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SUPERIOR COURT  
SAN DIEGO COUNTY, CA

1 Joseph La Costa  
2 California Bar #108443  
3 7860 Mission Center Court, Suite #103  
4 San Diego, California 92108  
5 619 922-5287  
6 619-599-1020(fax)

joelacostaesq@gmail.com

7 Attorney for Plaintiff Alexander Morfin

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **FOR THE COUNTY OF SAN DIEGO**

13 ALEXANDER MORFIN as Individual. }  
14 Plaintiff, }

Case No. 37-2018-00050850-CU-DF-CTL

15 vs.

**VERIFIED COMPLAINT FOR:**

16 **WARNER BROS.**  
17 **ENTERTAINMENT INC.** (formerly  
18 known as Warner Bros. Pictures,  
19 Inc.), filed as a Foreign in the State of  
20 California; **GAVIN O'CONNOR** as  
21 Individual; **STEVEN MNUCHIN** as  
22 Individual; **MARTY P. EWING** as  
23 Individual; **LYNETTE HOWELL**  
24 **TAYLOR** as Individual; **JAMIE**  
**PATRICOF** as Individual; **MARK**  
25 **WILLIAMS** as Individual, and **DOES**  
26 1-30, Inclusive  
27 Defendants

- (1) Misappropriation of Likeness or Identity.
- (2) Violation of California Civil Code § 3344.
- (3) Invasion Of Privacy – False Light And
- (4) Intentional Infliction of Emotional Distress.

[UNLIMITED JURISDICTION]

28 Plaintiff Alexander Morfin alleges as follows:

1                    **GENERAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**  
2                    **AGAINST ALL DEFENDANTS**

- 3                    1. Does 1 through 30 are liable to the Plaintiff, in the below transactions. When  
4                    the true names and capacities of the Defendants sued herein as Does 1 through  
5                    30, inclusive, are ascertained, Plaintiff will amend this complaint to  
6                    incorporate such Does as Defendants.  
7  
8                    2. Plaintiff Mr. Alexander Morfin, by and through his undersigned counsel,  
9                    hereby files this Complaint for defamation through libel and false light  
10                    invasion of privacy against Defendants **Warner Bros. Entertainment Inc;**  
11                    Gavin O'Connor; Steven Mnuchin; Marty P. Ewing; Lynette Howell Taylor;  
12                    Jamie Patricof; and Mark Williams and et, al. arising from an Motion Picture  
13                    Defendant maliciously and negligently release on the theater falsely ascribing  
14                    manner to Plaintiff and thereby attributing to him highly offensive and  
15                    defamatory acts he did not commit. This false and defamatory article harmed  
16                    Plaintiff's personal and business reputation, and caused him serious emotional  
17                    distress, embarrassment, and personal humiliation.

18  
19                    **THE PARTIES**

- 20                    3. Plaintiff Alexander Morfin (hereinafter referred to as The Plaintiff) is, and was  
21                    at all times mentioned herein an individual over the age of eighteen and a  
22                    resident of San Diego County, California as well as this Judicial District. He  
23                    respectfully requests a jury trial on all issues so triable.  
24                    4. At all times mentioned herein, Defendant's Gavin O'Connor; Steven Mnuchin;  
25                    Marty P. Ewing; Lynette Howell Taylor; Jamie Patricof; Mark Williams  
26                    (hereinafter the producers) and **Warner Bros. Entertainment Inc** and each of  
27                    them, inclusive of DOES 1 through 30, Inclusive were authorized and  
28

1 empowered by each other to act, and did so act, as agents of each other, and all  
2 of the things herein alleged to have been done by them were done in the  
3 capacity of such agency. Upon information and belief, all Defendant's Gavin  
4 O'Connor; Steven Mnuchin; Marty P. Ewing; Lynette Howell Taylor; Jamie  
5 Patricof; Mark Williams and Warner Bros. Entertainment Inc are  
6 responsible in some manner for the events described herein and are liable to  
7 Plaintiff for the damages he has incurred.

- 8 5. The true names and capacities, whether individual, corporate, associate or  
9 otherwise, of the defendants named herein under the fictitious names of DOES  
10 1 through 30, inclusive, are unknown to plaintiff, who therefore sues said  
11 defendants by such fictitious names. Plaintiff will ask leave of Court to amend  
12 this complaint and insert the true names and capacities of said defendants when  
13 the same have been ascertained. Plaintiff is informed and believes, and based  
14 thereon alleges, that each of the defendants designated herein as a "DOE" is  
15 legally responsible in some manner for the events and happenings herein  
16 alleged, and that plaintiff's damages as alleged herein were proximately caused  
17 by such defendants.  
18

19  
20 **NATURE OF THIS ACTION**

- 21 6. This is a California state law claims for privacy and publicity rights and other  
22 rights.  
23 7. Plaintiff is a family man with two minor children. He and his family reside in  
24 San Diego County where he works.  
25 8. Plaintiff recently was release from Jail where he was accuse from a crime that  
26 he did not commit.  
27 9. On or before September 3, 2008, Alexander Morfin was alleged involved in the  
28 murder of a man in Modesto, California. Thereafter a local arrest warrant was

1 issued for Morfin on March 10, 2010, in the Stanislaus County Superior Court,  
2 Case Number 1252813. A mugshot was issue with **Mugshots.com** and ID:  
3 21271595 and was place on the internet for public to view. A disclaimer was  
4 attached into the post and stats as follows:

5 <https://mugshots.com/Unsorted/Alexander-Morfin.21271595.html>  
6

7 **“All are presumed innocent until proven guilty in a court of law. Published**  
8 **mugshots and/or arrest records are previously published public records of: an**  
9 **arrest, an indictment, a registration, supervision or probation, the deprivation of**  
10 **liberty or a detention. The mugshots and/or arrest records published on**  
11 **mugshots.com are in no way an indication of guilt and they are not evidence that**  
12 **an actual crime has been committed. Arrest does not imply guilt, and criminal**  
13 **charges are merely accusations. A defendant is presumed innocent unless proven**  
14 **guilty and convicted. For latest case status, contact the official Law Enforcement**  
15 **Agency which originally released the information”.**

16 10. On or before April 8th 2016 Alexander Morfin turned his self in at the San  
17 Ysidro International Border Port of entry to defend his name, knowingly he do-  
18 nothing wrong and did not commit the crime that he was been accused.  
19 Thereafter he was transfer to the Stanislaus County Superior Court for booking  
20 and he was place in custody on April 13, 2016.

21 11. Without plaintiff’s knowledge or consent, Defendant’s Gavin O’Connor;  
22 Steven Mnuchin; Marty P. Ewing; Lynette Howell Taylor; Jamie Patricof;  
23 Mark Williams and Warner Bros. Entertainment Inc, use plaintiff’s Mugshot  
24 and image for **The Accountant** (the movie) that was a 2016 American crime  
25 thriller film (“**The Movie states that it is based on a true story**”). In the mid  
26 part of the film shows fragments of plaintiff face image in a criminal lineup.  
27 Whereas in it shows plaintiff is a suspect to the Gambino family associates  
28 under the name of “Dillon Kasper” – his face and likeness featured  
conspicuously at the lineup of the image – while the actor is making the

1 audience believe that the plaintiff is a wanted person, a criminal and  
2 associated to the Gambino Family.

3 12. Plaintiff's image is being used to entertain the audience and making it believed  
4 that he was a wanted criminal. On information and belief, plaintiff's image  
5 and mugshot have generated millions of views on the movie theater, internet  
6 and other media around the globe.

7 13. Plaintiff became aware of defendants' misappropriation and egregious use of  
8 his likeness approximately 1.5 years ago. Since then, he has had to face  
9 uncomfortable comments, questions, and ridicule, from community members  
10 and family, related to this matter.

11 14. His family dynamic has been adversely affected, and his work and  
12 professional life have been unalterably damaged by his having to explain this  
13 unconsented-to, offensive, and malicious use of his image. For example when  
14 he was incarcerated after the movie came out, the guards would call him  
15 Hollywood and constantly would tell him that he was never getting out of  
16 prison.

17 15. Plaintiff was told that he wouldn't not have a chance in the jury trial because  
18 the jury might have seen the subject movie and would have portrayed him as a  
19 criminal and related him to the Gambino family Crime. Therefore his attorney  
20 had him plead guilty to a plea deal "PC32-F-ACCESSORY". However  
21 plaintiff got credit for time served – actual of 1413 Days and he was released  
22 the next day of the sentencing.

23 16. Plaintiff seeks compensatory, statutory, and actual damages for this invasion  
24 of privacy and misappropriation, as well as injunctive relief.

25 17. Plaintiff is a dedicated husband and father, and his wife and two young  
26 children are the love of his life. He and his family spend active, quality time  
27 together, including family therapy.  
28

1 18. Approximately 1.5 years ago, plaintiff became aware for the first time of the  
2 use of his image on the Movie (The Accountant (2016 film), when the jail  
3 guard made fun of him and started to call him Hollywood and other inmates  
4 asked him if he knew about it, emphasizing how crazy it was that his face was  
5 all over the theaters and related him with the Gambino Family Crime Boss and  
6 was shocked, outraged, humiliated, and appalled at what he saw.

7 19. The Movie (The Accountant (2016 film) is designed to attract consumers and  
8 entertain the audience. This includes the unauthorized use of plaintiff's  
9 Mugshot, his face as an essential part of the scenario, featuring plaintiff as  
10 crime boss for the Gambino Family.

11 20. Plaintiff did not consent to the use of his image in the Movie, nor would he.

12 21. Since hearing the first comment about the image approximately 1.5 years ago,  
13 plaintiff has had to face ongoing and uncomfortable questions and comments  
14 about the Movie. He has felt ridiculed, disgusted, and humiliated, as the use of  
15 his image portrays him in a false light.

16 22. Plaintiff's family life has been negatively affected by the use of his image and  
17 mugshot in the Movie. He has been devastated as a result of the trauma to his  
18 wife and children; he worried that his wife believed he had committed the  
19 crime that he was accused of in the Movie.

20 23. Plaintiff had to explain that the motion picture was false and he was not  
21 related to the Gambino Family.

22 24. Plaintiff is informed and believes, and thereupon alleges, that his image and  
23 Mugshot on the Movie has also been displayed in Blue Ray, Netflix, HBO and  
24 Amazon Prime and other commercial and entertaining materials at different  
25 times. The Movie (The Accountant (2016 film) has appeared on Netflix, HBO  
26 and Amazon Prime, and other national and global tethers.  
27  
28

1 25. The Movie (The Accountant (2016 film)'s increased public presence,  
2 including in California, has increased the magnitude of plaintiff's harm, as the  
3 Movie – and Mugshot of his face – is now everywhere, subjecting plaintiff to  
4 increased distress and humiliation.

5 26. Plaintiff is informed and believes that the defendants have generated – and  
6 continue to generate – millions and millions of views of plaintiff's image  
7 across the internet and other media, for their commercial benefit, and to  
8 plaintiff's detriment.

9 27. As a result of defendants' conduct, plaintiff has suffered damages, including  
10 but not limited to: (1) injury to reputation; (2) humiliation, embarrassment and  
11 mental distress; (3) amounts reflecting compensation for unauthorized use of  
12 his likeness, including profits made by defendants; (4) loss of the commercial  
13 value of his likeness; and (5) other damages, all in an amount to be determined  
14 at trial, but which are estimated to exceed \$2,000,000.00.

15 28. Plaintiff is also entitled to preliminary and permanent injunctive relief to  
16 require the defendants to cease their unauthorized use of plaintiff's image.  
17

18  
19 **FIRST CLAIM FOR RELIEF MISAPPROPRIATION OF LIKENESS OR**  
20 **IDENTITY**

21 29. Plaintiff repeats and re-alleges the foregoing allegations as if fully set forth  
22 herein.

23 30. As alleged herein, defendants used plaintiff's Mugshot or identity without his  
24 permission.

25 31. Defendants gained a commercial or other benefit by using plaintiff's mugshot  
26 or identity.

27 32. Plaintiff was harmed.

28 33. Defendants' conduct was a substantial factor in causing plaintiff's harm.

1 34. In doing the acts herein alleged, defendants acted fraudulently, willfully,  
2 maliciously, oppressively, and with intentional disregard of plaintiff's interests  
3 and privacy, and subjected plaintiff to unjust hardship. As a result of this  
4 conduct, plaintiff is entitled to punitive damages.

5 35. Plaintiff is also entitled to preliminary and permanent injunctive relief to  
6 require the defendants to cease the unauthorized use of plaintiff's image.

7  
8 **SECOND CLAIM FOR RELIEF VIOLATION OF CALIFORNIA CIVIL**  
9 **CODE § 3344**  
10

11 36. Plaintiff repeats and re-alleges the foregoing allegations as if fully set forth  
12 herein.

13 37. As alleged herein, defendants knowingly used plaintiff's image and Mugshot  
14 on the Movie has also been displayed in Blue Ray, Netflix, HBO and Amazon  
15 Prime and other commercial and entertaining materials at different times. The  
16 Movie (The Accountant (2016 film) has appeared on Netflix, HBO and  
17 Amazon Prime, and other national and global tethers.

18 38. The use did not occur in connection with a news, public affairs, or sports  
19 broadcast or account, or with a political campaign.

20 39. Defendants did not have plaintiff's consent.

21 40. Defendants' use of plaintiff's mugshot was directly connected to defendants'  
22 commercial purpose.

23 41. Plaintiff was harmed.

24 42. Defendants' conduct was a substantial factor in causing plaintiff's harm.

25 43. As a result of defendants' conduct, plaintiff is entitled to recover actual,  
26 special, and statutory damages, profits attributable to such unauthorized use,  
27 and attorney's fees and costs.  
28



1 44. In addition, in doing the acts herein alleged, defendants acted fraudulently,  
2 willfully, maliciously, oppressively, and with intentional disregard of  
3 plaintiff's interests, and subjected plaintiff to unjust hardship. As a result of  
4 this conduct, plaintiff is entitled to actual damages.

5  
6 **THIRD CLAIM FOR RELIEF INVASION OF PRIVACY – FALSE LIGHT**

7 45. Plaintiff repeats and re-alleges the foregoing allegations as if fully set forth  
8 herein.

9 46. As alleged herein, defendants publicized information or material that showed  
10 plaintiff in a false light.

11 47. The false light created by the publication would be highly offensive to a  
12 reasonable person in plaintiff's position.

13 48. Defendants were negligent in determining the truth of the information or  
14 whether a false impression would be created by its publication.

15 49. Plaintiff was harmed.

16 50. Defendants' conduct was a substantial factor in causing plaintiff's harm.

17 51. In doing the acts herein alleged, defendants acted fraudulently, willfully,  
18 maliciously, oppressively, and with intentional disregard of plaintiff's interests,  
19 and subjected plaintiff to unjust hardship. As a result of this conduct, plaintiff  
20 is entitled to actual damages.

21 52. Plaintiff is also entitled to preliminary and permanent injunctive relief to  
22 require the defendants to cease the unauthorized use of plaintiff's image.  
23

24  
25 **FOURTH CLAIM FOR INTENTIONAL INFLICTION OF EMOTIONAL**  
26 **DISTRESS.**

27 53. Plaintiff repeats and re-alleges the foregoing allegations as if fully set forth  
28 herein.

1 54. As alleged herein, defendants knowingly used plaintiff's image and Mugshot  
2 on the Movie has also been displayed in Blue Ray, Netflix and other  
3 commercial and entertaining materials at different times.

4 55. He and his family are in therapy.

5 56. Plaintiff is unable to promote his values, in that he is unable to get a better job.

6 57. Approximately 1.5 years ago, plaintiff became aware for the first time of the  
7 use of his image on the Movie (The Accountant (2016 film), when the jail  
8 guard made fun of him and started to call him Hollywood and related him with  
9 the Gambino Family Crime Boss and was shocked, outraged, humiliated, and  
10 appalled at what he saw.

11 58. Plaintiff's Mugshot, his face as an essential part of the scenario, featuring  
12 plaintiff as crime boss for the Gambino Family.

13 59. Plaintiff has had to face ongoing and uncomfortable questions and comments  
14 about the Movie. He has felt ridiculed, disgusted, and humiliated, as the use of  
15 his image portrays him in a false light.

16 60. Plaintiff has been devastated as a result of the trauma to his wife and children;  
17 he worried that his wife believed he had committed the crime that he was  
18 accused off.

19 61. The use did not occur in connection with a news, public affairs, or sports  
20 broadcast or account, or with a political campaign.

21 62. Defendants did not have plaintiff's consent.

22 63. Plaintiff was harmed.

23 64. Defendants' conduct was a substantial factor in causing plaintiff's harm.

24 65. As a result of this conduct, plaintiff is entitled to actual damages.

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26  
27 **PRAYER WHEREFORE**, Plaintiffs pray for judgment against defendants, and  
28 each of them, as follows:

1 **ON THE FIRST, THIRD CLAIMS FOR RELIEF and FORTH CLAIM:**

- 2 1. For compensatory damages in an amount to be determined at trial.  
3 2. For punitive damages in an amount to be determined at trial.  
4 3. For preliminary and permanent injunctive relief, requiring the  
5 defendants to cease the unauthorized use of plaintiff's image.

6 **ON THE SECOND CLAIM FOR RELIEF:**

- 7 1. For compensatory actual damages in an amount to be determined at  
8 trial.  
9 2. For statutory damages, as appropriate.  
10 3. For disgorgement of profits from the unauthorized use.  
11 4. For punitive damages in an amount to be determined at trial.  
12 5. For attorney's fees and costs.

13 **ON ALL CLAIMS FOR RELIEF:**

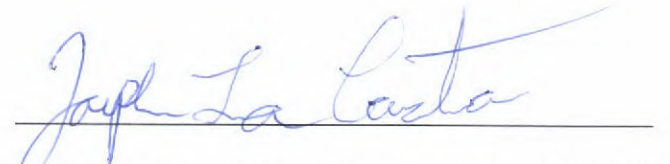
- 14 1. For interest at the legal rate.  
15 2. For attorney's fees on all applicable claims.  
16 3. For costs of suit incurred herein.  
17 4. For such other further relief as the court may deem just and proper.

18 **DEMAND FOR JURY TRIAL**

19 Plaintiff respectfully demands a jury trial on all issues so triable.

20 Respectfully submitted,

21  
22  
23 Dated: October 9, 2018

24   
25 \_\_\_\_\_  
26 By: Joseph La Costa, Attorney for Plaintiff  
27  
28

1  
2 VERIFICATION  
3

4 I, ALEXANDER MORFIN, am the Plaintiff in the above-entitled action. I have read  
5 the above Verified Complaint, and I have personal knowledge of the matters stated  
6 herein except as to those matters stated upon information and belief and, as to those  
7 matters, I believe them to be true.  
8  
9  
10  
11

12 I declare under penalty of perjury under the laws of the United States, that the  
13 foregoing is true and correct as executed this 9th day of October, 2018, in the City of  
14 El Cajon, County of San Diego.  
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21

22 By: *Alex Morfin*

23 ALEXANDER MORFIN Declarant  
24  
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26  
27  
28