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CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIF.  
LOS ANGELES

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8 Attorneys for Plaintiff Brian Messner

9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 BRIAN MESSNER, an individual,  
12 Plaintiff,

13 vs.

14 GLOBAL REALTY DEVELOPMENT CORP.,  
15 a Delaware Corporation; SMART SMS CORP.,  
16 a Florida Corporation; and DOES 1 through 10,  
17 inclusive,  
18 Defendants.

19 CASE NO. **CY08-06001**

20 COMPLAINT FOR:

- 21 1) COPYRIGHT INFRINGEMENT;
- 22 2) UNJUST ENRICHMENT
- 23 3) ACCOUNTING

24 DEMAND FOR JURY TRIAL

SJO  
(MANX)

25 COMES NOW Plaintiff BRIAN MESSNER for causes of action against Defendants, and  
26 each of them, as follows:

27 **JURISDICTION AND VENUE**

28 1. This Court has jurisdiction over this action pursuant to the Copyright Act of 1976,  
17 U.S.C. §101 *et seq.* This also has supplemental jurisdiction pursuant to 28 U.S.C. §§1331,  
1338(a) and (b).

2. Venue is appropriate in this District based on 28 U.S.C. §1391(b)(3).

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**THE PARTIES**

3. Plaintiff BRIAN MESSNER (“Messner”) is a resident of the County of Ventura, State of California.

4. Messner is informed and believes and on the basis of said information and belief alleges that Defendant GLOBAL REALTY DEVELOPMENT CORP (“Global”) is and at all times relevant herein was, a Delaware corporation, with its principal place of business in the State of Florida.

5. Messner is informed and believes and on the basis of said information and belief alleges that Defendant SMART SMS CORP. (“Smart”) is and at all times relevant herein was, a Florida corporation, with its principal place of business in the County of Los Angeles, State of California.

6. The true names and capacities, whether individual, corporate, or otherwise, of Defendants DOES 1 through 10 are unknown to Messner, and Messner therefore sues these defendants by their fictitious names and capacities in place of their real names. Messner will seek to amend this Complaint to allege their true names and capacities as they are ascertained.

7. Messner is informed and believes and on the basis of said information and belief alleges that Defendants and each of them are, and at all times herein mentioned were, the agents, joint venturers, officers, members, representatives, servants, consultants or employees of their co-Defendants, and in committing the acts herein alleged, were acting within the scope of such affiliation with the knowledge, permission, consent or subsequent ratification of their co-Defendants.

**GENERAL ALLEGATIONS**

8. In January 2005, Messner wrote, directed and produced the film Seed of Faith. In writing, directing and producing Seed of Faith, Messner at all times retained all rights, title and ownership of the film.

9. During the same time Messner was writing, directing and producing Seed of Faith, he was also working on another project based on the life of Charles Manson. The Manson

1 project was unlike the Seed of Faith, in that this project was envisioned by Messner to be a  
2 feature film with a substantial budget and a cast with notable Hollywood actors.

3 10. Messner developed a story for the film, as well as the working title "The Devil  
4 Exist." As part of that, Messner developed, filmed and produced a film teaser capturing the  
5 essence of the film to be developed. At all times Messner had all rights, title and interest to the  
6 film, the story and the teaser.

7 11. Messner is the sole owner of all intellectual property rights, including copyrights  
8 to The Seed of Faith and The Devil Exists issued by the United States Copyright office.

9 **DEFENDANTS' INFRINGING CONDUCT**

10 12. In May 2007, Messner discovered that Global claimed ownership of the Seed of  
11 Faith and The Devil Exists. Messner is informed and believes and on the basis of said  
12 information and belief alleges that Global reported the value of the Seed of Faith and The Devil  
13 Exists to Securities and Exchange Commission in an amount over \$10,000,000.00.

14 13. Since May 2007, Messner has also discovered that Global was using name "The  
15 Devil Exists," and are promoting the storyline and teaser on the Internet website  
16 **www.thedevilexists.com**, where Defendants are engaging in a marketing campaign of the film.

17 14. Additionally, Global entered into agreements or other business relationships with  
18 Defendant SMART to engage in a fee based text small message service or cellular telephone text  
19 messaging campaign called "Text Your Way to Stardom," wherein Global would market and  
20 promote The Devil Exists and collect a text message fees as part of a contest used by Global in  
21 exploiting The Devil Exists. This was all done without the knowledge or consent of Messner.

22 15. Messner is informed and believes that Global is marketing, promoting,  
23 distributing and otherwise using The Seed of Faith without the consent of Messner.

24 16. Upon discovery of this infringing activity, Messner caused to be sent to Global a  
25 letter advising of Messner's ownership. Thereafter, counsel for Messner was contacted by a  
26 representative of Global who rejected Messner's claim. At that time, demand was made to  
27 Global to cease and desist its infringing activity. Despite this demand, Global failed and refused  
28 to cease and desist.

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**FIRST CAUSE OF ACTION**  
**FOR COPYRIGHT INFRINGEMENT**

Against All Defendants

17. Each and every allegation in paragraphs 1 through 16 above, are incorporated herein by this reference as though fully set forth herein.

18. Messner is the author and sole owner of all intellectual property rights in the films Seed of Faith and The Devil Exists (collectively the "Projects").

19. Defendants, after notice and with wanton and reckless disregard to Messner's copyrights, infringed on his rights in the Projects by, among other things, duplicating, distributing, advertising, and transmitting copies of the Projects without Messner's license or authorization.

20. Messner is informed and believes and on the basis of said information and belief alleges that at all times relevant herein, Messner had exclusive rights to manufacture, duplicate, distribute, advertise, transmit and sell copies of the Projects.

21. Messner is informed and believes and on the basis of said information and belief alleges that Defendants induced, authorized, attempted to authorize, cased or participated in, materially assisted with, and/or materially contributed to the infringing activities engaged in by other defendants and/or otherwise acted in concert with each other with respect to the infringing activity.

22. Messner is informed and believes and on the basis of said information and belief alleges that Defendants had the right and ability to supervise and/or control and cease the infringing activities engaged in by other defendants, but willfully refused to do so, in order to participate in the illegal gains created by their infringing activities.

23. Defendants have knowingly induced, caused, participated in, materially contributed to and derived economic benefit from the infringement of Messner's copyrights as to the Projects, and Messner has been damaged and continues to be damaged thereby.

1           24. Defendants' aforesaid conduct has been and continues to be intentional,  
2 deliberate, willful, and with full knowledge of Messner's copyrights and the infringements  
3 thereof.

4           25. Defendants have knowingly induced, caused, participated in, materially  
5 contributed to and derived economic benefit from the infringement of Messner's copyrights as to  
6 the Projects, and Messner has been damaged and continues to be damaged thereby.

7           26. Messner is informed and believes and on the basis of said information and belief  
8 alleges that Global and Smart each had a direct financial interest in the infringing activity in that  
9 they all earned profits from the Projects. Therefore, in addition to being direct infringers,  
10 Defendants are joint and severally liable as contributory infringers and/or vicarious infringers for  
11 the infringing activity of every other Defendant.

12           27. As a proximate result of Defendants' copyright infringements without the prior  
13 authorization or consent of Messner, Messner has suffered general and special damages and  
14 continues to suffer general and special damages, the form of lost profits and other benefits, the  
15 exact amount of which will be proven at trial, but which Messner is informed and believes and  
16 on the basis of said information and belief alleges to at least \$1,000,000.

17           28. Defendants' copyright infringement, and the threat of continuing infringement,  
18 has caused, and will continue to cause, Messner repeated and irreparable injury. It would be  
19 difficult to ascertain the amount of money damages that would afford Messner adequate relief at  
20 law for Defendants' acts and continuing acts, and a multiplicity of judicial proceedings would be  
21 required. Messner's remedy at law is not adequate to compensate him for the injuries already  
22 inflicted and further threatened by Defendants. Therefore, Defendants should be restrained and  
23 enjoined pursuant to the Copyright Act, 17 U.S.C. §§ 101, et seq.

24           29. In addition to damages, Messner is entitled to equitable relief. Defendants'  
25 conduct, as set forth herein, is causing and, unless enjoined and restrained by this Court, will  
26 continue to cause Messner irreparable harm. As a result, Defendants, their agents, servants,  
27 employees and all persons acting in concert with any of them:

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1 a. Be enjoined from directly or indirectly infringing in Messner's copyrights  
2 in the Projects or continuing to duplicate, market, offer, sell, dispose of, license, lease, transfer,  
3 display, transmit, advertise, reproduce, develop or manufacture any works derived from the  
4 Projects.

5 b. Be ordered to return to Messner all originals, copies, facsimiles or  
6 duplicates of the Projects.

7 **SECOND CAUSE OF ACTION**

8 **FOR UNJUST ENRICHMENT**

9 Against Defendant GLOBAL and DOES 1 through 5

10 30. Each and every allegation in paragraphs 1 through 29 above, are incorporated  
11 herein by this reference as though fully set forth herein.

12 31. Defendants wrongfully claimed ownership of Messner's property and used the  
13 same in its business and to otherwise increase the value of Global and/or raise money. Messner  
14 is informed and believes and based upon said information and belief alleges that Defendants  
15 claim to have raised, or increased the value of Global by, as much as \$10,000,000.

16 32. Messner is informed and believes and based upon said information and belief  
17 alleges that Defendants have been unjustly enriched as a direct and proximate result of their  
18 actions as alleged herein and Messner is entitled to recover such amount that Defendants have  
19 been so unjustly enriched.

20 33. Defendants have never paid Messner, and have failed and refused to pay Messner  
21 that they gained or benefitted from the use of Messner's property.

22 34. Messner is informed and believes and on the basis of said information and belief  
23 alleges that as a direct and proximate result of the conduct of the Defendants, he has been  
24 damaged. The full nature, extent and amount of Messner's damages has yet to be ascertained.  
25 Messner will amend his complaint to set forth the amount of damages suffered when so  
26 ascertained, however, in any event will be established at the time of trial according to proof.

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**THIRD CAUSE OF ACTION**

**FOR ACCOUNTING**

Against All Defendants

35. Each and every allegation in paragraphs 1 through 34 above, are incorporated herein by this reference as though fully set forth herein.

36. The amounts of monies due Messner are unknown to Messner, as are the sums that have been improperly retained by Defendants as a result of their improper and illegal conduct.

37. The foregoing amounts cannot be ascertained without an accounting of all transactions and monies. Accordingly, only by such accounting will Messner be able to accurately determine the amounts of money and profits Defendants obtained with his intellectual property.

**WHEREFORE**, Plaintiff BRAIN MESSNER prays judgment against Defendants as follows:

**ON THE FIRST CAUSE OF ACTION**

- 1. For special damages in an amount according to proof at trial, but alleged to be at least \$1,000,000;
- 2. For general damages in an amount according to proof at trial;
- 3. For consequential and incidental damages according to proof;

**ON THE SECOND CAUSE OF ACTION**

- 1. For disgorgement of unjust benefits wrongfully obtained by Defendants as a result of their tortious conduct in an amount according to proof at trial, but alleged to be at least \$10,000,000,000;
- 2. For general damages in an amount according to proof at trial;
- 3. For consequential and incidental damages according to proof;

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**ON THE THIRD CAUSE OF ACTION**

1. For an accounting of all transactions, monies, profits, investments and disbursements connected with the Property.

**ON ALL CAUSES OF ACTION**

- 1. For reasonable attorneys fees as permitted by law or otherwise according to proof;
- 2. For costs of suit herein incurred; and
- 3. For such other and further relief as the Court may deem proper.

DATED: September 2008  
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SMITH LAW FIRM  
A Professional Law Corporation

By:

CRAIG R. SMITH  
Attorneys for Plaintiff  
BRIAN MESSNER

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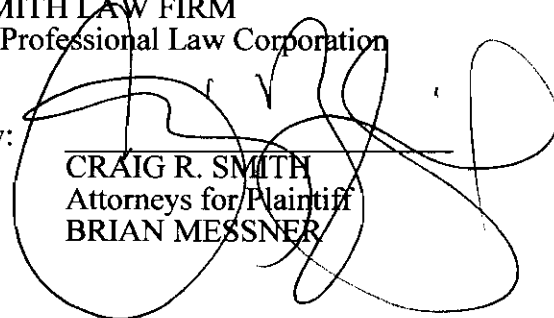
**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff BRIAN MESSNER hereby demands trial by jury as to all claims in this litigation.

DATED: September 3, 2008

SMITH LAW FIRM  
A Professional Law Corporation

By:



CRAIG R. SMITH  
Attorneys for Plaintiff  
BRIAN MESSNER