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STATE OF MICHIGAN  
RECEIVED FOR FILING  
OAKLAND COUNTY CIRCUIT COURT

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PARK WEST GALLERIES, INC.,  
a Michigan corporation,

BY: \_\_\_\_\_  
DEPUTY COUNTY CLERK

OAKLAND  
COUNTY

08-090750-CZ



Ca: JUDGE MICHAEL WARREN  
PARK WEST GAL v FINE ART REGI

Plaintiff,

Hon.

v.

FINE ART REGISTRY, an Internet site  
based out of Arizona, BRUCE HOCHMAN,  
a California resident, and THERESA FRANKS,  
an Arizona resident,

Defendants.

\_\_\_\_\_  
RODGER D. YOUNG (P22652)  
Young & Susser, P.C.  
Counsel for Plaintiff  
26200 American Drive, Ste. 305  
Southfield, MI 48034  
248.353.8620

**COMPLAINT AND JURY DEMAND**

**THERE IS NO OTHER CIVIL ACTION BETWEEN THESE PARTIES  
ARISING OUT OF THE SAME TRANSACTION OR OCCURRENCE AS  
ALLEGED IN THIS COMPLAINT PENDING IN THIS COURT, NOR  
HAS ANY SUCH ACTION BEEN ASSIGNED TO A JUDGE.**

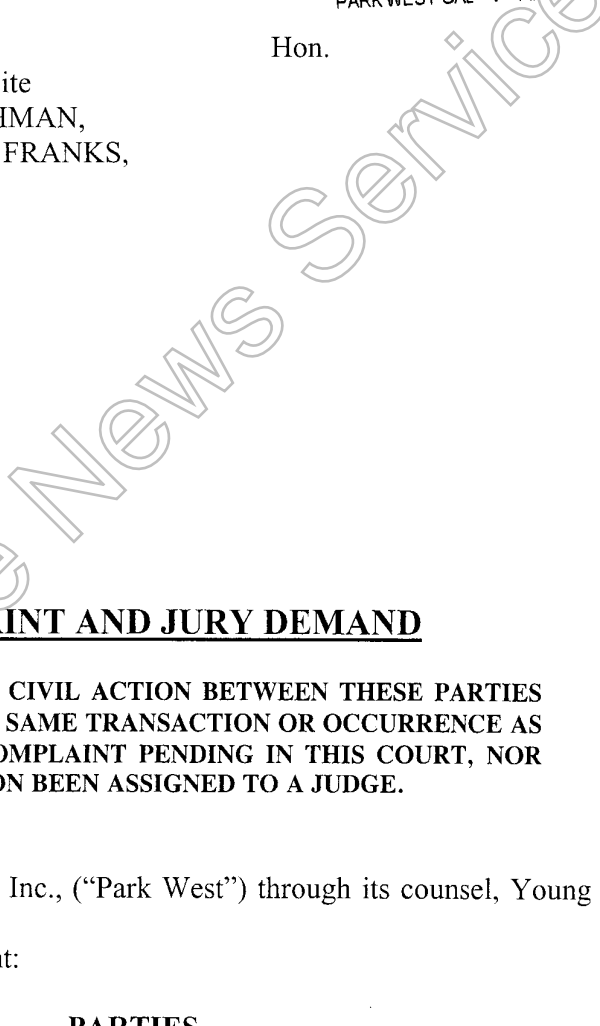
Plaintiff Park West Galleries, Inc., ("Park West") through its counsel, Young & Susser,  
P.C., state as follows for its Complaint:

**PARTIES**

1. Plaintiff Park West Galleries, Inc., is a Michigan corporation, authorized and doing  
business in Oakland County, Michigan.

2. Defendant Fine Art Registry ("FAR") is an entity operating through an internet web site  
which purports to provide an avenue for artists to "register" their art via a "tagging system" for

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works of art and also purports to offer a means of establishing provenance and ownership of pieces of art.

3. Defendant Theresa Franks is a resident of Arizona, and is the founder and CEO of FAR.

4. Since at least September 2007, FAR and Franks have published numerous false and defamatory statements about Park West which were disseminated throughout the United States including Southfield, Michigan. Defendants FAR and Franks essentially have attempted to destroy Park West's goodwill and reputation by use of false and defamatory statements. Defendants FAR and Franks have also interfered with existing contractual relationships between Park West and its customers and further interfered with Park West's prospective business opportunities.

5. Defendant Bruce Hochman is a resident of California and FAR's self-styled art expert.

6. Defendant Hochman is the Gallery Director for the Salvador Dali Gallery in San Juan Capistrano, California and operates the internet website DaliGallery.com, through which Mr. Hochman offers for sale books and works of art.

7. Since at least October 2007, Defendant Hochman has, through FAR's website and elsewhere, made numerous false and defamatory statements about Park West, which were disseminated throughout the United States including Southfield, Michigan. Defendant Hochman has attempted to destroy Park West's goodwill and reputation by use of false and defamatory statements. Defendant Hochman has also interfered with existing contractual relationships between Park West and its customers and further interfered with Park West's prospective business opportunities.

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**JURISDICTION AND VENUE**

8. Defendants are subject to personal jurisdiction in this Court. This court has jurisdiction pursuant to M.C.L.A. 600.705 and M.C.L.A. 600.715. Venue is otherwise proper in this Court.

9. Pursuant to M.C.L.A. 600.705: “the existence of any of the following relationships between an individual or his agent and the state shall constitute a sufficient basis of jurisdiction to enable a court of record of this state to exercise limited personal jurisdiction over the individual and to enable the court to render personal judgments against the individual or his representative arising out of an act which creates any of the following relationships: (1) The transaction of any business within the state. (2) The doing or causing an act to be done, or consequences to occur, in the state resulting in an action for tort.”

10. Pursuant to M.C.L.A. 600.715: “the existence of any of the following relationships between a corporation or its agent and the state shall constitute a sufficient basis of jurisdiction to enable the courts of record of this state to exercise limited personal jurisdiction over such corporation and to enable such courts to render personal judgments against such corporation arising out of the act or acts which create any of the following relationships: (1) The transaction of any business within the state. (2) The doing or causing any act to be done, or consequences to occur, in the state resulting in an action for tort.”

11. Defendants FAR and Franks operate an internet web site through which art buyers, including those in Michigan, are encouraged to register their purchases, and artists, including those in Michigan, are encouraged to register their artwork. Clients pay an annual \$9.95 membership fee plus \$2.25 each for numbered tags which are sent to the art owners and artists to be affixed to their artwork.

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12. As recently as April 2008, defendants FAR and Franks accepted membership registrations from both artists and collectors in Michigan. The registrants paid the registration fees for one year memberships and Defendants FAR and Franks sent to them the FAR newsletter.

13. The actions of defendants FAR and Franks constitute the transaction of business within the state of Michigan for purposes of personal jurisdiction. Such actions also establish that defendants FAR and Franks have minimum contacts with the state of Michigan such that the maintenance of this suit does not offend traditional notions of fair play and substantial justice.

14. Defendant Hochman operates an internet website through which individuals, including those in Michigan, may purchase books and artwork from defendant Hochman to be paid for by individuals in Michigan and sent to them by Hochman.

15. As recently as April 2008, defendant Hochman received orders on his website from individuals residing in Michigan. He accepted the orders, called the purchasers in Michigan to confirm receipt thereof and shipped the goods to purchasers in Michigan.

16. The actions of defendant Hochman constitute the transaction of business within the state of Michigan for purposes of personal jurisdiction. Such actions also establish that defendant Hochman has minimum contacts with the state of Michigan such that the maintenance of this suit does not offend traditional notions of fair play and substantial justice.

17. The false and defamatory statements of all defendants were made with the full knowledge of defendants of the effects such statements would have on the business reputation of Michigan based Park West.

18. The amount in controversy in this matter exceeds the sum of \$25,000, exclusive of interest and costs, and this Court has subject matter jurisdiction.

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GENERAL ALLEGATIONS

19. Plaintiff Park West, the Southfield, Michigan-based fine arts dealer, is the largest independently owned art gallery in the world, with some 1.2 million clients. Park West’s 63,000 square foot headquarters houses twenty three exhibit halls devoted to a wide range of artists. Park West maintains close relationships with some of the world’s most popular artists of the past and present as well as art experts and scholars.

20. Park West is engaged in the promotion, display, and sale of artwork and operates an art gallery in Southfield, Michigan. Although located in Southfield, Michigan, Park West’s art is sold throughout the world. Additionally, Park West maintains a website at which interested persons and customers can visit and look at artwork from their computer screens. Park West also has a significant presence in the “at-sea” art auction market, with a presence aboard over eighty ships from eight cruise lines.

21. Park West’s success can be credited in large part to the integrity and professionalism that have been a part of the business since its gallery first opened in 1969. Park West employees log millions of miles in international and domestic travel to review the most important art shows and museum exhibits. Park West also relies on recognized scholars to document and review its collections. Among those are Bernard Ewell, the internationally recognized authority of Salvador Dali and appraiser of the Salvador Dali Museum in St. Petersburg, Florida.

22. Defendant FAR bills itself as an on-line art gallery and a “world-wide repository and historical record of art and valuable collectibles.” It invites art buyers to register their purchases and artists to register their artwork. Clients pay an annual \$9.95 membership fee plus \$2.25 each for numbered tags (minimum 10) which, once affixed to their artwork, “. . . helps establish

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authenticity . . . helps prevent fraud and theft . . . [and serves as] a means of establishing provenance and ownership of art pieces . . .”

23. FAR offers a basic on-line application to register works of art through its website and claims that “50, 100 or 500 years from now the provenance of a work of art can be verified on the FAR website and its history traced.” FAR never examines the actual artwork and offers no guarantees that its website will even exist “50, 100 or 500 years” from today. Nor does FAR’s registration come with the backing of anyone with artistic credentials. The FAR website has been in existence less than two years. FAR has neither a gallery nor a store front but only a P.O. box. FAR CEO defendant Franks possesses no experience or authority to appraise or authenticate artwork – in fact, defendant Franks was employed in the insurance business until 2006. Defendant Hochman, the person whom FAR retains as its art expert, also has no artistic credentials, but does have a criminal history.

24. Beginning as early as May 2007, defendants FAR and Franks began a campaign of publishing defamatory statements regarding Park West that has continued for eleven months. During that period, FAR and Franks have published 15 “articles” on the FAR website, totaling over 92 pages. FAR and Franks have engaged at least four “authors”, including Defendants Hochman, to assist in their smear campaign against Park West, and have set up a “FAR Forum” to encourage discussion and repetition of the defamatory statements.

25. In addition to publishing the defamatory statements through the FAR website, Defendants Franks and Hochman have actively sought out customers of Park West and repeated their defamatory statements to them. Defendants Franks and Hochman have on several occasions told customers of Park West that Salvador Dali artwork they had purchased from Park West was not authentic and urged and otherwise caused such customers to develop ill will,

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contempt, and distrust of Park West, to demand a refund of their purchase price for such art, and to have no further dealings with Park West.

26. On September 21, 2007, defendants FAR and Franks published on their website, an article by “author” David Phillips, containing false and defamatory statements about Park West, entitled “The Art Auction Afloat. Continuing a Long Tradition of Piracy on the High Seas.” [The September 21, 2007 article is attached hereto as **Exhibit A**] Highlighting Park West in bold as the article’s subtitle, the article makes the following false and defamatory statement: “When you go to an art auction on a cruise liner, promoted, encouraged or endorsed by a supposedly reputable cruise line company . . . you do not expect to be defrauded, cheated, robbed . . . or other dishonest or criminal behavior.” The only art auction operator discussed in this article is Plaintiff Park West.

27. On October 23, 2007, defendants published on the FAR website, an article by “author” David Phillips, containing false and defamatory statements about Park West, entitled “Victims of a Park West At Sea, Park West Gallery Cruise Line Art Auction Scam Speak Out” [The October 23, 2007 article is attached hereto as **Exhibit B**]. The article uses the false and defamatory phrase “Park West at Sea Scams” and states that the story it relates is true and illustrative of how Park West “fleeces unsuspecting people of large sums of money”.

28. On November 6, 2007, defendants participated in a staged “interview” on the FAR web-site in which an orchestrated and rehearsed series of “questions” were presented by Phillips to defendant Hochman, who claims to be an appraiser of art and “expert” in art by Salvador Dali [The November 6, 2007 article is attached hereto as **Exhibit C**]. In truth and in fact, defendant Hochman co-authored the “interview” with Phillips and throughout this staged “interview”, defendants Hochman, FAR and Franks falsely and maliciously stated, directly and by innuendo,

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that plaintiff sells “fake” Salvador Dali art. Throughout the staged “interview”, Defendant Hochman falsely referred to Park West as a “bandit,” and stated that purchasers of art from Park West are “victims” and were “hoodwinked.” Defendants’ defamatory statement included the following:

- (a) “On the Dali side, it’s not just the misrepresentations as to the value of what they are selling. It’s the actual authenticity of the art... We’re seeing things, that are not in the official catalog of the graphic work of Dali by Albert Field, listed and sold as “authentic” according to Park West. We know they’re not.”
- (b) FAR: “Is it other cruise line auctions as well or is it just Park West?”  
BH: “Predominantly, I would say 98%, it’s Park West.  
What I found out from certain people who had contracts on cruise ships is that Park West outbids them because I guess when you are selling fake art, you have a bigger margin and can outbid the competition.”
- (c) “I hate to say this, Park West is the bandit.”
- (d) “It’s horrible, Park West and its people have no conscience.”
- (e) “So yes, I do put a lot of blame on Park West. I think their actions are horrible.”
- (f) “Where I also feel these works are so false, not only in Albert’s book, but you look at the signatures. They’re all the same. And we feel they’re done with an auto pencil device.”
- (g) “I feel and others feel that Park West is applying some sort of Dali signature to the works to enhance their value, to make them look like they’re something special or different.”

29. Through this staged “interview”, Defendants published and falsely and maliciously promoted false and defamatory statements that Park West sells fake Salvador Dali art. By use of the staged “interview”, Defendants published that Park West is a “bandit,” and that purchasers of art from Park West are “victims” and were “hoodwinked” by Park West.

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30. On November 15, 2007, Defendants published on the FAR website, an article by “author” David Phillips containing false and defamatory statements about Park West, entitled “Park West at Sea Art Auction Dali Print Rip-Off” which concludes with the following defamatory “summary: “Park West’s disavowal of the accepted authority on Dali and the use of their own art authenticator leaves many questions as to the authenticity of what they are purveying” [The November 15, 2007 article is attached hereto as **Exhibit D**].

31. On November 30, 2007, Defendants published on the FAR website, an article by “author” David Phillips containing false and defamatory statements about Park West entitled “Another Park West at Sea Art “Auction” Rip-Off. Is this EVER Going to Stop?” which concludes with the following outrageous and defamatory statement: “It is really high time this daylight robbery on the high seas in the name of “art auctions” ceases and that Park West either mend its ways or be shut down for good. The art world does not need another greedy, fraudulent purveyor of cheap, falsely represented rubbish” [The November 30, 2007 article is attached hereto as **Exhibit E**].

32. On January 22, 2008, Defendants published on the FAR website, an article by “author” David Phillips containing false and defamatory statements about Park West entitled “Inside Park West. Information about Park West Gallery and Park West at Sea and their Art Auctions that should be known by Potential Customers before They Buy” [The January 22, 2007 article is attached hereto as **Exhibit F**]. This article, which purports to provide details of the inner workings of Park West Gallery, and defames Park West Gallery as an “organization that seems to have become a greedy, profiteering machine with large numbers of victims of fraudulent misrepresentation and deceptive trade practices.” Among other false and defamatory statements

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made in the article are that "Some of the signatures of the artists that Park West has on contract are actually signatures done by the staff and not that of the artist."

33. Defendants have continued to publish verbal and written statements through the FAR website, and elsewhere, falsely accusing Park West of, inter alia, defrauding its customers and selling fake art by artists including Salvador Dali, and encouraging customers of Park West to contact FAR. These written and verbal statements have otherwise caused such customers to develop ill will, contempt, and distrust of Park West, to demand a refund of their purchase price for such art and to have no further dealings with Park West.

34. Defendants' conduct is malicious and intended to harm Park West's goodwill, business relationships and reputation.

35. As the direct, proximate and intended result of the foregoing, Park West has been damaged.

**COUNT I  
(DEFAMATION)**

36. Plaintiff realleges and incorporates herein the allegations in paragraphs 1 – 35, above.

37. Defendants made harmful, disparaging, defamatory and false statements about Park West which defendants knew or had reason to know would be published.

38. Defendants knew that the statements were false, or published them with a high degree of awareness of their probable falsity and while entertaining serious doubts as to their truth.

39. Defendants' statements were made negligently or with actual malice and defendants caused their false and defamatory statements regarding Park West to be published.

40. The statements made by defendants caused harm and injury to Park West. Such statements harmed Park West's reputation so as to lower Park West in the estimation of the art community and the community of the retail art consuming public. Such statements further

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harmed Park West's reputation by deterring third persons from associating with Park West. All of the statements were false and were published by the defendants with the express purpose of causing harm and damage to Park West.

41. The unapproved and unauthorized statements made by defendants were not privileged.

42. Park West has been damaged as a direct and proximate result of the defendants' defamation.

WHEREFORE, Park West demands judgment against defendants for a permanent injunction against further defamatory statements, actual damages, punitive damages, and all other and further relief as may be appropriate.

**COUNT II**  
**(TORTIOUS INTERFERENCE)**

43. Plaintiff realleges and incorporates herein all of the allegations in paragraph 1-42, above.

44. Park West enjoys advantageous business relationships with its customers.

45. Defendants had knowledge of Park West's advantageous business and contractual relationships with its customers.

46. Defendants have initiated or interacted with many Park West customers with whom Park West enjoyed a business relationship and defendants deliberately and maliciously told such Park West customers, inter alia, that Park West had sold them fake or not authentic artwork.

47. Defendants' statements were false and were intended to harm and destroy the goodwill and business relationship between Park West and its customers.

48. As the direct and proximate result of defendants' interference with Park West's relationships with its customers, Park West has been damaged.

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WHEREFORE, Park West demands judgment against defendants for a permanent injunction against further defamatory statements, actual damages, punitive damages, and all other and further relief as may be appropriate.

**COUNT III  
(INTERFERENCE WITH PROSPECTIVE  
BUSINESS ADVANTAGE)**

49. Plaintiff realleges and incorporates herein the allegations in paragraph 1-48, above.

50. Park West enjoys advantageous business relationships with its customers.

51. Defendants have intentionally interfered with Park West's relationships with prospective customers, clients, and business associates and maliciously told the world at large and the art world in particular, that Park West, inter alia, sells them fake or not authentic artwork, and engages in fraudulent and untrustworthy activities.

52. Defendants' statements were false and were intended to harm and destroy the business relationship between Park West and its prospective customers, clients, and business associates.

53. As the direct and proximate result of defendants' interference with Park West's relationships with its prospective customers, clients, and business associates, Park West has been damaged.

WHEREFORE, Plaintiff demands judgment against defendants for a permanent injunction against further defamatory statements, actual damages, punitive damages, and all other and further relief as is available.

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**COUNT IV**  
**(PRELIMINARY INJUNCTIVE RELIEF)**

54. Plaintiff realleges and incorporates herein the allegations in paragraph 1-53, above.

55. Defendants are engaged in the practice of making frequent and continuous defamatory statements regarding Park West.

56. Such statements are causing damage to Park West's goodwill and reputation and resulting in lost profits that are continuing. There is no adequate remedy at law for such damage and there exists a real and imminent danger of irreparable harm to Park West if defendants' actions are not immediately enjoined.

WHEREFORE, Park West demands judgment against defendants for a preliminary and permanent injunction against further defamatory statements, and all other and further relief as may be appropriate.

**COUNT V**  
**(CIVIL CONSPIRACY)**

57. Plaintiff realleges and incorporates herein the allegations in paragraphs 1-56, above.

58. Defendants illegally, maliciously, and wrongfully conspired with one another with the intent to and for the illegal purpose of destroying Park West's goodwill and reputation by use of defamatory statements, interfering with existing contractual relationships between Park West and its customers and further interfering with Park West's prospective business opportunities.

59. Defendants, in combination, conspired to destroying Park West's goodwill and reputation by use of defamatory statements, interfere with existing contractual relationships between Park West and its customers and interfere with Park West's prospective business opportunities.

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60. This conspiracy resulted in the unlawful and tortious activity of defamation, interference with prospective business advantage and tortious interference.

61. As a result of the conspiracy, and defendants' wrongful and tortuous act, Park West has been damaged.

WHEREFORE, Park West demands judgment against defendants for a permanent injunction against further defamatory statements, actual damages, punitive damages, and all other and further relief as may be appropriate.

YOUNG & SUSSER, P.C.

By: Rodger D. Young  
RODGER D. YOUNG (P22652)  
Counsel for Plaintiff  
26200 American Drive, Suite 305  
Southfield, MI 48034  
248.353.8620

Date: April 11, 2008