

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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CENTRAL PARK SIGHTSEEING LLC

Plaintiff,

Index No.:

-against-

FRIENDS OF ANIMALS, INC., NEW YORKERS  
FOR CLEAN, LIVABLE & SAFE STREETS, INC.  
d/b/a NYCLASS, EDWARD A. SULLIVAN, JILL  
CARNEGIE, EDITA BIRNKRANT, STACY  
MONTEROSA, MICHAEL (“MIKEY”) DOLLING  
and Does 1-100, Inclusive,

Defendants.

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**COMPLAINT**

Plaintiff, Central Park Sightseeing LLC (“CPS”), by its attorneys, Einbinder Dunn & Gonia LLP, as and for its complaint, alleges as follows:

**JURISDICTION**

1. This Court has jurisdiction over this action and defendants pursuant to New York Civil Practice Law and Rules (“CPLR”) §§ 301 and 302, because certain of the defendants reside in New York, and have committed tortious acts within the state of New York.

**THE PARTIES**

2. CPS is a limited liability company organized pursuant to the laws of the State of New York, with a principal place of business at 56 West 56th Street, New York, New York 10019.

3. Upon information and belief, defendant Friends of Animals, Inc. (“FOA”) is a not-for-profit corporation organized pursuant to the laws of the State of New York, with a principal

place of business at 1841 Broadway, Suite 350, New York, New York 10023. FOA organizes and facilitates the wrongful activities described below engaged in by its members.

4. Upon information and belief, defendant New Yorkers for Clean, Livable & Safe Streets, Inc. d/b/a NYCLASS (“NYCLASS”) is a not-for-profit corporation organized pursuant to the laws of the State of New York, with its principal place of business at 31 West 34<sup>th</sup> Street, Suite 8086, New York, New York, 10001. NYCLASS organizes and facilitates the wrongful activities described below engaged in by its members.

5. Upon information and belief, individual defendant Edward A. Sullivan is a resident of the state of New York who is affiliated with NYCLASS or FOA and resides at 57-53 Parsons Boulevard, Fresh Meadows, New York 11365. Mr. Sullivan has engaged in some of the unlawful acts in New York enumerated more fully herein.

6. Upon information and belief, individual defendant Jill Carnegie is a resident of the state of New York who is affiliated with NYCLASS and maintains a principal place of business at 254 Park Avenue South, Penthouse A, New York, New York 10010. Ms. Carnegie has been engaged in some of the unlawful acts in New York enumerated more fully herein.

7. Upon information and belief, individual defendant Edita Birnkrant is a resident of the state of New York and is the Campaigns Director for FOA with a principal place of business at 1841 Broadway, Suite 350, New York, New York 10023. Ms. Birnkrant has been engaged in some of the unlawful acts in New York enumerated more fully herein.

8. Upon information and belief, individual defendant Stacy Monterosa is a resident of the state of New York who is affiliated with either NYCLASS or FOA and resides at 6517 Parsons

Boulevard, Apartment 4F, Fresh Meadows, New York 11365. Ms. Monterosa has been engaged in some of the unlawful acts in New York enumerated more fully herein.

9. Upon information and belief, individual defendant Michael (“Mikey”) Dolling is a resident of the state of New York who is affiliated with either NYCLASS or FOA and resides at 292 7<sup>th</sup> Street, Brooklyn, New York 11215. Mr. Dolling has been engaged in some of the unlawful acts in New York enumerated more fully below.

10. CPS is without the knowledge of the true names and capacities of defendants DOES 1 through 100, inclusive, and therefore sues these defendants by such fictitious names. CPS is informed and believes, and on that basis alleges, that each of the Doe defendants is acting in concert with the named defendants with respect to the unlawful conduct alleged herein, and is therefore responsible in some manner for the occurrences alleged herein, and that CPS’s damages as herein alleged are proximately caused by each of the Doe defendants.

### **GENERAL ALLEGATIONS**

11. CPS is a New York City (“NYC”) business that offers recreational services and activities to tourists and residents including horse-drawn carriage rides in Central Park. Providing horse-drawn carriage rides to members of the public is a lawful activity licensed and regulated by NYC.

12. The booking of horse-drawn carriage rides in Central Park is a major component of CPS’s business. CPS books horse-drawn carriage rides both for independent carriage owners/operators affiliated with CPS and for horse-drawn carriages owned and operated by CPS. (Hereafter, the horse-drawn carriage owners receiving bookings from CPS and the horse-drawn

carriages operated by CPS are collectively referred to as “CPS Horse-Drawn Carriages” and the drivers of the carriages are referred to as “Drivers.”). Individuals who have purchased a horse-drawn carriage ride from CPS receive a voucher that they can then redeem with the Driver of a CPS Horse-Drawn Carriage.

13. CPS Horse-Drawn Carriages pick up and drop off passengers at four designated horse-drawn carriage zones located on 59<sup>th</sup> Street (Central Park South). The locations of the Horse-Drawn Carriage Zones are at (1) Grand Army Plaza (Central Park South and 5<sup>th</sup> Avenue); (2) Central Park South and 6<sup>th</sup> Avenue; (3) Central Park South and 7<sup>th</sup> Avenue; and (4) near Columbus Circle (Central Park South and 8<sup>th</sup> Avenue) (collectively the “Horse-Drawn Carriage Zones”).

14. CPS’s customers (the “Customers”) either purchase tickets for their horse-drawn carriage rides in advance on CPS’s website or at CPS’s physical store location at 56 West 56th Street, New York, New York 10019. In addition, Customers may book horse-drawn carriage rides in person at the Horse-Drawn Carriage Zones with Drivers and/or with other carriage owners/operators.

15. Upon information and belief, Defendants are aware that some horse-drawn carriage rides are pre-booked by Customers (because they see the Customers handing the vouchers to the Drivers) while other Customers purchase horse-drawn carriage rides directly from Drivers at the Horse-Drawn Carriage Zones.

16. In connection with protest activities, Defendants regularly engage in illegal conduct such as harassing, accosting, physically threatening and intimidating Drivers and Customers with

the aim of interfering with CPS's lawful business of selling and providing horse-drawn carriage rides. Defendants do not merely engage in peaceful leafletting or the peaceful communication of their opinions to the public. Rather, Defendants' activities involve unlawful conduct including, among other things, blocking Customers from accessing horse-drawn carriages, blocking drivers from performing their job duties and loudly yelling obscenities at, accosting, harassing, threatening and intimidating Drivers and Customers. Defendants intentionally attempt to provoke verbal and physical altercations with Drivers and Customers by, among other things, standing in front of, or so close to, Drivers that they block them from doing their job, aggressively taunting and insulting Customers and members of the public while they occupy the horse-drawn carriages (including the frail and elderly), blocking the movements of Drivers and their horse-drawn carriages, placing themselves in such close proximity to Drivers that physical contact is unavoidable (and then falsely accusing the Driver of pushing, touching or harassing them); aggressively shouting "What are you going to do about it?" into the faces of persons who object to their activities or "Why don't you make me" into the faces of person who ask them to stop harassing them, aggressively shoving pictures of dead horses in front of Customers, including parents with young, visibly scared and intimidated children, and refusing to desist from these aggressive activity when asked to do so by the children's parents, and by purposefully attempting to provoke arguments and altercations with Drivers who are trying to do their job and Customers who are attempting to peacefully enjoy a horse-drawn carriage ride in Central Park. Defendants also aggressively encourage Customers to refrain from engaging in their pre-booked horse-drawn carriage rides or to leave the carriages without paying their fares.

17. Defendants threaten, and actually have engaged in, physical assaults on Drivers. For example, on October 8, 2016, one of the Defendants, Edward A. Sullivan, was arrested by the New York City police after physically assaulting one the horse-drawn carriage drivers. Upon information and belief, other Defendants also have been arrested or received citations or police warnings in connection with the activities described herein.

18. Defendants conduct also creates threats to the public health and safety. Defendants frequently chase after horse-drawn carriages and follow them through traffic so that they can continue to taunt Drivers and Customers. Defendants frequently reach into or walk beside horse-drawn carriages that are in motion in the street attempting to distract Drivers and Customers. In addition, Defendants often engage in loud and aggressive demonstrations in direct proximity to the carriage horses (within one or two feet) and refuse to cease doing so when asked by the Drivers to stop. Defendants' loud and aggressive behavior right next to the horses, and their large signs, disturbs and spooks the horses making them nervous and more likely to start, balk or shy and, thus, creates a physical hazard to Drivers, Customers and members of the public.

19. Hereafter, Defendants' wrongful actions, including those described in the paragraphs above, shall be referred to a "Defendants' Wrongful Conduct" or "Wrongful Conduct." Defendants' Wrongful Conduct, is targeted to the public generally and in addition is directly and intentionally targeted at interfering with CPS's lawful business.

20. To date, police intervention has been unsuccessful at stopping the Defendants' Wrongful Conduct. When Defendants have been approached by police in response to altercations with Drivers and/or Customers or have been instructed to disperse, Defendants have returned to

the Horse-Drawn Carriage Zones soon after the police have left and have continued to participate in Wrongful Conduct. Alternatively, Defendants will alter their conduct when police arrive to appear to be peaceful protester but then, as soon as the police leave, begin to again engage in Wrongful Conduct.

21. Defendants' Wrongful Conduct has damaged CPS's business. As a result of Defendants' Wrongful Conduct, some Customers who had previously purchased tickets with CPS for horse-drawn carriage rides have indicated they were threatened and intimidated by Defendants and, as a result, cancelled their horse-carriage rides and demanded to receive refunds or have participated in their horse-drawn carriage rides but demanded refunds or discounted fares because the experience was made unenjoyable by Defendants. Other Customers who were in the process of entering into contracts with Drivers to obtain a horse-drawn carriage ride have indicated that they ultimately refrained from purchasing the horse-drawn carriage ride from Drivers because they were being verbally assaulted and harassed by Defendants. In addition, upon information and belief, many tourists and other members of the public who otherwise would avail themselves of horse-drawn carriage rides booked or provided by CPS avoid doing so when they observe Defendants' Wrongful Conduct because they wish to avoid being subject to harassment, verbal abuse and physical intimidation. Accordingly, Defendants' Wrongful Conduct has obstructed and interfered with CPS's business, business relationships and contracts.

22. Defendants' Wrongful Conduct constitutes a public nuisance and violates New York City laws prohibiting harassment, disturbing the peace, disorderly conduct and New York City regulations prohibiting large, un-permitted demonstrations in city parks and/or that prohibit

demonstrators from blocking sidewalks, streets or other public property. Upon information and belief, Defendants also violate New York City regulations by engaging in demonstrations of more than 20 people in Central Park without obtaining a permit and by using noise amplified devices in Central Park without a permit.

23. CPS has no adequate remedy at law.

**AS AND FOR A FIRST CAUSE OF ACTION**

**Public Nuisance:  
Injunctive relief and damages  
(Against All Defendants)**

24. The allegations of paragraphs 1-23 are hereby incorporated by reference.

25. Defendants' Wrongful Conduct constitutes a public nuisance because it interferes with the public's exercise of its rights. Defendants' Wrongful Conduct endangers the property, health, safety and comfort of a considerable number of persons and, among other things, constitutes a traffic hazard and interferes with the public's use of public streets and sidewalks. In addition, Defendants' Wrongful Conduct, which includes yelling and making loud and aggressive noises near the carriages, disturbs the horses making them skittish and more likely to start or balk and, thus, create a safety hazard. As a result of Defendants' Wrongful Conduct, the health, safety and comfort of the Customers, Drivers, horses and the public has been and will continue to be jeopardized in a substantial manner, unless and until Defendants are restrained. Defendants' Wrongful Conduct created, contributes to and maintains the public nuisance described herein. Defendants' Wrongful Conduct is ongoing and, in fact, is escalating.



26. Defendants' Wrongful Conduct is directed at the public generally and is specifically targeted at harming CPS's lawful business. CPS's business has suffered special harm as a result of Defendants' Wrongful Conduct, in that, among other things, CPS's property right to operate a lawful business is being obstructed and damaged.

27. The harm suffered by CPS is different from the harm suffered by the community at large as a result of the Defendants' Wrongful Conduct.

28. Defendants' Wrongful Conduct has irreparably harming CPS by interfering with CPS's property right to operate a lawful business free from obstruction by improper means and, unless and until restrained, will continue to irreparably harmed CPS.

29. Defendants' Wrongful Conduct, is flagrant, willful, reckless and wantonly negligent.

30. By reason of the foregoing, CPS is entitled to injunctive relief, compensatory damages in an amount to be determined by the court and punitive damages.

**AS AND FOR A SECOND CAUSE OF ACTION**  
**Tortious Interference with Contractual Relations:**  
**Injunctive relief and damages**  
**(Against All Defendants)**

31. The allegations of paragraphs 1-30 are hereby incorporated by reference.

32. Written contracts existed between CPS and its Customers who previously purchased tickets for horse-drawn carriage rides on CPS's website or from CPS's retail location.

33. Defendants' have knowledge of the written contracts between CPS and its Customers.

34. Defendants' Wrongful Conduct, including the conduct set forth herein, has in the past and continues to intimidate Customers and cause Customers to breach their contracts with CPS in order to escape Defendants' verbal and physical harassment and to seek refunds from CPS or, alternatively, to seek refunds from CPS because Defendants' Wrongful conduct render the Customers' horse-drawn carriage rides unenjoyable. As a result of the Defendants' Wrongful Conduct and subsequent breached contracts by Customers, CPS has been forced to issue refunds to Customers resulting in harm to CPS's business. For example, on November 14, 2016 a Customer, Eric Van Wagner, who purchased a horse-drawn carriage ride in advance on CPS's website, requested a refund in the amount of \$136.40 because the Defendants obstructed his family from entering the horse-drawn carriage, shouted obscenities at them, and intimidated them. CPS refunded the Customer.

35. Defendants' Wrongful Conduct is specifically targeted to causing Customers to breach their contracts with CPS, thereby causing economic harm to CPS.

36. Defendants' Wrongful Conduct is without justification and is in wanton and reckless disregard of CPS's rights, including the property right of CPS to operate a lawful business free from obstruction by improper means, and the rights of the Drivers, Customers and horses to be safe from harassment, physical harm and verbal assaults.

37. In addition to the monetary harm suffered by CPS, Defendants' Wrongful Conduct, has irreparably harmed CPS's business and, unless and until restrained, will continue to irreparably harm CPS because it interferes with CPS's property right to operate a lawful business without obstruction by improper means.

38. By reason of the foregoing, CPS is entitled to injunctive relief, compensatory damages in a sum to be determined by the court and putative damages.

**AS AND FOR A THIRD CAUSE OF ACTION**  
**Tortious Interference with Prospective Economic Advantage:**  
**Injunctive relief and damages**  
**(Against All Defendants)**

39. The allegations of paragraphs 1-38 are hereby incorporated by reference.

40. CPS and its Drivers establish business relationships with Customers who attempt to purchase a horse-drawn carriage ride from Drivers in the Horse-Drawn Carriage Zones. Defendants have full knowledge of this fact because they see it occurring.

41. Defendants' Wrongful Conduct, which causes Customers to feel harassed, intimidated and unsafe, is an unlawful, dishonest, unfair, and/or improper means to induce Customers to break off their business interactions with CPS and to refrain from contracting with Drivers to provide horse-drawn carriage rides.

42. In addition to injuring CPS, Defendants' Wrongful Conduct harms the public because, among other things, Defendants' actions interfere with the public use of the sidewalks and streets surrounding the Horse-Drawn Carriage Zones and because Defendants yell obscenities and verbally assault and harass any member of the public that expresses an interest in taking a horse-drawn carriage ride, whether or not that person is a Customer of CPS.

43. In addition to the monetary harm suffered by CPS, Defendants' Wrongful Conduct, has irreparably harmed CPS and, unless and until restrained, will continue to irreparably harm CPS because it interferes with CPS's right to operate a lawful business without obstruction by improper means.

44. By reason of the foregoing, CPS is entitled to injunctive relief, compensatory damages, in an amount to be determined by the court and punitive damages.

**WHEREFORE**, CPS demands judgment as follows:

That Defendants, each of them, and their agents, employees, representatives, and all persons acting in concert and participation with them or with actual notice of the Order, be enjoined during the pendency of this action and permanently restrained from:

- (1) blocking, impeding or obstructing pedestrians or persons who are attempting to provide, or attempting to participate in, horse-drawn carriage rides at or near the designated horse-drawn carriage locations on the North Side of 59<sup>th</sup> Street (Central Park South) between 8<sup>th</sup> Avenue and 5<sup>th</sup> Avenue (the “Horse-Drawn Carriage Zones”);
- (2) harassing or physically abusing, touching, pushing, shoving persons in the Horse-Drawn Carriage Zones or persons approaching, entering or leaving the Horse-Drawn Carriage Zones;
- (3) being present in or on any portion of the sidewalk, curb or street at the Horse-Drawn Carriage Zones within a buffer zone of 15 feet from any horse-drawn carriage;
- (4) blocking, impeding or interfering with the progress of any horse-drawn carriage leaving a Horse-Drawn Carriage Zone or after it leaves a Horse-Drawn Carriage Zone;
- (5) engaging in demonstration activities that violate local regulations, ordinances or rules; and
- (6) inducing, directing, aiding or abetting in any manner, others to take any of the actions described above.

On the First Cause of Action, compensatory damages, in an amount to be determined by the court and punitive damages.

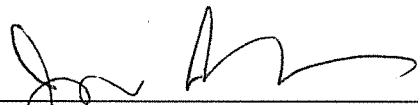
On the Second Cause of Action, compensatory damages in an amount to be determined by the court and putative damages.

On the Third Cause of Action, compensatory damages, in an amount to be determined by the court and punitive damages.

Such other and further relief as the Court deems just and proper.

Dated: New York, New York  
December 8, 2016

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By:  \_\_\_\_\_

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