to www.itunes.com and www.amazon.com.
- 2 c. Knowingly, willfully, and unlawfully reproducing, distributing to
3 the public, and publishing copies of Charlie’s Angel’s II as the back
4 cover of the Charlie’s Angel’s Casebook without Plaintiff’s
5 permission or a license, and failing to attribute the Charlie’s Angels
6 II Photograph to Plaintiff by removing and omitting Plaintiff’s
7 copyright notice, i.e. © (Year of Publication) PETER KREDENSER
8 from the Charlie’s Angels II Photograph.
- 9 d. Knowingly, willfully, and unlawfully reproducing, distributing to
10 the public, and publishing copies of the Cheryl Ladd Photograph on
11 the back cover of the book entitled “Charlie’s Angel’s Casebook”
12 without Plaintiff’s permission or a license, and failing to attribute the
13 Cheryl Ladd Photograph to Plaintiff by removing and omitting
14 Plaintiff’s copyright notice, i.e. © (Year of Publication) PETER
15 KREDENSER from the Charlie’s Angels I Photograph.
- 16 e. Knowingly and unlawfully entering into a distribution agreement
17 with Defendant Perseus (the “Distribution Agreement”) to: (1)
18 reproduce, distribute, display to the public, promote, market, and
19 advertise the “Charlie’s Angel’s Casebook” contained Plaintiff’s
20 unauthorized Photographs; (2) unlawfully promote, offer for
21 sale/sell, publicize, and distribute the casebook online; and, (3)
22 unlawfully use the Charlie’s Angel’s I (cover of the casebook) to
23 promote, offer for sale/sell, publicize and distributed the casebook
24 online, thus unlawfully displaying and distributing Charlie’s Angel’s
25 I to a global audience via the world wide web.

26 33. Plaintiff is informed and believes that terms of the Distribution Agreement
27 not only materially breached the contract between Defendant Pomegranate and
28

**Complaint For Breach of Contract and Copyright Infringement;
Demand for Jury Trial**

1 Plaintiff, they also induced, encouraged, and materially contributed to the direct
2 infringement of Plaintiff's Photographs by Defendant Perseus and other third
3 parties.

4 34. Plaintiff is informed and believes that Defendant Pomegranate entered into
5 the Distribution Agreement knowing that it would be violating its Restricted
6 Licensing agreement with Plaintiff and knowing that it would be inducing,
7 encouraging, and materially contributed to the direct infringement of Plaintiff's
8 Photographs by Defendant Perseus and other third parties.

9 35. Plaintiff is informed and believes that as a result of the Distribution
10 Agreement, Defendant Perseus unlawfully reproduced, publicly displayed, and
11 distributed copies of Plaintiff's Photographs both online and in print.

12 36. Plaintiff is informed and believes that Defendant Perseus as a result of the
13 Distribution Agreement offered the Charlie's Angel's Casebook for sale online
14 on www.itunes.com at the following link
15 <https://itunes.apple.com/us/book/charlies-angels-casebook/id384673850?mt=11>.

16 37. Plaintiff is informed and believes that Defendant Perseus directly,
17 knowingly, and willfully violated Plaintiff's copyrights by unlawfully
18 reproducing, uploading/downloading or causing to be uploaded/downloaded,
19 publicly displayed and distributed the Charlie's Angel's I Photograph on
20 www.itunes.com at the following link <https://itunes.apple.com/us/book/charlies-angels-casebook/id384673850?mt=11> to market, advertise, and promote the
21 "Charlie's Angel's Casebook," constituting direct copyright infringement of the
22 Charlie's Angel's I Photograph.
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24 38. Plaintiff is informed and believes that Defendant Perseus received actual
25 and/or constructive knowledge that it was violating Plaintiff's copyrights, by
26 virtue of the fact that it knew or had reason to know that it did not have a license
27 to reproduce, publish, publicly display, or distribute Plaintiff's Charlie's Angels I
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1 Photograph due to, *inter alia*, the fact that Plaintiff sent a written notice to Apple,
2 Inc. who owns, operates, and controls the website www.itunes.com, informing
3 them of the infringement. Apple, Inc. acknowledged receipt of the notice and
4 advised that it had notified the “provider” of the Charlie’s Angels I Photograph.
5 Plaintiff is informed and believes that Defendant Perseus is the “provider” of the
6 Charlie’s Angels I Photograph identified in Apple, Inc.’s email to Plaintiff.
7 Plaintiff is informed and believes that Defendant Perseus continued to publish,
8 distribute, and display the Charlie’s Angels I Photograph on www.itunes.com
9 even after receiving actual and/or constructive knowledge of the infringement.
10 To date, Defendant Perseus has failed to remove the book and/or Plaintiff’s
11 copyrighted Photograph from www.itunes.com. Plaintiff is informed and
12 believes that Defendant Perseus’s actions constitutes willful direct copyright
13 infringement, pursuant to 17 U.S.C. §§ 106 *et seq.* and 501 *et seq.*

14 39. Plaintiff is further informed and believes that Defendant Perseus with
15 actual and/or constructive knowledge that Charlie’s Angels I, as posted on
16 www.itunes.com, was infringing on Plaintiff’s copyright rights induced,
17 encouraged, and/or materially contributed to the reproduction,
18 uploading/downloading, display and distribution of the Charlie’s Angels I by
19 third parties by failing to remove the Photograph from www.itunes.com despite
20 having the reasonable means to do so, constituting contributory copyright
21 infringement of the Charlie’s Angels I photograph.

22 40. Plaintiff is informed and believes that Defendant Perseus received and/or
23 intended to receive a direct financial benefit from the infringing of the Charlie’s
24 Angels I photograph on www.itunes.com by these third parties and had the right
25 and ability to control the infringement by these third parties constituting vicarious
26 copyright infringement of the Charlie’s Angels I photograph.

27 41. Plaintiff is informed and believes that Defendant Perseus with actual
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1 and/or constructive knowledge that it was violating Plaintiff's copyrights made or
2 caused to be made print reproductions of the Charlie's Angel's Casebook
3 containing all three Photographs. Plaintiff is informed and believes that in
4 making or causing to be made these print copies of the Charlie's Angel's
5 Casebook book, Defendant Perseus unlawfully reproduced, publicly displayed,
6 and distributed unauthorized copies of all three Photographs in violation of
7 Plaintiff's copyrights, constituting direct copyright infringement of all three
8 Photographs.

9 42. Plaintiff is further informed and believes that Defendants Pomegranate and
10 Perseus received actual and/or constructive knowledge that Pomegranate was in
11 breach of the Restricted License and that both Defendant Pomegranate and
12 Perseus were violating Plaintiff's copyrights, including but not limited to by way
13 of a telephone conversation Defendant Pomegranate's authorized representative
14 had with Plaintiff on or about March 15, 2014. Defendant Pomegranate via its
15 authorized agent advised Plaintiff that it would remove all of the books from the
16 internet and would request that its distributor (Defendant Perseus) due the same.
17 Defendants continued to publish, distribute, and display the book unlawfully
18 containing the Photographs and continued publishing, distributing, and displaying
19 the front cover containing Charlie's Angels I on www.pompress.com,
20 <http://pompress.com/wp-content/uploads/2011/07/CharliesAngelsCasebook.jpg>,
21 www.itunes.com, and on other third party vendor sites even after receiving actual
22 and/or constructive knowledge of the infringements and breach of contract. To
23 date, Defendants have failed to remove the book and/or Plaintiff's copyrighted
24 Photograph of Charlie's Angels I from www.pompress.com, www.itunes.com,
25 and on other third party vendor websites.

26 43. Plaintiff is informed and believes that Defendant Pomegranate by its
27 conduct intentionally induced, assisted, and/or materially contributed to the direct
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**Complaint For Breach of Contract and Copyright Infringement;
Demand for Jury Trial**

1 infringements by Defendant Perseus and other third parties who are unlawfully
2 uploading, downloading, publishing, publicly displaying, and distributing
3 Plaintiff's copyrighted Charlie's Angels I Photograph on the World Wide Web
4 on www.itunes.com and other third party websites. Hereinafter, the Doe third
5 parties shall be referred to as "Third Party Direct Infringers."

6 44. Plaintiff is informed and believes that Defendant Pomegranate by its
7 conduct intentionally induced, assisted, and/or materially contributed to the direct
8 infringements by Defendant Perseus of the Charlie's Angels II and Cheryl Ladd
9 Photographs, which are being unlawfully reproduced, distributed, and publicly
10 displayed in print format.

11 45. Plaintiff is informed and believes that Defendant Pomegranate
12 intentionally induced, assisted, and/or materially contributed to the direct
13 infringement by Pomegranate and the Third Party Direct Infringers with
14 knowledge that the Photographs being reproduced, displayed, and publicly
15 distributed infringed on Plaintiff's copyrights.

16 46. Plaintiff is informed and believes that Defendant Pomegranate had the
17 right and ability to control the infringing conduct by Defendant Perseus and the
18 Third Party Direct Infringers, and has continuously attempted or intended to
19 derive a direct financial benefit from the infringing use of the Photographs by
20 Perseus and these Third Party Direct Infringers.

21 47. Plaintiff is informed and believes that in addition to being in breach of the
22 Restricted Licensing agreement, Defendant Pomegranate's conduct also
23 constitutes willful direct copyright infringement as to the Charlie's Angels I
24 Photograph that it published, displayed, and distributed to the public on its own
25 website www.pompress.com and the Charlie's Angels II and Cheryl Ladd
26 Photograph that it published, displayed, and distributed as part of the "Charlie's
27 Angels Casebook," pursuant to 17 U.S.C. §§ 106 *et seq.* and 501 *et seq.*

1 48. Plaintiff is informed and believes that Defendant Pomegranate's conduct
2 also constitutes contributory and vicarious copyright infringement as to the direct
3 infringements of Perseus and other Third Party Direct Infringers on the World
4 Wide Web of the Charlie's Angel's I Photograph under the copyright in the
5 Photographs in violation of Sections 106 and 501 of the Copyright Act (17
6 U.S.C. §§ 106 and 501).

7 49. Plaintiff is informed and believes that Defendant Pomegranates conducts
8 also constitutes contributory and vicarious copyright infringement in violation of
9 Sections 106 and 501 of the Copyright Act (17 U.S.C. §§ 106 and 501) as to the
10 direct infringement of all three Photographs by Defendant Perseus who
11 knowingly and unlawfully reproduced, distributed, and publicly displayed the
12 Photographs in print.

13 50. As for Defendant Amazon.com, within the last three years, Plaintiff
14 discovered that numerous Third Party Direct Infringers were unlawfully
15 uploading and/or downloading, reproducing, publishing, distributing to the
16 public, offering for sale and selling print copies of the Charlie's Angel's
17 Casebook on Amazon's website (www.amazon.com), which contained Plaintiff's
18 copyright Photographs (hereinafter "Third Party Uploaders"). Plaintiff is
19 informed and believes that these Third Party Direct Uploaders infringed Plaintiff
20 copyrights by copying, displaying, publishing, and distributing Plaintiff's
21 Photographs to hundreds of thousands of people by publishing the cover of the
22 Charlie's Angels Casebook containing Plaintiff's Copyrighted Charlie's Angels I
23 Photograph on the World Wide Web on www.amazon.com to advertise, market,
24 and promote the casebook.

25 51. Plaintiff is informed and believes that the Third Party Uploaders copied,
26 displayed, published, and distributed Plaintiff's Charlie's Angels I Photograph on
27 www.amazon.com with knowledge and/or constructive knowledge that they did
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1 not have a license to reproduce, publish, distribute to the public, Plaintiff's
2 Photograph, constituting willful direct copyright infringement.

3 52. Beginning February 2014, upon learning of the unlawful direct
4 infringements by these Third Party Uploaders on www.amazon.com, Plaintiff,
5 via his authorized representative, began to send Amazon notices, in compliance
6 with the digital millennium copyright act ("DMCA"), requesting that Amazon
7 remove Plaintiff's Photograph from its website. Plaintiff provided Amazon more
8 than a dozen direct links to the infringing Charlie's Angels I Photograph that was
9 being copied, displayed, published and distributed by the Third Party Uploaders
10 on www.amazon.com. Amazon acknowledged receipt of notices sent by Plaintiff.

11 53. Plaintiff is informed and believes that Defendant Amazon continued to
12 allow Third Party Uploaders to continue unlawfully copy, display, publish, and
13 distribute (and offer to do the same), Plaintiff's Charlie's Angels I Photograph on
14 www.amazon.com after obtaining actual and/or constructive knowledge that the
15 Photograph infringed on Plaintiff's copyrights, including but not limited to
16 Amazon failing to remove direct links to the Photograph that were specifically
17 identified by Plaintiff in his notices to Amazon and allowing additional Third
18 Party Uploaders to unlawfully copy, display, publish, and distribute the Charlie's
19 Angels I Photograph despite being on notice that the Photograph as published,
20 displayed, and distributed on www.amazon.com was infringing on Plaintiff's
21 copyrights. Plaintiff is informed and believes that Defendant actions induced,
22 encouraged and or materially contributed to the direct copyright infringement by
23 the Third Party Uploaders as well as others that viewed and/or downloaded the
24 infringing images from the amazon.com site, and sub-URLs. Plaintiff is
25 informed and believes that Defendant Amazon.com acted willfully, making
26 Defendants liable for willful contributory copyright infringement.

27 54. Plaintiff is further informed that Amazon had both the technical ability and
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**Complaint For Breach of Contract and Copyright Infringement;
Demand for Jury Trial**

1 right through contract to supervise and/or control the infringing activity of the
2 Third Party Uploaders through specific terms of the contract that Amazon had
3 with these Third Party Uploaders, which specifically allowed Amazon to
4 suspend, terminate, or control the content of their seller's pages at Amazon's sole
5 discretion. Plaintiff is further informed and believes that Amazon received a
6 direct financial interest/benefit or intended to receive a direct financial interest in
7 the infringing activities by charging upfront licensing fees to the Third Party
8 Uploaders, receiving an additional fee when an item is sold by these Third Party
9 Uploaders, and using the Charlie's Angel's I Photograph as a draw for customers
10 who would not otherwise by the casebook without seeing the cover photo,
11 making Amazon liable for vicarious copyright infringement.

12 55. Plaintiff's Photographs were used by Defendants without obtaining a
13 license or consent from Plaintiff, thus violating his exclusive rights as the
14 copyright owner to reproduce, adapt, display, distribute, and/or create derivative
15 works under 17 U.S.C. §§ 101 et. seq.

16 56. Plaintiff is informed and believes that Defendants' infringed upon the
17 Photographs after they had been registered with the United States Copyright
18 Office.

19 57. Plaintiff incurred substantial time and expense in creating the Photographs
20 at issue and Plaintiff licenses the Photographs at issue for commercial and other
21 uses.

22 58. Defendants' unlawful use of copies of Plaintiff's original photographic
23 works has diminished the value of the original photographic works by
24 distributing and encouraging redistribution of the photographic works without
25 identifying the photographic works as being the exclusive property of Plaintiff.

26 59. Defendants' unlawful acts have been and are interfering with and
27 undermining Plaintiff's ability to market Plaintiff's own original photographic
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**Complaint For Breach of Contract and Copyright Infringement;
Demand for Jury Trial**

1 works, thereby impairing the value and prejudicing the sale or license by Plaintiff
2 of his own photographic works.

3 60. Defendants, by their unauthorized appropriation and use of Plaintiff's
4 original photographic works, have been and are engaging in acts of unfair
5 competition, unlawful appropriation, unjust enrichment, wrongful deception of
6 the purchasing public, and unlawful trading on Plaintiff's goodwill and the public
7 acceptance of Plaintiff's original photographic work.

8 61. Plaintiff only learned of the breach of contract and the copyright
9 infringements alleged herein within the last three years, and could not have
10 reasonably discovered the breach of contract or copyrights infringements claims
11 prior to obtaining actual knowledge within the last three years.

12 62. As a direct and proximate result of Defendants' wrongful acts, Plaintiff has
13 suffered and continues to suffer lost profits and damages.

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FIRST CLAIM FOR RELIEF
BREACH OF CONTRACT
(Against Defendant Pomegranate Only)
California Code of Civil Procedure section 337

18 63. Plaintiff incorporates by reference paragraphs 1-62 as if fully set forth
19 herein.

20 64. By the actions alleged above, Defendant Pomegranate and Plaintiff entered
21 into a written agreement on or about February 28, 2000, in which Plaintiff
22 agreed to grant Defendant a Restricted License to use his copyrighted
23 Photograph of **Charlie's Angels I only** for one time reproduction use as
24 the cover of "Charlie's Angels" Casebook in exchange for valuable
25 consideration, constituting a valid contract.

26 65. In reliance on Defendant Pomegranate's promise to use the Photograph
27 solely as outlined in the terms of the written contract, Plaintiff provided
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**Complaint For Breach of Contract and Copyright Infringement;
Demand for Jury Trial**

1 Defendant with a copy of his copyrighted Photograph.

2 66. Plaintiff fully performed all of his obligations under the terms of the
3 contract.

4 67. Defendant Pomegranate materially breached the terms of the written
5 contract.

6 68. As a direct and proximate result of the material breach of contract by
7 Defendant Pomegranate, Plaintiff sustained damages and is entitled to
8 recover from Defendant Pomegranate the damages, including attorney's
9 fees, he has sustained and will sustain, and any gains, profits and
10 advantages obtained by Defendants as a result of their acts of infringement
11 alleged above. At present, the amount of damages, gains, profits and
12 advantages cannot be fully ascertained by Plaintiff, but will be established
13 according to proof at trial.

14 69. Plaintiff is informed and believes that, by the terms of contract at issue in
15 this Complaint, Defendant Pomegranate is liable for a minimum of triple
16 the licensing rate for each Photograph it used without Plaintiff's copyright
17 notice, "i.e. © (Year of first publication) PETER KREDENSER."

18 **SECOND CLAIM FOR RELIEF**
19 **DIRECT COPYRIGHT INFRINGEMENT**

20 17 U.S.C. §§ 106 and 501
21 (Against All Defendants Except Amazon)

22 70. Plaintiff incorporates by reference paragraphs 1-69 above as if fully set
23 forth herein.

24 71. By the actions alleged above, Defendants Pomegranate and Perseus and
25 Does 1-50 have infringed and will continue to infringe on Plaintiff's copyrights
26 by copying, displaying, publishing, and distributing Plaintiff's copyrighted
27 Photographs without permission to a global audience on the World Wide Web
28 and in print.

72. Plaintiff is informed and believes that Defendants' acts of infringement

Complaint For Breach of Contract and Copyright Infringement;
Demand for Jury Trial

1 were ongoing, willful, intentional, and purposeful, and/or in reckless disregard of
2 and with indifference to Plaintiff's rights in that Defendants knew or recklessly
3 failed to know that they did not have the rights to use the Photographs in the
4 manner in which they used the Photographs.

5 73. Plaintiff is informed and believes that, by the actions alleged above,
6 Defendants' have violated Plaintiff's exclusive rights as the copyright owner to
7 reproduce, adapt, display, distribute, and/or create derivative works under 17
8 U.S.C. §§ 101 et. seq. making Defendants liable for willful direct copyright
9 infringement.

10 74. As a direct and proximate result of Defendants' infringements, Plaintiff
11 was damaged and is entitled to recover from Defendants the damages, including
12 attorney's fees, he has sustained and will sustain, and any gains, profits and
13 advantages obtained by Defendants as a result of their acts of infringement
14 alleged above. At present, the amount of damages, gains, profits and advantages
15 cannot be fully ascertained by Plaintiff, but will be established according to proof
16 at trial. Plaintiff also seeks to recover statutory damages for Defendants'
17 infringement of his copyrights of up to \$150,000.00 per infringement.

18 75. Plaintiff is entitled to a preliminary and permanent injunction restraining
19 Defendants from engaging in further acts of copyright infringement and causing
20 irreparable damage to Plaintiff for which he has no adequate remedy of law.

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22 **THIRD CLAIM FOR RELIEF**
23 **CONTRIBUTORY COPYRIGHT INFRINGEMENT**
24 17 U.S.C. §§ 106 and 501.
25 (Against All Defendants)

26 76. Plaintiff incorporates by references paragraphs 1-75 above as if fully set
27 forth herein.

28 77. By the actions alleged above, Defendant Pomegranate had either
constructive knowledge or actual knowledge of the direct infringements by the

**Complaint For Breach of Contract and Copyright Infringement;
Demand for Jury Trial**

1 Perseus and the Third Party Direct Infringers.

2 78. Plaintiff is informed and believes by the actions alleged above, Defendant
3 Pomegranate knowingly encouraged, assisted, enabled, induced, facilitated,
4 caused, and/or materially contributed to each act of infringement alleged hereby
5 by Perseus and Third party Direct Infringers by copying, displaying, publicizing,
6 distributing, the infringing Photographs without Plaintiff's permission to a global
7 audience via the World Wide Web and in print even after receiving constructive
8 and/or actual knowledge of the infringing activity.

9 79. By the actions alleged above, Defendant Persues had either constructive
10 knowledge or actual knowledge of the direct infringements by the Third Party
11 Direct Infringers who either uploaded/downloaded or otherwise reproduced,
12 publicly displayed, or distributed, the Charlie's Angels I Photograph on or from
13 www.itunes.com.

14 80. Plaintiff is informed and believes by the actions alleged above, Defendant
15 Perseus knowingly encouraged, assisted, enabled, induced, facilitated, caused,
16 and/or materially contributed to each act of infringement alleged hereby by Third
17 Party Direct Infringers by copying, displaying, publicizing, distributing, the
18 infringing Charlie's Angels I Photograph without Plaintiff's permission to a
19 global audience via the World Wide Web even after receiving constructive and/or
20 actual knowledge of the copyright infringements occurring.

21 81. By the actions alleged above, Defendant Amazon had either constructive
22 knowledge or actual knowledge of the direct infringements by the Third Party
23 Uploaders.

24 82. Plaintiff is informed and believes by the actions alleged above, Defendant
25 Amazon knowingly encouraged, assisted, enabled, induced, facilitated, caused,
26 and/or materially contributed to each act of infringement alleged hereby by the
27 Third Party Uploaders by copying, displaying, publicizing, distributing, the
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1 infringing Photograph without Plaintiff's permission to a global audience via the
2 World Wide Web on www.amazon.com even after receiving constructive and/or
3 actual knowledge of Third Party Uploaders infringing activity.

4 83. Defendants Pomegranate's, Perseus's, and Amazon's conduct constitutes
5 contributory (and inducement) of copyright infringement of Plaintiff's copyrights
6 and exclusive rights in the Photographs in violation of 17 U.S.C. § 106 and 501.

7 84. Plaintiff is informed and believes that Defendants Pomegranate's,
8 Perseus's, and Amazon's acts of infringement were ongoing, willful, intentional,
9 and purposeful, and/or in reckless disregard of and with indifference to Plaintiff's
10 rights in that Defendants knew or recklessly failed to know that they (nor the
11 Third Party Direct Infringers/Third Party Uploaders) had the right to use the
12 Photographs in the manner in which they used the Photographs.

13 85. Plaintiff is informed and believes that Defendants actions do not qualify
14 for protection under the Digital Millennium Copyright Act ("DMCA") or the
15 "safe harbor" provision of 17 U.S.C. section 512 because, *inter alia*, at the time
16 the infringements began Defendants had failed to implement a reasonable policy
17 for responding to DMCA complaints and Defendants continued to publicly
18 display, distribute, and publish, the Photograph after receiving notice of their
19 infringing nature; and earns funds from the sale of the infringing images; and do
20 not otherwise comply with 17 U.S.C. section 512. Plaintiff is further informed
21 and believes that Defendants activities do not fall into the definition of a service
22 provider under 17 U.S.C. section 512(k), nor do the services provided by
23 Defendants fall into any of the enumerated categories of safe harbor provided in
24 17 U.S.C. section 512 (a)(b)(c), or (d).

25 86. As a direct and proximate result of Defendants' infringements, Plaintiff
26 was damaged and is entitled to recover from Defendants the damages, including
27 attorney's fees, he has sustained and will sustain, and any gains, profits and
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1 advantages obtained by Defendants as a result of their acts of infringement
2 alleged above. At present, the amount of damages, gains, profits and advantages
3 cannot be fully ascertained by Plaintiff, but will be established according to proof
4 at trial. Plaintiff also seeks to recover statutory damages for Defendants'
5 infringement of his copyrights of up to \$150,000.00 per infringement.

6 87. Plaintiff is entitled to a preliminary and permanent injunction restraining
7 Defendants from engaging in further acts of copyright infringement and causing
8 irreparable damage to Plaintiff for which he has no adequate remedy of law.

9 **FOURTH CLAIM FOR RELIEF**

10 Vicarious Copyright Infringement

11 17 U.S.C. §§ 106 and 501

(Against All Defendants)

12 88. Plaintiff incorporates by reference paragraph 1-87 above as if fully set
13 forth therein.

14 89. Plaintiff is informed and believes that Defendants in addition to being
15 direct and contributory infringers, have had the right and ability to control the
16 infringing conduct alleged above and that Defendants have derived, or have
17 continuously attempted or intended to derive, a direct financial benefit from the
18 infringing display and use of the Photographs. Such conduct constitutes
19 vicarious infringement of Plaintiff's copyrights and exclusive rights under the
20 copyright in the Photographs in violation of Section 106 and 501 of the
21 Copyright Act (17 U.S.C. §§ 106 and 501).

22 90. Plaintiff is informed and believes that Defendants' acts of infringement
23 were ongoing, willful, intentional, and purposeful, and/or in reckless disregard of
24 and with indifference to Plaintiff's rights in that Defendants knew or recklessly
25 failed to know that neither they (nor the Third Party Direct Infringers/Third Party
26 Uploaders) had the rights to use the Photographs in the manner in which the
27 Photographs were used.

28 91. Plaintiff is informed and believes that Defendants actions do not qualify

**Complaint For Breach of Contract and Copyright Infringement;
Demand for Jury Trial**

1 for protection under the Digital Millennium Copyright Act (“DMCA”) or the
2 “safe harbor” provision of 17 U.S.C. section 512 because, *inter alia*, as, at the
3 time the infringements began Defendants had failed to implement a reasonable
4 policy for responding to DMCA complaints and Defendants continued to publicly
5 display, distribute, and publish, the Photograph after receiving notice of their
6 infringing nature; and earn funds from the sale of the infringing images; and do
7 not otherwise comply with 17 U.S.C. section 512. Plaintiff is further informed
8 and believes that Defendants activities do not fall into the definition of a service
9 provider under 17 U.S.C. section 512(k), nor do the services provided by
10 Defendants fall into any of the enumerated categories of safe harbor provided in
11 17 U.S.C. section 512 (a)(b)(c), or (d).

12 92. As a direct and proximate result of Defendants’ infringements, Plaintiff
13 was damaged and is entitled to recover from Defendants the damages, including
14 attorney’s fees, he has sustained and will sustain, and any gains, profits and
15 advantages obtained by Defendants as a result of their acts of infringement
16 alleged above. At present, the amount of damages, gains, profits and advantages
17 cannot be fully ascertained by Plaintiff, but will be established according to proof
18 at trial. Plaintiff also seeks to recover statutory damages for Defendants’
19 infringement of his copyrights of up to \$150,000.00 per infringement.

20 93. Plaintiff is entitled to a preliminary and permanent injunction restraining
21 Defendants from engaging in further acts of copyright infringement and causing
22 irreparable damage to Plaintiff for which he has no adequate remedy of law.

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PRAYER FOR RELIEF

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WHEREFORE, Plaintiff prays for judgment against Defendants and each
26 of them as follows:

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1. For Plaintiff’s actual damages.

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**Complaint For Breach of Contract and Copyright Infringement;
Demand for Jury Trial**

- 1 2. As to the cause of action for breach of contract, for a minimum of triple the
2 licensing rate (as allowed by the Restricted License) per Photograph
3 unlawfully used by Pomegranate without Plaintiff's copyright notice
4 affixed.
- 5 3. For a full accounting and disgorgement of all profits, income, receipts, or
6 other benefits derived by Defendants as a result of their willful and
7 unlawful conduct.
- 8 4. For statutory damages under the Copyright Act of up to \$150,000.00 per
9 infringement and,
- 10 5. For prejudgment interest.
- 11 6. For attorneys' fees and costs.
- 12 7. For preliminary and permanent injunctive relief from ongoing infringing
13 activities, including, but not limited to:
 - 14 a. enjoining Defendants, and all persons acting in concert or
15 participation with them, from: directly or indirectly infringing in any
16 manner, or causing, contributing to, enabling, facilitating, or
17 participating in the infringement of Plaintiff's copyrights (whether
18 now in existence or hereafter created) or exclusive rights under
19 copyright, and
 - 20 b. the seizure of all property made in, or used to assist in the violation
21 of Plaintiff's exclusive copyrights pursuant to 17 U.S.C. §503,
22 including, but not limited to, all copies of the Photograph, all
23 domains and all servers and other computer equipment used to
24 publish, broadcast or archive the Photograph; and

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**Complaint For Breach of Contract and Copyright Infringement;
Demand for Jury Trial**

1 8. For such other and further relief as this Court deems just and appropriate.

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May 12, 2014

WOOLF GAFNI & FOWLER LLP

By: /s/ Adam I. Gafni

Adam I. Gafni
Attorneys For Plaintiff
Peter Kredenser

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DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial in this case.

Dated: May 12, 2014

WOOLF GAFNI & FOWLER LLP

By: /s/ Adam I. Gafni _____

Adam I. Gafni
Attorneys For Plaintiff
Peter Kredenser