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10 Attorneys for Plaintiffs

11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF NEVADA**

13 MARCO PAULO RODRIGUES LORADOR
14 and PAULO RENATO RODRIGUES
15 LORADOR,

16 Plaintiffs,

17 vs.

18 MICHELLE KOLEV, NICOLE KOLEV,
19 CIRQUE DU SOLEIL ENTERTAINMENT
20 GROUP and TREASURE ISLAND LLC,

21 Defendants.

Case Number:

**VERIFIED COMPLAINT FOR
COPYRIGHT INFRINGEMENT**

- 1. Copyright Infringement
- 2. Declaratory Relief
- 3. Injunctive Relief

Jury Demand Requested

22 Plaintiffs Marco Paulo Rodrigues Lorador and Paulo Renato Rodrigues Lorador
23 (collectively, "Plaintiffs" or the "Alexis Brothers"), by and through their attorneys, Marquis
24 Aurbach Coffing PC and the Law Offices of Philip A Kantor PC, for their complaint in this
25 action allege as follows:

26 **PARTIES AND JURISDICTION**

- 27 1. Plaintiffs are residents of Las Vegas, Nevada.

1 2. Upon information and belief, defendants Michelle Kolev and Nicole Kolev
2 (collectively, the “Individual Defendants” or the “Kolev Sisters”) are citizens of Italy, but
3 currently reside in Las Vegas, Nevada.

4 3. Upon information and belief, Defendant Cirque du Soleil Entertainment Group
5 (“Cirque”) refers to one or more corporate entities, such as Cirque du Soleil (US), Inc., Cirque
6 du Soleil America, Inc., Cirque du Soleil Nevada, Inc. and others, through which Cirque
7 produces and stages theatrical productions in Las Vegas, Nevada. Upon information and
8 belief, Cirque has its international headquarters in Montreal, Quebec, but also operates much
9 of the business of producing and staging its Las Vegas theatrical productions from local
10 offices in Las Vegas, Nevada. Plaintiffs do not know at this time which of Cirque’s several
11 corporate entities is or are responsible for the claims alleged in this action.

12 4. Upon information and belief, Treasure Island LLC (“TI”) owns and operates a
13 resort property at 3300 Las Vegas Boulevard South, Las Vegas, NV 89109, where Cirque
14 presents the theatrical show entitled “Mystère” (the “Show”).

15 5. This action seeks an injunction and damages under the Copyright Law (Title
16 17 of the United States Code). This Court has subject matter jurisdiction to hear this action
17 under 28 U.S.C. §§ 1331 and 1338.

18 6. The Court has personal jurisdiction over the defendants.

19 7. Venue is proper under 28 U.S.C. §§ 1391(b)(2) and 1400(a).

20 **COPYRIGHT INFRINGEMENT**

21 8. Plaintiffs are world-renowned performing artists, specializing in the theatrical
22 art of “hand-balancing.” Plaintiffs’ performances are under the stage name the “Alexis
23 Brothers.” The Alexis Brothers regularly performed as a featured act of the Show for
24 approximately 23 years up to 2020, and also perform at special appearances throughout the
25 world.

26 9. In 1991, Plaintiffs created a choreographic work entitled “Peace and Discord,”
27 abstractly conveying the dynamic between two brothers through choreographed movement
28 and hand-balancing (the “Work”).

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1 10. The Work was first published, through a public performance of same, on
2 March 12, 1994. The Work was registered with the United States Copyright Office on
3 February 6, 2003, and has Registration No. PA0001133364.

4 11. Cirque obtained a license for the Work from the Plaintiffs and the Alexis
5 Brothers performed the Work in the Show.

6 12. Alexis Brothers' performances in the Show ceased in early 2020, when the
7 international COVID-19 pandemic forced the closure of the Show. Upon information and
8 belief, the COVID-19 pandemic further precipitated the bankruptcy and reorganization of
9 Cirque in 2020.

10 13. In the spring of 2021, Plaintiffs learned the Show would be reopening in July
11 2021, but they would not be invited to resume their performances.

12 14. Plaintiffs further learned Cirque was opting to replace them with the Kolev
13 Sisters, upon information and belief, at a fraction of the cost of the Alexis Brothers. Plaintiffs
14 further came to learn directly from communications with the Individual Defendants that it was
15 their intention to perform what would be substantially a copy of the Work.

16 15. On June 1, 2021, Plaintiffs caused to be sent a formal, written communication
17 to Cirque and addressed to Cirque's Senior Advisor – Consulting Services in Artist
18 Management, Patrick Barsalou, putting Cirque on notice that it must not have the Kolev
19 Sisters perform the Work, unless and until an arrangement to license same from Plaintiffs was
20 obtained.

21 16. Cirque eventually provided a formal response on August 3, 2021,
22 acknowledging that the Work had previously been licensed by Cirque, but denying that it
23 intended to have the Kolev Sisters perform the Work, writing:

24 In this present case, Cirque is not reproducing the Act of your client. The
25 current circumstances are completely different from any previous situation
26 where the Act was licensed to Cirque. The New Act is substantially different,
as Cirque decided to go in a different direction and did not, in any way, copy
or misappropriate any portion of the Act.

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1 17. The Show reopened on Monday, June 28, 2021. The portion of the Show that
2 previously featured the Alexis Brothers performing the Work was temporarily replaced by a
3 different act featuring two Russian performers not performing the Work.

4 18. On July 27, 2021, the Kolev Sisters debuted in the Show, occupying the portion
5 of the Show that the Alexis Brothers previously occupied, and performing what was
6 substantially a copy of the Work (the “Infringing Act”).

7 19. The Plaintiffs did not authorize the Defendants, any of them, to reproduce the
8 Work.

9 20. Upon information and belief, the Kolev Sisters continue to perform the
10 Infringing Act at all regularly scheduled performances of the Show, and the Individual
11 Defendants’ engagement to do so is now slated to continue indefinitely into the future.

12 21. The Individual Defendants’ ongoing performances of the Infringing Act are
13 knowing and willful.

14 22. Cirque’s production and staging of the Infringing Act are knowing and willful.

15 23. On July 11, 2021, Plaintiff Marco Lorador personally informed Paul Reams,
16 Executive Director of Entertainment – Treasure Island Hotel & Casino, that he knew Cirque
17 intended to have the Kolev Sisters regularly perform an act at TI that would substantially
18 infringe the Work, but that Cirque seemed uninterested in reaching out to Plaintiffs to license
19 the Work. Reams replied that he would inform Phil Ruffin, the individual owner of TI, of
20 Plaintiffs’ message. Plaintiffs did not hear back from Ruffin or TI following that personal
21 communication.

22 24. TI’s participation in the production and staging of the Infringing Act, from
23 which it directly benefits, upon information and belief through, among other things, a
24 percentage of ticket sales is knowing and willful.

25 25. Upon information and belief, no credit is given to Plaintiffs for the Work to
26 audiences attending performances of the Infringing Act, or in any other way. None of the
27 Defendants have paid any compensation to Plaintiffs for the Work in connection with the
28 Infringing Act.

1 26. Performances of the Infringing Act are causing Plaintiffs irreparable harm,
2 among other things, because they cause the public to discount originality of the Work, and
3 there are no means to correct the public's impression after they leave Defendants'
4 performances.

5 27. Defendants' performances of the Infringing Act also cause irreparable harm to
6 Plaintiffs, because Defendants' continued performances of the Infringing Act make it
7 impossible for Plaintiffs to market the Work to prospective venues as an original and exclusive
8 Work. Thus, the originality and value of the Work are diminished by the continued
9 performances of the Infringing Act.

10 28. By reason of the above ongoing infringement of the Work, Plaintiffs are
11 entitled to an injunction, enjoining Defendants from further performances of the Infringing
12 Act.

13 29. In further support of their entitlement to an injunction, Plaintiffs state:

14 a. That there is a substantial likelihood of success on the merits of the
15 underlying case as the *prima facie* elements of copyright infringement have been alleged and
16 are easily proven; and

17 b. That the harm suffered by the Plaintiffs in the absence of an injunction
18 would exceed the harm suffered by Defendants if the injunction were issued, since Plaintiffs
19 have been and continue to be harmed by the infringement upon their original work, whereas
20 Defendants can adjust their performance to remove the copied Work; and

21 c. That an injunction would not disserve the public interest since
22 unlicensed performances of the Work undermine the artistic integrity that copyright owners
23 have and seek to preserve.

24 30. Plaintiffs are further entitled to their actual damages, together with Defendants'
25 profits or, in the alternative, statutory damages, under Section 504 of the Copyright Act,
26 increased by reason of willfulness, in an amount to be determined. Plaintiffs are further
27 entitled to recovery of their costs and attorney fees as provided under Section 505 of the
28 Copyright Act.

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1 31. It has become necessary for Plaintiffs to retain an attorney to prosecute this
2 matter, and Plaintiffs are entitled to recover their costs and attorney fees.

3 32. Plaintiffs have complied with all of the laws and provisions related to
4 maintaining their copyright and all conditions precedent to this action have been satisfied or
5 have been waived by Defendants.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiffs pray that the Court:

- 8 1. Declare the Infringing Act to be in violation of the Work;
- 9 2. Issue preliminary and permanent injunctions enjoining Defendants, and all
10 persons acting in concert with them, from performing the Infringing Act;
- 11 3. Award them their actual damages, together with Defendants' profits or, in the
12 alternative, statutory damages, under Section 504 of the Copyright Act, increased by reason
13 of willfulness, in an amount to be determined;
- 14 4. Award them their costs and attorney fees; and
- 15 5. Award pre-judgment and post-judgment interest; and
- 16 6. Award them such other and further relief as the Court may deem just and
17 proper.

18 Dated this 8th day of September, 2021.

19 MARQUIS AURBACH COFFING

20
21 By: /s/ Tabetha Martinez
 22 Brian R. Hardy, Esq.
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VERIFICATION

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We, Marco Paulo Rodrigues Lorador and Paulo Renato Rodrigues Lorador, have read the allegations of the Complaint and the same are true to the best of our knowledge and belief, except as to those matters that are stated upon information and belief, and as to those matters, we believe them to be true.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Executed this 7 day of September, 2021.



Marco Paulo Rodrigues Lorador

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Executed this 7 day of September, 2021.



Paulo Renato Rodrigues Lorador

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