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9 Attorneys for Plaintiff Adam Bonsignori

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

12 ADAM BONSIGNORI, an individual,
13
14 Plaintiff,

15 v.

16 STARZ ENTERTAINMENT, LLC, a
17 Colorado limited liability company;
THE STRANGER YOU KNOW, LLC,
18 a California limited liability company;
PAIGE GOLDBERG TOLMACH, an
19 individual; THE KENNEDY/
MARSHALL COMPANY, a California
20 corporation; BLUE FOX
ENTERTAINMENT, LLC, a California
21 limited liability company, and DOES 1-
50,

22 Defendants.
23

CASE No.

COMPLAINT FOR:

(1) DEFAMATION

(2) FALSE LIGHT

**(3) INTENTIONAL INFLICTION
OF EMOTIONAL DISTRESS**

**(4) NEGLIGENT INFLICTION OF
EMOTIONAL DISTRESS**

DEMAND FOR JURY TRIAL

24 Plaintiff Adam Bonsignori complains of defendants Starz Entertainment,
25 LLC, The Stranger You Know, LLC, Paige Goldberg Tolmach, The
26 Kennedy/Marshall Company, Blue Fox Entertainment, LLC, and Does 1 through 50,
27 and alleges as follows:
28

SUBJECT MATTER JURISDICTION

1
2 1. This court has original jurisdiction under 28 USC § 1332, in that this is
3 a civil action between citizens of different states in which the matter in controversy
4 exceeds, exclusive of costs and interest, seventy-five thousand dollars.

NATURE OF THE CASE

5
6 2. The 2018 Emmy-nominated documentary “What Haunts Us” (“Film”)
7 arises out of a teacher’s sexual abuse of pupils at the Porter-Gaud school in
8 Charleston, South Carolina, in the late 1970’s and 1980’s. One of the themes of the
9 Film is that people were aware of what was happening but did nothing to stop it.

10 3. Bonsignori was a pupil at Porter-Gaud during the period that the abuse
11 was occurring. He was not a victim of the abuse and knew nothing about it until the
12 teacher, Eddie Fischer, was arrested in 1997.

13 4. Paige Goldberg Tolmach, who produced and featured in the Film, was
14 also a pupil at the school but Bonsignori was six grades ahead of her. Since Porter
15 Gaud at the time was divided into an Upper and Lower School, they never knew
16 each other.

17 5. Defendants created an image by taking Bonsignori’s photograph from
18 the school’s 1979 year book, manipulating it in the same way that they manipulated
19 Fisher’s photograph (using a scratching/blurring technique), and placing a slogan
20 over his mouth saying, “Pay Attention To Who’s Paying Attention To Your Kids”
21 (“Image”). Defendants used two versions of the Image extensively in the Film itself
22 and in its marketing materials without Bonsignori’s prior knowledge and without
23 ever seeking his consent.

24 6. The Image conveys two defamatory meanings, either expressly or by
25 implication, namely, either (1) Bonsignori is a sexual abuser, or (2) he knew that
26 others at the school were being sexually abused but failed to protect the victims and
27 was thereby complicit in the abuse.

28

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1 7. Even though Bonsignori’s eyes and upper part of his nose are partially
2 obscured in the Image, numerous people have recognized it as him. Especially since
3 he himself is a father and a teacher, he is horrified, humiliated, embarrassed and
4 distressed by Defendants’ callous and defamatory use of his likeness to
5 sensationalize the subject matter and market the Film in order to boost their
6 professional standing and/or make money.

7 **PARTIES**

8 8. Bonsignori is and at all material times has been a resident of the state of
9 Florida.

10 9. Tolmach is an individual residing at all material times in Los Angeles
11 County.

12 10. Starz Entertainment, LLC (“Starz”) is a Colorado limited liability
13 company, with offices at 2700 Colorado Avenue, Santa Monica, CA 90404.

14 11. The Stranger You Know, LLC (“Stranger”) is a California limited
15 liability company, with offices at 16027 Ventura Blvd., Encino, CA 91436.

16 12. The Kennedy/Marshall Company (“Kennedy/Marshall”) is a California
17 corporation, with offices at 16055 Ventura Blvd., Encino, CA 91436.

18 13. Blue Fox Entertainment, LLC (“Blue Fox”) is a California limited
19 liability company, with offices at 14013 Old Harbor Lane, Marina Del Rey, CA
20 90292.

21 14. Tolmach, Stranger and Kennedy/Marshall, themselves and through
22 their affiliates, are responsible for producing the Film.

23 15. Starz, itself or through its affiliates, distributed the Film in the USA on
24 its cable channel, and Blue Fox, itself or through its agents and licensees, is
25 distributing the Film in other media and territories worldwide.

26 16. Defendants are jointly responsible for coordinating, among other
27 things, the distribution, marketing, promotion, and exploitation of the Film
28 throughout all territories.

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17. At all times mentioned herein, each Defendant acted as the actual or ostensible agent and/or employee of each other Defendant and, in performing the actions alleged herein, acted in the course and scope of such agency and/or employment. Each Defendant succeeded to, assumed the liabilities of, and/or ratified the actions of each other Defendant with respect to the matters alleged herein.

18. Bonsignori is unaware of the true names and capacities of defendants named herein as Does 1 through 50, inclusive, but is informed and believes, and thereon alleges, that each of the fictitiously named defendants engaged in, or is in some manner responsible for, the wrongful conduct alleged herein. Bonsignori therefore sues these defendants by such fictitious names and will amend this complaint to state their true names and capacities when such names have been discovered.

PERSONAL JURISDICTION AND VENUE

19. This Court has personal jurisdiction over Tolmach, Stranger, Kennedy/Marshall and Blue Fox because they are domiciled in California. This Court has personal jurisdiction over Starz because it purposefully directed its activities toward residents of California or otherwise established contacts with the state (including maintaining offices and an agent for service of process in California), because Plaintiff's cause of action arises out of or results from Starz's forum-related contacts, and because the exercise of personal jurisdiction in the particular case is reasonable.

20. Venue is proper in this District pursuant to 28 U.S.C. Sections 1391(b) and 1391(c) because a substantial part of the events or omissions giving rise to the claims asserted herein occurred within this district and because Tolmach, Stranger, Kennedy/Marshall and Blue Fox are domiciled in this judicial district, and because Starz resides in this judicial district.

GENERAL ALLEGATIONS

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21. Bonsignori attended the Porter Gaud School in Charleston, South Carolina (“School”) featured in the Film, but he was not subjected to any sexual abuse, nor was he aware that any of his fellow students had suffered such abuse until about 1997 when Fischer was arrested – he was jailed for 20 years in 1999. Bonsignori was something of an outsider at the School, having arrived in the 10th grade and because his family was not part of the Charleston social elite whose children attended the School.

22. The Film was screened in a theater in Charleston for several weeks in or about March 2018. It was officially released theatrically and shown in cinemas in Los Angeles and New York on or about May 11, 2018. It was first broadcast by Starz on its cable channel on or about May 14, 2018.

23. Bonsignori knew nothing about the Film until late April 2018, when his wife, Karen Bonsignori, was told that Bonsignori’s image was in materials relating to the Film. This caused great embarrassment to Bonsignori, who also feared that other people who knew him may now believe that he was a sexual predator. In any event, his wife, his friends and his family members have experienced and expressed shock and surprise that he may have been involved in these events, and whether some of them fully believe Bonsignori’s protestations that he was not involved is hard to gauge.

24. On reviewing the images of himself in connection with the Film that are available on the internet, Bonsignori was truly horrified. They show that Defendants have taken Bonsignori’s photograph from his senior year book and manipulated it in at least two ways.

Image No. 1

25. First, Defendants created Image No. 1 (see next page) by attempting to obscure Bonsignori’s eye area and the upper part of his nose using a scratch-out effect:

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26. The rest of his face is visible, and he is easily recognizable. Over some of these images, the legend “Pay Attention to Who's Paying Attention to Your Kids” (“Legend”) appears. This Legend is particularly troubling, since it conveys the message that the people to whom parents entrust their children may not be trustworthy. In the abstract, that message may not be harmful, but when the Legend is displayed over Bonsignori’s face, that makes it very personal and very damaging. The clear import is that Bonsignori is someone who cannot be trusted for one of two reasons. This image was widely used as the What Haunts Us Facebook page avatar and in movie promotion materials and publicity,

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1 27. Either (a) the combination of the image, which portrays him as a
2 muscular young man, and the Legend may cause a reader/viewer to reasonably
3 believe that he was the sexual predator who is the subject of the Film.

4 28. Or (b) the image and Legend may cause a reader/viewer to reasonably
5 believe that he failed to protect the victims of sexual abuse and was thereby
6 complicit in the abuse. This is a major theme of the Film, which is described in a
7 review in The Hollywood Reporter dated November 17, 2017, as follows “...
8 Tolmach reveals that her film's title doesn't refer to one adult's abuse of children, nor
9 to the cowardice and pride that kept the school from bringing him to justice. She
10 turns the focus back on the friends and families of those who were exploited,
11 bystanders who, whether they'd been told something was going on or not, had both
12 reasons to suspect and reasons to remain willfully ignorant. As long as that sort of
13 environment exists, whether in schools or the office or on film sets, predators will
14 have little trouble exploiting the vulnerable.” One implication created by the image
15 and Legend is that Bonsignori falls into that category of “friends and family” who
16 “had both reasons to suspect and reasons to remain willfully ignorant.” This image
17 has been used widely and prominently to promote the film to include the social
18 media avatar for the What Haunts Us pages, newspaper publicity, posters and more.

19 **Image No. 2**

20 29. The film makers created Image No. 2 (see next page – from the Film’s
21 Facebook page) by partially obscuring Bonsignori’s eyes, nose and mouth using a
22 scratch-out effect:

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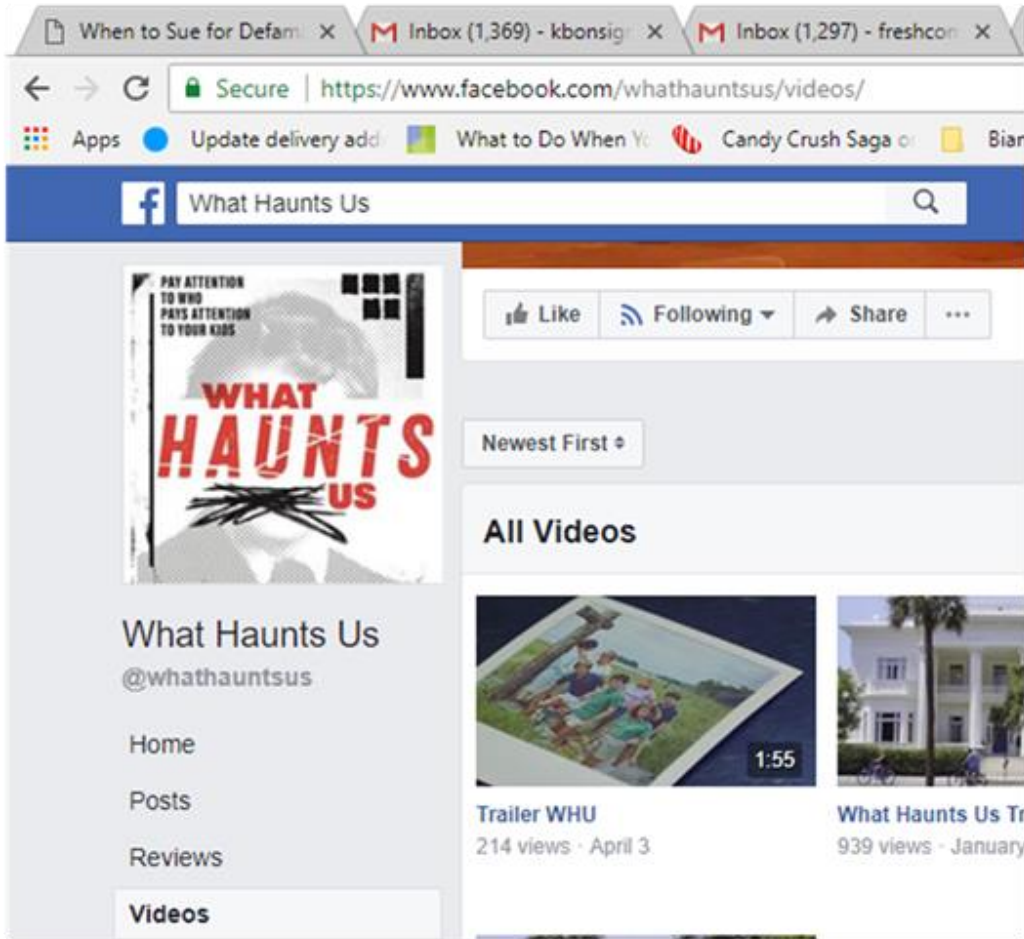
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32. Since Defendants are clearly adept at manipulating these images, their decision to use Image No. 1 so widely is especially significant. It takes up most of the one-sheet; it appears prominently in the teasers that ran on Starz multiple times each hour before it was broadcast, on the Film’s Facebook page as the avatar and in several postings (Image No. 2 also appears on some of the Film’s FB pages about videos), and on Kennedy/Marshall’s website. It has gone viral on the web, e.g., https://www.postandcourier.com/features/eddie-fischer-s-sex-abuse-at-charleston-s-porter-gaud/article_aa99dc9e-2180-11e8-ace7-eb362669f434.html, <https://scenester.tv/what-haunts-us-a-film-by-paige-goldberg-tolmach-premiering-at-doc-nyc-film-fest/>, <https://www.vimooz.com/2017/10/16/what-haunts-us-paige-goldberg-tolmach-doc-nyc/>, and <http://movies.eventful.com/what-haunts-us-/M0-001-000111560-9/showtimes>. The sad truth is that Image no. 3 could have been

1 used for all of these purposes and Bonsignori would never have been identified. But
2 Defendants chose otherwise.

3 **Post Demand Conduct**

4 33. On May 2, 2018, Bonsignori’s wife sent a Facebook message to the
5 producers, complaining that they were using her husband’s image in the Film
6 without his permission. The producers’ response was clear – they would stop using
7 the image immediately: “karen!! Thank you so much for reaching out to us!! ... The
8 idea that you and Adam are uncomfortable in any way upsets us tremendously and
9 we will absolutely end the usage of the studio-created image in our poster and key
10 art immediately.. xo.” But despite now knowing that they were unlawfully using his
11 image, and despite promising to stop using the image on posters or key art
12 immediately, Defendants took no action and continued to use the images for their
13 perceived benefit. This is evidence of deliberate and malicious conduct that merits
14 the imposition of punitive damages against them.

15 34. On May 4, 2018, Bonsignori saw that Image No. 1 was still being used
16 to promote the Film, and retained counsel. By letter to the producers and to Starz
17 dated May 7, 2018, his counsel demanded that the images be removed from the Film
18 and its marketing materials. On May 14, 2018, Defendants’ counsel replied by
19 email, stating that “(A) as a courtesy, the image referenced in your (May 8) letter
20 has been removed from all promotional materials for the documentary Film; and (B)
21 none of your client’s name, likeness, image or voice appear in the documentary Film
22 (whether scratched out or otherwise obscured).”

23 35. Statement (A) was false. Despite the assertion that the image had been
24 removed from all promotional materials for the Film, Starz continued to use the
25 images to promote their broadcast of the Film, which constitutes deliberate and
26 malicious conduct that merits the imposition of punitive damages against Starz.

27 36. Statement (B) is also false. Despite the assertions that they had been
28 removed, the images were still in the Film when it was released theatrically, in 2

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1 places: first in the opening credits, and again 4-5 minutes from the end. Both clips
2 were several seconds long, beginning with Image No. 1, and as the clip advances,
3 his lips and lower face are covered by the scratching-out effect, so that the end
4 image is Image no. 2. The scratching-out effect appears to be used in the Film to
5 convey negative connotations, having been used elsewhere on images of Fischer and
6 the school administrators who ignored the abuse. This use, after Bonsignori’s
7 demand and Defendants’ counsel’s statement that the images would be removed,
8 amounts to deliberate and malicious conduct that merits the imposition of punitive
9 damages against Defendants (except Starz).

10 **FIRST CLAIM FOR RELIEF - DEFAMATION**

11 37. Bonsignori repeats and realleges all the allegations contained in
12 paragraphs 1 through 36, inclusive, as though set forth herein in full.

13 38. The Images convey two defamatory meanings, either expressly or by
14 implication, namely, either (1) Bonsignori is a sexual abuser, or (2) he knew that
15 others at the school were being sexually abused but failed to protect the victims and
16 was thereby complicit in the abuse.

17 39. The Images expose Bonsignori to injury to his reputation by attributing
18 to him the appearance of negative personal traits or attitudes that he does not
19 possess. In addition, the Images falsely state or imply that Bonsignori acted in an
20 unethical and cowardly manner. The Images subject Bonsignori to contempt and
21 ridicule, injure him in his profession as a teacher, and cause others to shun and avoid
22 him.

23 40. Bonsignori is not a public figure.

24 41. The Images were published by Defendants as alleged above negligently
25 and/or with Constitutional actual malice, knowing that they were false or were
26 conveyed with a reckless disregard for the truth or falsity of what was stated.

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1 42. As a proximate result of the foregoing, Bonsignori has suffered actual
2 damages, including emotional distress damages, in an amount according to proof at
3 trial but in any event in excess of the jurisdictional threshold of this Court.

4 43. Defendants' conduct as described herein was done with a conscious
5 disregard of the rights of Bonsignori, with the intent to vex, annoy, and/or harass
6 him. Such conduct was unauthorized and constitutes oppression, fraud, and/or
7 malice under California Civil Code §3294, entitling Bonsignori to an award of
8 punitive damages in an amount appropriate to punish or set an example of
9 Defendants in an amount to be determined at trial.

10 44. The harm that the Images will cause to Bonsignori in the future is both
11 great and irreparable and the amount of damage already sustained by Bonsignori
12 will be difficult to further sustain if these acts continue. The conduct described
13 above is ongoing, and injunctive relief is necessary to prevent and restrain continued
14 dissemination of the Images. Bonsignori requests that the court enter an injunction
15 to requiring Defendants to remove the Images from the Film and all marketing and
16 promotional materials.

17 **SECOND CLAIM FOR RELIEF - FALSE LIGHT**

18 45. Bonsignori repeats and realleges all the allegations contained in
19 paragraphs 1 through 36, inclusive, as though set forth herein in full.

20 46. The Images convey two defamatory meanings, either expressly or by
21 implication, namely, either (1) Bonsignori is a sexual abuser, or (2) he knew that
22 others at the school were being sexually abused but failed to protect the victims and
23 was thereby complicit in the abuse.

24 47. The Images created a false impression of Bonsignori by attributing to
25 him the appearance of negative personal traits or attitudes that he does not possess.
26 In addition, the Images portray Bonsignori in a false light by stating or implying that
27 he acted in an unethical or cowardly manner. The Images subject Bonsignori to
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1 contempt and ridicule, injure him in his profession as a teacher, and cause others to
2 shun and avoid him.

3 48. Bonsignori is not a public figure.

4 49. The Images were widely published by Defendants as alleged above
5 negligently and/or with Constitutional actual malice, knowing that they were false or
6 were conveyed with a reckless disregard for the truth or falsity of what was stated.

7 50. As a proximate result of the foregoing, Bonsignori has suffered actual
8 damages, including emotional distress damages, in an amount according to proof at
9 trial but in any event in excess of the jurisdictional threshold of this Court.

10 51. Defendants' conduct as described herein was done with a conscious
11 disregard of the rights of Bonsignori, with the intent to vex, annoy, and/or harass
12 him. Such conduct was unauthorized and constitutes oppression, fraud, and/or
13 malice under California Civil Code §3294, entitling Bonsignori to an award of
14 punitive damages in an amount appropriate to punish or set an example of
15 Defendants in an amount to be determined at trial.

16 52. The harm that the Images will cause to Bonsignori in the future is both
17 great and irreparable and the amount of damage already sustained by Bonsignori
18 will be difficult to further sustain if these acts continue. The conduct described
19 above is ongoing, and injunctive relief is necessary to prevent and restrain continued
20 dissemination of the Images. Bonsignori requests that the court enter an injunction
21 to requiring Defendants to remove the Images from the Film and all marketing and
22 promotional materials.

23 **THIRD CLAIM FOR RELIEF - INTENTIONAL INFLICTION OF**
24 **EMOTIONAL DISTRESS**

25 53. Bonsignori incorporates in this cause of action all allegations contained
26 in paragraphs 1 through 36 of this Complaint as though set forth fully herein.

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1 54. Bonsignori pleads Intentional Infliction Of Emotional Distress as an
2 alternative count in the event that the Images are deemed not defamatory or do not
3 create a false light.

4 55. Defendants engaged in extreme and outrageous conduct with the
5 intention of causing, or reckless disregard of the probability of causing, severe
6 emotional distress to Bonsignori. Defendants' conduct was so extreme and
7 outrageous as to go beyond all possible bonds of decency, and is regarded as
8 atrocious, and utterly intolerable in a civilized community.

9 56. Bonsignori suffered severe emotional distress as a result of Defendants'
10 conduct alleged above, including, but not limited to, suffering, anguish, fright,
11 horror, nervousness, grief, anxiety, worry, shock, humiliation, and shame.

12 57. As a proximate result of the foregoing, Bonsignori has suffered
13 damages, including said emotional distress damages, in an amount according to
14 proof at trial but in any event in excess of the jurisdictional threshold of this Court.

15 58. Defendants' conduct as described herein was done with a conscious
16 disregard of the rights of Bonsignori, with the intent to vex, annoy, and/or harass
17 him. Such conduct was unauthorized and constitutes oppression, fraud, and/or
18 malice under California Civil Code §3294, entitling Bonsignori to an award of
19 punitive damages in an amount appropriate to punish or set an example of
20 Defendants in an amount to be determined at trial.

21 **FOURTH CLAIM FOR RELIEF - NEGLIGENT INFLICTION OF**
22 **EMOTIONAL DISTRESS**

23 59. Bonsignori incorporates in this cause of action all allegations contained
24 in paragraphs 1 through 36 of this Complaint as though set forth fully herein.

25 60. Bonsignori pleads Negligent Infliction Of Emotional Distress as an
26 alternative count in the first three claims for relief.

27 61. By acting in the manner alleged above, Defendants negligently caused
28 severe emotional distress to Bonsignori, including, but not limited to, suffering,

1 anguish, fright, horror, nervousness, grief, anxiety, worry, shock, humiliation, and
2 shame.

3 62. As a proximate result of the foregoing, Bonsignori has suffered
4 damages, including said emotional distress damages, in an amount according to
5 proof at trial but in any event in excess of the jurisdictional threshold of this Court.

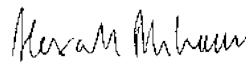
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7 **PRAYER FOR RELIEF**

8 WHEREFORE, Bonsignori prays for relief as follows:

- 9 1. For compensatory damages according to proof;
- 10 2. For punitive damages according to proof;
- 11 3. For temporary, preliminary, and permanent injunctive relief, restraining
12 and enjoining Defendants, their agents and all persons acting in concert with
13 them from promoting, distributing, performing, or facilitating the further
14 exploitation of the Images.
- 15 4. For costs of suit; and
- 16 5. For such further relief as the Court deems just and proper.

17 DATED: September 13, 2018

RUFUS-ISAACS ACLAND &
GRANTHAM LLP

21 By: 
22 Alexander Rufus-Isaacs
23 Attorneys for Plaintiff Adam Bonsignori
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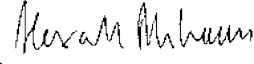
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DEMAND FOR JURY TRIAL

Plaintiff Adam Bonsignori hereby demands trial by jury.

DATED: September 13, 2018

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By: 
Alexander Rufus-Isaacs
Attorneys for Plaintiff Adam Bonsignori

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