

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
BALTIMORE DIVISION**

**ULTIMATE OUTDOOR  
MOVIES, LLC, et. al.**

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**v.**

\* **CIVIL NO.: 1:18-cv-02315-RDB**

**FUNFLICKS, LLC, et.al.**

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**DEFENDANTS**

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**PLAINTIFFS' FIRST AMENDED COMPLAINT FOR MONEY  
JUDGMENT AND INJUNCTIVE RELIEF  
AND DEMAND FOR JURY TRIAL**

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**COVER SHEET**

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## **TABLE OF CONTENTS**

<b>PLAINTIFFS' FIRST AMENDED COMPLAINT FOR MONEY JUDGMENT AND INJUNCTIVE RELIEF AND DEMAND FOR JURY TRIAL</b>	<b>1</b>
<b>I INTRODUCTION</b>	<b>1</b>
<b>II DEFINITIONS</b>	<b>8</b>
<b>III PARTIES</b>	<b>12</b>
<b>IV JURISDICTION AND VENUE</b>	<b>13</b>
<b>V INTERSTATE COMMERRCE AND GENERAL APPLICATIONS TO COMPLAINT</b>	<b>15</b>
<b>VI FACTS RELEVANT TO ALL COUNTS</b>	<b>16</b>
<b>A. HISTORY AND OPERATION OF FUNFLICKS</b>	<b>16</b>
<b>B. FF SEVERN ISSUES FUNFLICKS LICENSES TO UOM</b>	<b>17</b>
<b>C. FF DARRELL PURCHASES THE FUNFLICKS TRADE MARK AND RELATED BUSINESS ASSETS FROM FF SEVERN</b>	<b>18</b>
<b>D. DARRELL AND UOM AUTOMATE THE FUNFLICKS BUSINESS</b>	<b>19</b>
<b>E. UOM'S TERRITORIES AND EMAIL ADDRESSES</b>	<b>21</b>
<b>F. FF DARRELL ATTEMPTS TO RE-NEGOTIATE 2013 NOTE AND SECURITY AGREEMENT IN THE FALL OF 2017</b>	<b>24</b>
<b>G. THE HDS DEFENDANTS' COVERT 2017 SALE AND PURCHASE IS DEFECTIVE AND CHALLENGED.</b>	<b>31</b>
<b>H. THE HDS CONSPIRACY AGAINST UOM</b>	<b>33</b>
<b>I. MR HUNTER'S FRAUDULENT STATEMENTS TO UOM</b>	<b>35</b>
<b>J. THE HDS DEFENDANTS AND MR. GAITHER CONSPIRE TO AND COMMIT FRAUD, THEFT AND DEFAMATORY ACTS AGAINST UOM AND LAURA.</b>	<b>41</b>

<b>K.</b>	<b>MR. GAITHER MOCKS UOM AFTER STEALING UOM'S CLIENT LIST AND SENDING DEFAMATORY LETTER</b>	<b>59</b>
<b>L.</b>	<b>FF SEVERN AND MR. SEVERN EXECUTE A SETTLEMENT AGREEMENT WITH AN EFFECTIVE DATE OF MARCH 3, 2018.</b>	<b>60</b>
<b>M.</b>	<b>HDS DEFENDANTS WIRETAP UOM'S EMAIL FOR PURPOSES OF STEALING UOM'S CLIENTS.</b>	<b>61</b>
<b>N.</b>	<b>FF HUNTER/DIAS CREATES FICTITIOUS CORPORATIONS TO PREVENT UOM FROM OPERATING IN CALIFORNIA.</b>	<b>68</b>
<b>O.</b>	<b>THE DEFENDANTS INFLICT INJURIES ON UOM and LAURA</b>	<b>69</b>
<b>VII</b>	<b>CAUSES OF ACTION</b>	<b>71</b>
<b>COUNT I</b>	<b>Fraud by Mr. Hunter and FF HUNTER/DIAS Aiding and Abetting Remaining Defendants</b>	<b>71</b>
<b>COUNT II</b>	<b>Breach of Contract by Mr. Gaither</b>	<b>77</b>
<b>COUNT III</b>	<b>Maryland Uniform Trade Secrets Act All Defendants</b>	<b>82</b>
<b>COUNT IV</b>	<b>Federal Trade Secrets Act - All Defendants</b>	<b>88</b>
<b>COUNT V</b>	<b>Fraud by Mr. Gaither – Aiding and Abetting the HDS Defendants.</b>	<b>90</b>
<b>COUNT VI</b>	<b>Defamation All Defendants Alternatively Defamation By Mr. Gaither Aiding And Abetting HDS Defendants</b>	<b>95</b>
<b>COUNT VII</b>	<b>Intentional Interference with Contract All Defendants</b>	<b>102</b>
<b>COUNT VIII</b>	<b>Violation of the Federal Wiretap Act – HDS Defendants</b>	<b>103</b>
<b>COUNT IX</b>	<b>Violation of the Texas Wiretap Act All Defendants</b>	<b>63</b>
<b>COUNT X</b>	<b>15 U.S.C. § 1125(1)(A) FEDERAL LANHAM ACT Interception of UOM Emails – ALL DEFENDANTS</b>	<b>111</b>

<b>COUNT XI</b>	<b>15 U.S.C. § 1125(1)(A) Federal Lanham Act All Defendants The Gaither Defamatory Statements</b>	<b>116</b>
<b>COUNT XII</b>	<b>15 U.S.C. § 1125(1)(B) Federal Lanham Act All Defendants The Gaither Defamatory Statements</b>	<b>118</b>
<b>COUNT XIII</b>	<b>Unfair Competition – All Defendants</b>	<b>118</b>
<b>COUNT XIV</b>	<b>Intentional Interference with Economic Relations – All Defendants.</b>	<b>122</b>
<b>COUNT XV</b>	<b>CIVIL CONSPIRACY “The FunFlicks Team” ALL DEFENDANTS</b>	<b>124</b>
<b>VII</b>	<b>INJUNCTIVE RELIEF.</b>	<b>126</b>
	<b>REQUEST FOR JURY TRIAL</b>	<b>130</b>



## **EXHIBITS**

<b>Exhibit 1</b>	<b>Gaither Defamatory Statement</b>	<b>11</b>
<b>Exhibit 2</b>	<b>Allocation of Purchase Price</b>	<b>19</b>
<b>Exhibit 3</b>	<b>Email Illustrative Map</b>	<b>23,62,63</b>
<b>Exhibit 4</b>	<b>HDS Security Agreement</b>	<b>29</b>
<b>Exhibit 5</b>	<b>Form Licensee Agreement Showing Maryland Forum and Jurisdiction Consent Form</b>	<b>30</b>
<b>Exhibit 6</b>	<b>Email String between Mr. Hunter and Darrell</b>	<b>36, 41</b>
<b>Exhibit 7</b>	<b>PNR Complaint</b>	<b>37,38</b>
<b>Exhibit 8</b>	<b>NATJAY Articles of Organization</b>	<b>43</b>
<b>Exhibit 9</b>	<b>Text Messages between MR. Gaither and Darrell</b>	<b>46</b>
<b>Exhibit 10</b>	<b>Text Messages between Mr. Hunter and Darrell</b>	<b>45</b>
<b>Exhibit 11</b>	<b>2017 Asset Sale</b>	<b>57</b>
<b>Exhibit 12</b>	<b>Cease and Desist to Gaither</b>	<b>59</b>
<b>Exhibit 13</b>	<b>2018 Settlement Agreement</b>	<b>60</b>
<b>Exhibit 14</b>	<b>E-mail Exchange dated June 14 2018 showing Mr. Severn intercepting e-mails</b>	<b>64, 113</b>
<b>Exhibit 15</b>	<b>Emails showing Defendants intercepting UOM's e-mail from Megan, a Maryland Resident</b>	<b>66, 114</b>
<b>Exhibit 16</b>	<b>Megan's Response Email</b>	<b>67, 114</b>
<b>Exhibit 17</b>	<b>HUNTER/DIAS Registration 1</b>	<b>68</b>
<b>Exhibit 18</b>	<b>Hunter Dias Registration 2</b>	<b>68</b>

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DEMAND FOR JURY TRIAL**

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Plaintiffs, Laura Ladewig Landers a/k/a Laura Mauro (“Laura”) and Ultimate Outdoor Movies, LLC, f/k/a FunFlicks Outdoor Movies of Texas, LLC, f/k/a FunFlicks Outdoor Movies of Texas, Inc. (“UOM”) file this First Amended Complaint for Money Damages and Injunctive Relief against the Defendants (“Complaint”) and in support thereof, state as follows:

**I INTRODUCTION**

The necessity of good faith and honest, fair dealing is the very life and spirit of the commercial world. *Kewanee v. Bicron*, 416 U.S. 470, 472, (1974). This Complaint is about the Defendants mocking good faith, ignoring honesty, and

throwing away fair dealing while they planned and attacked the life and spirit of the Plaintiffs' reputation and business. The Defendants stole from Laura's company, using *inter alia*, deceit, fraud, defamatory statements, theft, illegal wiretapping of emails and the recruitment of UOM's workers as spies a/k/a "corporate espionage," a term used by the defendant, Mr. Hunter, for these acts. Over the last five to six months, the Defendants intentionally wreaked havoc on Laura's business and her physical well being and continue to do so.

The following is a brief summary of this Complaint. Laura Landers is the Owner of UOM. In 2011, Laura invested a substantial sum of money in UOM becoming a 40% owner of UOM. In 2016, Laura, for value, became full owner of UOM. In 2016, Darrell became full owner of FF DARRELL,. Darrell is currently employed by UOM as CEO and Vice President of Technology. Darrell and Laura were married on July 1, 2017.

In 2013, FunFlicks, LLC, purchased, *inter alia*, the FunFlicks brand, trademark and licensor business assets from the defendant, Mr. Severn, and his company for the sum of approximately 2.55 million dollars. Mr. Severn's company accepted a down payment and received a note, a security agreement and guaranty for the balance.

In late 2016, Mr. Landers discovered that Mr. Severn's company had breached the representations and warranty section of the asset purchase agreement. After paying in excess of 1.2 million dollars in interest and principal towards the note to Mr. Severn, Mr. Landers reached out to Mr. Severn in the fall and winter of 2017 to renegotiate the note and security agreement. On or about December 1, 2017, Mr. Landers and Mr. Severn reached agreement which was set in motion through their attorneys to be put into writing with the expectation that it would be signed in early January 2018.

Unbeknownst to Mr. Landers, while a the settlement agreement was pending, Mr. Severn had secretly attempted to sell the FunFlicks assets to Mr. Dias and Mr. Hunter's company, FunFlicks Audiovisuals, on December 21, 2017. When Mr. Landers discovered the sale, he promptly advised Mr. Severn of a major defect in the security agreement. The security agreement lacked an after acquired property clause, which meant that a number of assets were not subject to the security agreement. Furthermore, this sale attempted to sell assets not owned by Mr. Landers or his company.

Upset that his covert scheme to takeover all of the FunFlicks assets and ruination of Laura's business had failed, in January 2018, Mr. Severn conspired

with Mr. Hunter and Mr. Dias to engage in unlawful and tortious acts to steal what they could not obtain through legitimate means. However, Mr. Hunter, Mr. Dias and Mr. Severn needed time to implement their plan.

Mr. Severn reached out to Mr. Landers to renegotiate the balance of the note and security agreement, for a second time. Mr. Severn dragged out negotiations for almost two months. Mr. Hunter and Mr. Dias reached out to Laura asking her to continue with her company as a FunFlicks licensee with no intent of having Laura, or her company, operate as a FunFlicks licensee. Laura continued operating as a FunFlicks licensee without a contract with FF HUNTER/DIAS for over two months without objection. After a series of negotiations in January 2018, Mr. Hunter led Laura's company to believe that they had reached an agreement as of January 30, 2018 as to the terms of the new license agreement and that Mr. Hunter was turning these terms over to his attorneys to be finalized.

Unbeknownst to Laura, Mr. Hunter, Mr. Dias and Mr. Severn were actively seeking workers from Laura's business to spy and steal trade secrets for Mr. Dias and Mr. Hunter's FunFlicks business. Notably, they recruited James Gaither, a licensed Maryland Attorney who was working as an event host / manager for Laura's Company regarding its Mid-Atlantic FunFlicks territories.

Unbeknownst to Laura and during Laura's Company negotiations with Mr. Hunter, FunFlicks Audiovisuals recruited Mr. Gaither to become a licensee in Laura's Maryland territory. Mr. Gaither set up a company to compete with Laura's company in the Maryland territory. Mr. Hunter, Mr. Dias and Mr. Gaither then conspired to steal Laura's company's Mid-Atlantic client list trade secrets followed by Mr. Gaither sending a defamatory email to these same clients.

As a sign of good faith during those negotiations, Laura's company gave the FunFlicks licensees independent control and independent subscriptions to each of the FunFlicks licensee's database business system formerly subscribed by the FunFlicks licensees through UOM. This release of control added substantial value to the FunFlicks business for Mr. Dias and Mr. Hunter because they now could conduct operations without UOM's knowledge and still profit from its use as well as the through the use by the other FunFlicks licensees.

Needing more time to undermine Laura's business, Mr. Hunter never provided Laura's company with a written agreement. After waiting more than three weeks, and being uninvited to the FunFlicks Chicago Conference held on February 23-25, 2018, Laura's company realized that no contract would be forthcoming and started operating under the Ultimate Outdoor Movie Brand in the last week of

February.

Unbeknownst to Laura or Darrell at the time, Mr. Gaither flew out to Chicago to meet with Mr. Severn, Mr. Gaither and Mr. Dias to finalize their plan to destroy Laura's company and take over her territories. When Mr. Gaither returned to Maryland, Mr. Gaither accessed Laura's company database using his UOM provided user name and password and stole Laura's company client information in Laura's company Mid-Atlantic territory. Immediately thereafter, Mr. Gaither working with Mr. Hunter, Mr. Dias and Mr. Severn, authored an email containing numerous defamatory statements about Laura and her company and then sent it to Laura's customers obtained from the stolen list. The Defendants falsely claimed that Laura's company clients' deposits were at risk, advising, *inter alia*, that they should terminate their contracts with Laura's company and rescind their deposits. The email also identified Laura as one of the individuals related to these acts. The email was signed the "FunFlicks Team."

On or about March 1, 2018, Mr. Severn cut off the [www.funflicks.com](http://www.funflicks.com) url previously directed to Darrell's company web/email servers and re-directed the [www.funflicks.com](http://www.funflicks.com) URL to Mr. Hunter and Mr. Dias's separate and distinct web/email servers. Because Mr. Hunter, Mr. Dias and Mr. Severn did not have

access to Darrell's web/email servers, they had to counterfeit Laura's company's former e-mail addresses on the new web/email servers. Mr. Dias, Mr. Severn and Mr. Hunter directed these counterfeit e-mails to point to Mr. Hunter, Mr. Dias, Mr. Severn, Mr. Gaither, and others so that they could intercept the returning emails from Laura's company customers without her knowledge.

As a result of these acts and more, the Defendants caused Laura's company and Laura significant harm and damage. The Defendants' unlawful and wrongful conduct caused UOM to lose profits of \$358,863.10 (-35%) as of October 2018 compared to 2017. As to its Mid-Atlantic Client List Territory, UOM lost profits in the amount of \$153,574.40 (-42%) as of October 2018 compared to 2017.

Many of Laura's long time company customers treat Laura like she is the plague. A significant percentage of these customers won't return her phone calls or e-mails; many have cancelled bookings and others have told her to take them off of her mailing list. The Defendants continue to attack Laura and her company wrongfully and illegally requiring the Plaintiffs to file this complaint seeking monetary and injunctive relief set forth in detail below.



## **II DEFINITIONS**

1. “Laura” means the Plaintiff Laura Ladewig Landers a/k/a Laura Mauro a Texas resident.

2. “UOM” means the Plaintiff, Ultimate Outdoor Movies, LLC, a Texas Limited Liability Corporation, f/k/a FunFlicks Outdoor Movies of Texas, LLC, a Texas Limited Liability Corporation f/k/a FunFlicks Outdoor Movies of Texas, Inc., a Texas Corporation.

3. “Mr. Gaither” means the Defendant James N. Gaither, a Maryland resident.

4. “NATJAY, LLC” means the Defendant, NATJAY, LLC, a Maryland Limited Liability Company, t/a FunFlicks.

5. “Mr. Severn” means the Defendant, Todd Severn, a Maryland resident.

6. “FF SEVERN” means the Defendant, FUN FLICKS, LLC, a Maryland Limited Liability Corporation.

7. “Mr. Hunter” means the Defendant, Charles Hunter, a/k/a Chad Hunter, a California resident.

8. “Mr. Dias” means the Defendant, Matthew Dias a/k/a Matt Dias, a California resident.

9. “FF HUNTER/DIAS” means the Defendant, FunFlicks Audiovisuals, a California Corporation.

10. The “HDAV Defendants” means collectively Mr. HUNTER, MR. DIAS and FF HUNTER/DIAS.

11. The “HDS Defendants” means collectively, Mr. Hunter, Mr. Dias, FF HUNTER/DIAS, Mr. Severn and FF SEVERN.

12. “Darrell” means Darrell Landers, a Texas resident.

13. “FF DARRELL” means FunFlicks, LLC a Texas Limited Liability Company, f/k/a FunFlicks, Inc. a Texas Corporation.

14. The “MD FunFlicks License Agreements” means those licensing agreements identified in Schedule A to the 2018 SETTLEMENT AGREEMENT.

15. The “2013 APA” means the asset purchase agreement dated January 1, 2013 by and between FF DARRELL and FF SEVERN concerning FF DARRELL purchase/assignment of the FunFlicks Trademark and related assets from FF SEVERN.

16. The “2013 APA Assets” means those assets purchased under the 2013 Asset Purchase Agreement.

17. The “2013 NOTE” means the promissory note dated January 1, 2013 executed by FF DARRELL in favor of FF SEVERN in connection with FF SEVERN’S financing of the 2013 APA.

18. The “2013 SECURITY AGREEMENT” means the security agreement dated January 1, 2013, executed by FF DARRELL in favor FF SEVERN securing the amount due under the 2013 NOTE.

19. The “2018 SETTLEMENT AGREEMENT” means that Settlement Agreement entered into between FF SEVERN, Mr. Severn and FF DARRELL and Darrell concerning a dispute arising under the 2013 APA.

20. “Client Information” includes but is not limited to the information consisting of existing and prospective clients’---

- a. names and contact information;
- b. purchase history;
- c. scheduling history;
- d. inquiry history;
- e. pricing information; and
- f. details regarding their experience with UOM;

21. “UOM Post 2013 MDD Client List” means UOM’s Client Information for the States of Maryland, District of Columbia and Delaware which accumulated after January 1, 2013.

22. “UOM Pre 2013 MDD Client List” means the UOM Client Information in the MD, DE, and DC territories as such existed on January 1, 2013.

23. “UOM Mid-Atlantic Client List” means: all of UOM’s Client Information for the states of Maryland, Pennsylvania, Delaware, New Jersey, District of Columbia and Virginia, less the Pre-2013 UOM MDD Client List.

24. “UOM’s Global Client List” means the UOM Mid-Atlantic Client List and the Client Information generated from UOM’s operations in territories outside of UOM’s Mid-Atlantic territories.

25. “Movie Business” The term movie business means full service indoor and outdoor audio/visual presentations and events of all types<sup>1</sup> using inflatable screens of all sizes, projectors, sound systems, popcorn machines and other complimentary accessories at a site designated or directed by the consumer.

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<sup>1</sup> Examples of such audio/visual events include but are not limited to movies, presentations, video gaming, and live television, etc.

26. “FunFlicks URL” means the [www.FunFlicks.com](http://www.FunFlicks.com) URL.

27. The “Gaither Defamatory Statements” means the e-mail dated February 27, 2018 attached hereto as **Exhibit 1**.

### **III THE PARTIES**

28. PLAINTIFF, Laura, is a citizen of TEXAS with a business address of 9600 Great Hills Trail, Suite 150W, Austin, Texas 78759.

29. PLAINTIFF UOM is a citizen of Texas with its principal place of business located in 9600 Great Hills Trail, Suite 150W, Austin, Texas 78759 and is owned and operated by Laura. UOM is the exclusive licensee of the pending trademark ULTIMATE OUTDOOR MOVIES. Licensor, Ultimate Outdoor Entertainment, LLC, a Texas Limited Liability Company, owned by Laura (U.S. Ser. No. 87/840,479).

30. DEFENDANT, FF HUNTER/DIAS, is a citizen of California with a business address of 11000 Brimhall, Suite #56 Bakersfield, Ca. 93312 and is owned and operated by Mr. Dias and Mr. Hunter.

31. DEFENDANT, Mr. Hunter, is a citizen of California being sued individually and in his corporate capacity as an agent of FF HUNTER/DIAS with a business address of 11000 Brimhall, Suite #56 Bakersfield, Ca. 93312.

32. DEFENDANT, Mr. Dias, is a citizen of California being sued, individually, and in his corporate capacity, as an agent of FF HUNTER/DIAS with a business address of 11000 Brimhall, Suite #56 Bakersfield, Ca 93312. Mr. Dias' has an extensive background in cybersecurity.

33. DEFENDANT FF SEVERN is a citizen of Maryland with its principal place of business located at 4932 Jenkins Lane Baldwin MD 21013.

34. DEFENDANT, Mr. Severn, is a citizen of Maryland and is being sued individually and in his corporate capacity as an agent for FFSEVERN and/or FF HUNTER/DIAS. Mr. Severn resides at 4932 Jenkins Lane, Baldwin, MD 21013 ("Baltimore County").

35. DEFENDANT, Mr. Gaither, is a Maryland citizen being sued individually and in his corporate capacity as an agent of NATJAY, and has a business address of 7899 Whites Cove Rd, Pasadena, Maryland 21122.

36. DEFENDANT NATJAY, LLC is a Maryland citizen with its principal place of business located which has its principal place of business located 7899 Whites Cove Rd, Pasadena, Maryland 21122

#### **IV JURISDICTION AND VENUE**

37. This action arises under the laws of the United States, specifically 15 U.S.C. § 1125, 18 U.S.C. §2511, and §1836.

38. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1338, and, with respect to certain claims, this Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

39. This Court also has diversity jurisdiction pursuant to 28 U.S.C. §1332 because: (1) the matter in controversy exceeds the sum or value of \$75,000.00 exclusive of interest and costs; and (2) the matter in controversy is between citizens of different states.

40. Venue is proper in this Court pursuant to 28 U.S.C. §1391(a)(2).

41. Personal Jurisdiction over the Defendants is proper pursuant to Md. Cts. & Jud. Proc. §6-101 and/or §6-103 and under Federal Law.

42. As to the HDAV Defendants, jurisdiction is proper because the causes of action arises out of, *inter alia*,: (1) the HDAV Defendants transaction of business in the State of Maryland with Mr. Severn FF SEVERN, Mr. Gaither and NATJAY; (2) the HDAV Defendants tortious acts against UOM and Laura directed in substantial part against UOM's Maryland Business' and its contract with an existing Mr. Gaither; (3) the HDAV Defendants' civil conspiracy with Maryland residents, Mr. Gaither and Mr. Severn consisting of tortious acts

committed in the State of Maryland; (4) the HDAV Defendants interception of emails directed at Maryland Resident; (5) The HDAV Defendants purposefully availing itself of the privileges of conducting activities in the State of Maryland; (6) The Plaintiffs' claims arising out of the HDAV activities directed at the State of Maryland; (7) the exercise of personal jurisdiction of the HDAV Defendants is constitutionally reasonable.

**V INTERSTATE COMMERCE AND  
GENERAL APPLICATIONS TO  
ALLEGATIONS IN COMPLAINT**

43. The Plaintiffs' and Defendants' activities, property, and businesses identified in this Complaint affect interstate commerce.

44. Any cause of action in this Complaint deemed to be displaced by MUTSA §11-1207 in its entirety shall be considered pled as an alternative count.

45. Mr. Dias' has an extensive background in cybersecurity and to the extent a Count involves the use of a computer device, program or component thereof used by one or more of the Defendants to conduct an illicit act, the Plaintiffs' allege that Mr. Dias was involved in implementing and/or assisting in the illicit act.



46. Where injunctive relief in this complaint is requested the Plaintiffs allege that the relief is permitted by statute and/or; that Plaintiffs have suffered an irreparable injury; (2) remedies at law, such as monetary damages, are inadequate to compensate for the injury; (3) considering the balance of the hardships between plaintiff and defendants, a remedy in equity is warranted; and (4) the public interest would not be disserved by a permanent injunction.

## **VI FACTS RELEVANT TO ALL COUNTS**

### **A. HISTORY AND OPERATION OF THE FUNFLICKS BRAND**

47. The FunFlicks name is used in connection with the Movie Business.

48. The FunFlicks name and Movie Business was originally owned by Mr. Severn and operated through FF SEVERN from 2002 to January 1, 2013.

49. During this time, FF SEVERN, in the ordinary course of business, licensed the FunFlicks name through non-exclusive licenses to individuals and small businesses owners known as FunFlicks licensees for purposes of operating a Movie Business under the FunFlicks name.

50. In addition to licensing, FF SEVERN also owned and operated several of its own territories in the Movie Business under the FunFlicks name.

51. Along with the FunFlicks license, FF SEVERN provided optional

marketing, technical support and training which consisted of, inter alia, book keeping and scheduling systems involving the manual entry of information into a Microsoft Excel and the use of a Quick Books program.

52. When FF SEVERN issued a FunFlicks license to a FunFlicks Licensee in an existing territory owned and operated by FF SEVERN, it would also sell the Client Information related to that existing territory to the new FunFlicks Licensee operating in that territory for a price.

53. The Client Information sold to or generated by a FunFlicks licensee belonged to the FunFlicks licensee and not to FF SEVERN or its successors in interest.

54. UOM, as well as the other FunFlicks licensees had sole discretion as to how they advertised, marketed, priced, and or performed their services in their respective territories.

## **B. FF SEVERN ISSUES FUNFLICKS LICENSES TO UOM**

55. On or about April 15, 2008, Darrell entered into his first FunFlicks' license agreement in the ordinary course of his business with FF SEVERN starting with a FunFlicks territory located in Austin, Texas.

56. In 2010, UOM was formed. Darrell transferred his FunFlicks licenses

to UOM. UOM continued to expand its UOM FunFlicks territories with additional FunFlicks licenses over the next few years<sup>2</sup>.

57. As of December 31, 2012, UOM, in its ordinary course of business, was operating the FunFlicks Movie Business in the following territories: Dallas, Fort Worth, Houston, San Antonio, Oklahoma City, Tulsa, Memphis, Nashville, Huntsville, and Little Rock

**C. FF DARRELL PURCHASES THE FUNFLICKS NAME AND RELATED BUSINESS ASSETS FROM FF SEVERN**

58. On or about December 24, 2012, FF DARRELL was formed in the State of Texas. On or about January 1, 2013, FF DARRELL, purchased from FF SEVERN, the FunFlicks trademark and business pursuant to the terms set forth in the 2013 FF APA for the sum of Two Million Five Hundred Forty Nine Thousand Six Hundred Twenty Nine Dollars and Fifty Nine Cents (\$2,549,629.59). The items purchased included but were not limited to the following items in existence

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<sup>2</sup> In 2011, Laura invested a substantial sum of money in UOM becoming a 40% owner of UOM. In 2016, Laura, for value, became full owner of UOM. In 2016, Darrell became full owner of FunFlicks, LLC. Darrell is also employed by UOM as its CEO and Vice President of Technology. Darrell and Laura were married on July 1, 2017.

as of January 1, 2013: A Copy of the Purchase Price Allocation chart from the 2013 APA is attached hereto as Exhibit 2.

59. FF DARRELL paid for the 2013 FF Assets with an initial down payment. FF DARRELL paid the remaining amount by executing the 2013 NOTE and 2013 SECURITY AGREEMENT.

60. Pursuant to the terms of the 2013 SECURITY AGREEMENT, FF DARRELL granted FF SEVERN a security interest in the 2013 APA Assets. However, the 2013 SECURITY AGREEMENT did not include an after acquired property clause. Consequently, only the 2013 APA Assets existing at the time of the January 1, 2013 APA were collateralized under the 2013 SECURITY AGREEMENT.

61. On or about January 1, 2013, UOM obtained additional territories from FF LANDERS in Maryland, Delaware and District of Columbia.

**D. DARRELL AND UOM AUTOMATE THE FUNFLICKS BUSINESS.**

62. In 2012, while continuing to operate its FunFlicks territories through UOM, UOM began to customize a software integration strategy through an internet cloud based system known as Inflatable Office.

63. Inflatable Office caters primarily to the inflatable amusement industry which includes inflatable -- bounce houses, slides, obstacle courses, games and other entertainment related products and services.

64. Inflatable Office provides a skeletal, logistical system which permits a business owner in the inflatable amusement industry to automate their sales, billing, scheduling, inventory and marketing operations.

65. From 2012 to 2018, UOM used the skeletal functions available in Inflatable Office to completely customize and automate the administrative, marketing, sales, inventory, scheduling, and invoicing functions for the FunFlicks Licensee's Movie Business (the "LANDERS IO SYSTEM").

66. UOM spent hundreds of hours and UOM spent thousands of dollars customizing this software specifically for operations in the FunFlick's Movie Business.

67. The LANDERS IO SYSTEM was offered as an option to the FunFlicks licensees. At least 60% of the licensees subscribed through UOM to access and use the LANDERS IO SYSTEM including FF HUNTER/DIAS.

68. The FunFlicks Licensees, including FF HUNTER/DIAS who used the LANDERS IO SYSTEM became extremely reliant on this system and the data generated from this system.

69. The 2013 SECURITY AGREEMENT did not collateralize the LANDERS IO SYSTEM because it belonged to UOM, which was not a party to the Security Agreement.

70. In order for any FunFlicks Licensee to use the LANDERS IO SYSTEM, they had to receive approval from UOM.

**E. UOM'S TERRITORIES AND EMAIL ADDRESSES.**

71. As of December 1, 2017, UOM held FunFlick's territories in Austin, Dallas, Forth Worth, Houston, San Antonio, Oklahoma City, Tulsa, Memphis, Nashville, Huntsville Alabama, Maryland, District of Columbia, New Jersey, Delaware, Philadelphia, Denver, Northern Virginia and North Carolina, and Little Rock. As to all of these territories, FF DARRELL had previously entered into new FunFlicks license agreements with UOM as to UOM FunFlicks Territories.

72. As of December 1, 2017, UOM held the most territories of any single licensee and was the highest revenue generator of any FunFlicks licensee.

73. UOM also owned and controlled the LANDERS IO System used for FunFlicks.

74. UOM, as well as the other FunFlicks licensees contracted directly with their respective customers in their specific territories.

75. UOM, as well as the other FunFlicks licensees had sole discretion as to how they advertised, marketed, priced, and or performed their services in their respective territories under the FunFlicks name.

76. UOM obtained the following e-mail addresses for UOM's business:

77. Darrell@Funflicks.com

78. Laura@Funflicks.com

79. Kenneth@funflicks.com

80. Chandra@funflicks.com

81. MB@funflicks.com

82. Events@funflicks.com

83. (hereinafter collectively referred to as the "UOM FunFlicks Emails")

When UOM obtained a FunFlicks license, it was not required to obtain an e-mail address containing the FunFlicks URL; it was an option.

84. When FF Darrell became the licensor for the FunFlicks name, it became the electronic service provider for email addresses containing the URL www.Funflicks.com up until March 1, 2018.

85. During this time, FF Darrell maintained the web/email data on a separate web/email server operated and controlled exclusively by FF DARRELL.

86. FF Darrell still has exclusive access to its FunFlicks email/web server data.

87. As of January 1, 2013, the URL, [www.FunFlicks.com](http://www.FunFlicks.com), was set up on a separate and distinct DNS server which was controlled by FF SEVERN in escrow pursuant to the terms of the escrow agreement (“Escrow DNS Server”).

88. The Escrow DNS Server pointed to the FF Darrell web/mail servers. An illustration of this configuration is attached hereto as **Exhibit 3**. However, the Escrow DNS Server did not contain any email address information.

89. FF SEVERN could not access the FF Darrell web/mail servers.

90. FF Darrell web/mail servers held all the information regarding all of the user accounts concerning the e-mail.

91. The UOM FunFlicks email addresses were not used by any other licensee.

92. At the time these e-mails were issued, there was no notice, policy, or agreement which permitted the FunFlicks licensor to covertly intercept, or access the UOM FunFlicks E-mails or any other emails issued by the FunFlicks licensor.

93. The UOM FunFlicks Emails were the primary source of communications with UOM’s customers up until February 20, 2018.



94. When a customer contacts UOM, there are at least 10 automated messages that are sent throughout a customer's lifecycle for a single event. These notices range from quote reminders, contract reminders, payment reminders, friendly event reminders, weather policies, thank you messages, automated next year quote e-mail messages and more.

95. In UOM's experience many of UOM existing customers who want to re-book a subsequent event simply find one of UOM's previous e-mail communications in their inbox and reply to it asking about availability for their next event date.

**F. FF DARRELL ATTEMPTS TO RE-NEGOTIATE 2013 NOTE AND SECURITY AGREEMENT IN THE FALL OF 2017.**

96. In 2016, FF DARRELL's discovered that certain representations and warranties made by FF SEVERN in the 2013 APA were breached.

97. Of particular concern was the enforceability of the covenant not to compete, governed by Maryland Law under the FF SEVERN generated license agreements.

98. In 2016, FF DARRELL became involved in litigation regarding an alleged breach of a FunFlicks licensee's covenant not to compete.

99. The litigation was expensive and if word got out among the other licensees that the covenant not to compete in the license agreements may not be enforceable, because the covenant was too broad as to its geographic scope, the negative financial repercussions to FF Darrell would have been immense.

100. Maryland State and Federal District Courts have a history of declaring invalid through a strict blue pencil test, covenants not to compete similar to the covenants contained in 29 or more FunFlicks Licenses which are subject to Maryland Law.

101. In order to protect the licensees, Darrell anticipated that FF DARRELL would (1) need enter into new licensing agreements with the new licensees with a valid covenant not to compete in exchange for reducing the royalties paid by licensees; or (2) continue with aggressive expensive litigation attempting to enforce the covenant when the need arose.

102. In addition, FF DARRELL required additional cash flow to sustain an adequate business model for itself and the FunFlicks licensees.

103. After making principal and interest payments in excess of ONE MILLION TWO HUNDRED THOUSAND DOLLARS (\$1,200,000.00), in the fall of 2017, Mr. Landers reached out to FF SEVERN to amend the 2013 APA, the

2013 NOTE, the 2013 SECURITY AGREEMENT, and other related documents to modify the cash flow by providing reasonable alternatives to FF SEVERN to decrease the \$21,326.92 per month payments to FF SEVERN under the 2013 NOTE.

104. At the time of the negotiation, FF LANDERS owed approximately TWO MILLION DOLLARS (\$2,000,000.00) on the Note.

105. FF DARRELL withheld payment related to FF SEVERN'S breach of the representation and warranties contained in the APA Agreement until negotiations could be completed.

106. FF SEVERN, FF DARRELL, and their attorneys then started what Darrell believed to be good faith negotiations in November 2017, to resolve their issues and modify the 2013 NOTE, and 2013 SECURITY AGREEMENT.

107. While FF SEVERN and FF DARRELL were negotiating, FF SEVERN sent FF DARRELL a notice of default of the 2013 NOTE and 2013 SECURITY AGREEMENT which included a notice of intent to sell the collateral subject to the 2013 SECURITY AGREEMENT.

108. When questioned about the default notice, Mr. Severn advised Darrell not to worry; that he was doing it to protect FF SEVERN, in the event negotiations failed.

109. Darrell disputed the default and advised Mr. Severn, that if Mr. Severn should attempt to seize and sell the APA Assets, he would run the risk of injuring the FunFlicks brand and risk injuring the investments of the FunFlicks Licensees.

110. Darrell also advised Mr. Severn that if he seized the FunFlicks assets, UOM would simply go on without the FunFlicks name and under a different name Ultimate Outdoor Movies.

111. Darrell advised Mr. Severn that UOM had been in the process to affiliate UOM more closely with the Ultimate Outdoor Entertainment, LLC and their products, a move similar to other licensees such as Big Bounce Fun House Rentals, an Indiana company and a current FunFlicks licensee using [bigbouncefunhouserentals.com](http://bigbouncefunhouserentals.com). This company offers a variety of products which offers FunFlicks outdoor movies on their web site ([http://bigbouncefunhouserentals.com/category/fun\\_flicks/](http://bigbouncefunhouserentals.com/category/fun_flicks/)).

112. Unbeknownst to Darrell, FF SEVERN had already accelerated the loan and initiated the collection process.

113. Darrell provided several alternatives to Mr. Severn, all of which provided a reasonable resolution for FF DARRELL, FF SEVERN and the FunFlicks brand.

114. On or about December 1, 2017 Darrell and Mr. Severn agreed to the major terms to restructure the obligations under the 2013 APA, 2013, NOTE and 2013 SECURITY AGREEMENT.

115. Unbeknownst to Darrell at the time Mr. Severn made these representations, FF SEVERN had already negotiated to sell all of FF DARRELL assets to FF HUNTER/DIAS.

116. On or about December 21, 2017, unbeknownst to Darrell at the time, FF SEVERN covertly signed an asset sale agreement with FF HUNTER/DIAS (the “2017 ASSET SALE”) which attempted to sell all of FF Darrell’s assets, including assets which were not covered by the 2013 SECURITY AGREEMENT. The 2017 ASSET SALE did not include the UOM FunFlicks License Agreement with FF DARRELL.

117. As part of the purchase price, for the 2017 ASSET SALE, FF SEVERN took back a New Note (“HDS Note”) and Security Agreement (“HDS “Security Agreement”) from FF HUNTER/DIAS dated January 1, 2018, executed by Mr. Hunter and Mr. Dias as the directors and officers of FF HUNTER/DIAS. Based on information and belief, Mr. Dias and Mr. Hunter also executed a Guaranty in their personal capacities (“HDS Guaranty”). The HDS Note, the HDS

Security Agreement, and HDS Guaranty and other related documents to these instruments are hereinafter collectively referred to as the “HDS Loan Documents”.

118. This HDS Security Agreement reflects that the HDS Loan Documents were signed on January 1, 2018. A copy of the HDS Security Agreement is attached hereto as **Exhibit 4**<sup>3</sup>. The HDS Security Agreement at paragraph 12 is governed by Maryland law and contains a mandatory Maryland judicial forum selection clause where FF HUNTER/DIAS has consented to the jurisdiction of the State of Maryland.

119. Based on information and belief, the remaining HDS Loan Documents are governed by Maryland Law and contain a mandatory Maryland judicial forum selection clause where the HDAV Defendants consented to the jurisdiction of the State of Maryland.

120. As set forth in the 2018 SETTLEMENT AGREEMENT, *inter alia*, FF HUNTER/DIAS obtained approximately twenty-nine FunFlicks Licenses

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<sup>3</sup> The HDS Security Agreement is being submitted for limited purpose of showing that FF HUNTER/DIAS has consented to jurisdiction in the state of Maryland for issues arising out of this security agreement. Plaintiffs challenge that FF HUNTER/DIAS received no goodwill associated with the FunFlicks name or business alleged in the Complaint.

which are governed by Maryland Law and contain a Mandatory Maryland forum and consent to jurisdiction clause (“Maryland FF License Agreements.”) A form copy of one of the twenty nine Maryland FF License Agreements showing the mandatory Maryland forum and jurisdiction is attached hereto as **Exhibit 5**.

121. Likewise, the 2018 SETTLEMENT AGREEMENT is governed by Maryland Law;

122. FF SEVERN’s 2017 ASSET SALE to FF HUNTER/DIAS was conducted pursuant to Maryland Law.

123. From the 2017 ASSET SALE, FF HUNTER/DIAS thought that they had purchased, *inter alia*, the UOM Post 2013 MDD Client List and the UOM Pre 2013 MDD Client List for which it had agreed to pay FF SEVERN a separate price of \$350,000.00.

124. FF HUNTER/DIAS also thought they had purchased, *inter alia*, (1) the LANDERS’ IO SYSTEM; (2) the current FunFlicks logo and design; (3) sixteen or more FunFlicks Licensee contracts acquired after January 1, 2013; (4) the website and its content; (5) the current FunFlicks goodwill; and (6) other assets acquired by FF LANDERS after January 1, 2013.

125. FF HUNTER/DIAS thought that they could just flip a switch and start running the FunFlicks Movie Businesses as Licensors of the FunFlicks name.

**G. THE HDS DEFENDANTS' COVERT 2017 SALE AND PURCHASE IS DEFECTIVE AND CHALLENGED.**

126. Shortly after December 27, 2018, FF SEVERN realized that the 2013 SECURITY AGREEMENT did not contain an after acquired property clause; and that UOM owned the LANDERS IO SYSTEM, not FF LANDERS. Consequently, FF HUNTER/DIAS could not purchase what was not secured by the 2013 SECURITY AGREEMENT; nor could FF HUNTER/DIAS purchase what FF LANDERS did not own.

127. The items not covered by the 2013 SECURITY AGREEMENT, included, *inter alia*, (1) the LANDERS IO SYSTEM; (2) any of FF DARRELL's assets which were acquired after January 1, 2013; (3) the UOM Post 2013 MDD Client List; (4) the current web site design as it existed on the FunFlicks.com URL; (5) the current FunFlicks logo design; and (6) any other assets acquired or created after January 1, 2013, including but not limited to the current FunFlicks goodwill.

128. Without the LANDERS IO SYSTEM, and without the post 2013 FF LANDERS's assets, FF HUNTER's ability to immediately run the FunFlicks licensor business was hindered and its purchase value significantly diminished.

129. On January 4, 2018, Mr. Severn notified Darrell that he had sold the assets subject to the 2013 SECURITY AGREEMENT to FF HUNTER/DIAS.



130. DARRELL and FF DARRELL disputed FF SEVERN'S 2017 ASSET SALE for reasons including but not limited to FF SEVERN'S breach of good faith and fair dealing and for selling assets which were not included as collateral in the 2013 SECURITY AGREEMENT.

131. In early January, 2018, Mr. SEVERN advised FF HUNTER/DIAS of the problem with the 2013 SECURITY AGREEMENT and the 2013 ASSET SALE.

132. Upon Information and belief, Mr. Severn was upset that he had not secured key assets to run the FunFlicks Licensor business and that he was not able to put UOM out of business.

133. Upon Information and belief, Mr. Hunter and Mr. Dias were upset that they did not obtain all of the assets they had thought they had purchased.

134. Upon information and belief, the HDS Defendants blamed Darrell and Laura for the fractured asset purchase and sought revenge.

135. Upon information and belief, Mr. Severn was particularly upset because his covert attempt to derail Darrell and FF LANDERS and UOM by selling all of the FunFlicks Assets in December 2017 failed miserably.

136. Upon information and belief, the HDS Defendants in early January 2018 initiated a conspiracy against UOM to steal what they could not obtain by through legitimate means from UOM.

#### **H. THE HDS CONSPIRACY AGAINST UOM.**

137. Upon information and belief, the HDS Defendants' conspiracy involved the following which included but was not limited to:

- a. Mr. Hunter and Mr. Dias reaching out to Laura and UOM and pretending to negotiate a FunFlicks license agreement with UOM;
- b. Mr. Severn and FF SEVERN entering into protracted settlement discussion with Darrell and FF LANDERS.
- c. Mr. Severn working with FF HUNTER/DIAS to recruit UOM's host manager, Mr. Gaither, to spy on UOM and steal UOM's Trade Secret Client Information.
- d. The HDS Defendants intentionally interfering with UOM's contracts with its existing workers.
- e. Sending out defamatory statements using the stolen UOM Mid-Atlantic Client List.
- f. FF HUNTER/DIAS and FF SEVERN creating dissent and animosity in the other FunFlicks licensees against Darrell, Laura and their respective businesses;
- g. Convince the other licensees to go after UOM's territories.
- h. Convince existing UOM hosts and managers to steal information from UOM in exchange for becoming new FunFlicks licensee's or FunFlicks managers in UOM's territories and use that information to deceive and defame UOM to its customers.

- i. Fraudulently inducing UOM to release the LANDERS IO SYSTEM during FF HUNTER's sham negotiations with UOM.
- j. Create a new web page and email addresses for www.FunFlicks.com so when the HDS Defendants were ready to pull the trigger, they could shut down UOM's and FF LANDERS use of the www.funflicks.com URL, and link it to their web servers.
- k. The HDS defendants were also very familiar with UOM's marketing strategy of contacting the major corporate clients, early in the year who book the largest screens. They are familiar with this strategy because it is the same marketing strategy taught by FF SEVERN and FF Darrell FF DARRELL when they were the FunFlicks licensor.
- l. Mr. Dias has extensive knowledge in the area of computer and internet technology. Prior to the 2017 Asset Sale, Mr. Dias operated and managed for several years, the FF HUNTER/DIAS, web/email servers and website for its FunFlicks Movie Business under its own www.funflicks.usa URL. Mr. Dias understood that once the www.funflicks URL transferred over to FF HUNTER/DIAS, it could recreate UOM's FunFlicks email addresses on the FF HUNTER/DIAS servers and use them to intercept UOM's customers when they returned their messages to UOM later in the year.<sup>4</sup>
- m. Inflict financial harm on UOM for purposes of greed and profit and to destroy competition.

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<sup>4</sup> FF SEVERN had control of the www. FunFlicks URL which was being held in escrow on a completely separate DNS Server as set forth in the 2013 SECURITY AGREEMENT. However, FF SEVERN did not have control or access to FF LANDERS web/email servers containing the FunFlicks email addresses and data. Consequently, FF HUNTER/DIAS would have to recreate FunFlicks email addresses when FF SEVERN redirected the www.funflicks.com URL to FF HUNTER/DIAS SERVERS.

The scheme described in this paragraph is hereinafter, referred to as the “HDS Conspiracy”

138. The HDS conspiracy operated very similarly to FF SEVERN’s covert 2013 ASSET SALE with the same objective.

139. FF DARRELL and FF SEVERN began a second round of settlement discussions in early January 2018.

140. Mr. Dias and Mr. Hunter as the directors and officers of FF HUNTER/DIAS reached out to Laura in early January 2018 to discuss UOM’s continuation of UOM under the FunFlicks brand.

#### **I. MR HUNTER’S FRAUDULENT STATEMENTS TO UOM**

141. Mr. Hunter represented to Darrell, who was assisting UOM with the negotiations, that if UOM was staying on as a FunFlicks Licensee and continuing to run all of their current territories, including Maryland, “that was all that mattered to him”.

142. At the time Mr. Hunter made this statement to Laura, Mr. Hunter had no intent for FF HUNTER/DIAS to allow UOM to keep its FunFlicks territories, particularly FunFlicks’ Maryland Territory. Mr. Hunter made the statement for the express purpose of deceiving UOM into relying on this statement to stall for time to accomplish the other parts of the HDS conspiracy.

143. A few days before January 17, 2018, Mr. Severn flew out to meet with Mr. Hunter, Mr. Dias, and a Chad Harrison. Based on information and belief the parties met to discuss the HDS conspiracy because Mr. Harrison was also present at this meeting.

144. Based on information and belief, during this meeting, the HDS Defendants discussed the execution of the HDS Conspiracy.

145. Mr. Harrison spoke to Darrell on the 17<sup>th</sup> of January 2018 and advised Darrell that he had met Mr. Severn when he came to California to meet with Mr. Hunter and Mr. Dias. During this January 17, 2018, telephone conversation, Mr. Harrison also asked Darrell a number of logistical questions about warehouses and equipment.

146. Mr. Harrison was not a party to the 2017, Asset Sale; however, he attended this meeting with the HDS Defendants.

147. From January 18<sup>th</sup> through January 24<sup>th</sup> 2018, Mr. Hunter, continued with the sham negotiations whereby UOM believed that UOM and FF HUNTER/DIAS had reached an agreement as to the major terms of the contract to be reduced to writing. A copy of the email string is attached hereto as **Exhibit 6**.

148. Upon information and belief, during this time period, Mr. Hunter and Mr. Dias, personally participated, inspired and/or directed FF HUNTER/DIAS to

work with a Mr. Chad Harrison to start contacting UOM's event host personnel, convincing them to spy on UOM's operations and client contacts.

149. In particular, Chad Harrison, on FF HUNTER/DIAS's behalf contacted Anastasios Konstantinos a/k/a ("Tasso). At the time of this discussion, Tasso was under contract with UOM as an event host provider.

150. During this January 14, 2018, conversation and without UOM's knowledge at the time, Chad Harrison told Tasso that UOM was on "shaky legal ground" and that FunFlicks was going to have a new licensee, Shawn Sanders in the Dallas area.

151. Mr. Harrison convinced Tasso to leave UOM to work for Shawn Sanders, a FunFlicks Louisiana Licensee by promising Tasso more money and a manager's position if he continued to feed Shawn Sanders and him information.

152. Tasso initially accepted the offer and worked for Shawn Sanders as an event host. He later quit working for Shawn Sanders and confessed to Mr. Landers as what he had done in May 2018.

153. During this time Mr. Hunter and Mr. Dias, and Mr. Harrison personally inspired, directed, participated, and or cooperated in causing FF HUNTER/DIAS, to institute a similar scheme against another FunFlicks licensee in San Diego, whereby Mr. Hunter contacted an employee of this San Diego

FunFlicks licensee gaining access her username and password, and used it to misappropriate the San Diego licensee's Client Information. See complaint filed against the HDAV Defendants, and others attached hereto as **Exhibit 7**.

154. Prior to January 23, 2018, Mr. Hunter and Mr. Dias were already working with FF SEVERN and making plans to take on Mr. Gaither, as a FunFlicks licensee to take over UOM's Maryland and other Mid-Atlantic Territories.

155. On January 23, 2018, Laura and Darrell had a fifteen minute phone conversation with Mr. Hunter who confirmed with Laura that they had a deal and that he just needed his attorney to plug in these terms into a new licensing agreement. During this conversation, Ms. Landers told Mr. Hunter, that she trusted him, and asked him not to do what Mr. Severn did to Darrell. Her specific words were "*Chad, [Mr. Hunter] tell me you're not going to screw me like Todd screwed Darrell*", to which Chad replied "*No, I promise I am not going to screw you*" [meaning that Mr. Hunter promised he would not sabotage UOM, as Mr. Severn had tried to do to FF Darrell in the 2017 ASSET SALE.]

156. At the time Mr. Hunter made these statements, Mr. Hunter had no intent of keeping his promise and made the statement for purposes of deceiving

Laura and UOM into believing that FF HUNTER/DIAS negotiations with UOM were not being done to undermine UOM's existing FunFlicks business.

157. In reliance of Mr. Hunter's representations, UOM refrained from proceeding with the switch to Ultimate Outdoor Movies and continued operating under the FunFlicks name without objection from the HDS Defendants.

158. Through January and February, 2018, in reliance of Mr. Hunter's representations, FF DARRELL allowed the FunFlicks website that it had developed and owned to continue to operate on the [www.FunFlicks.com](http://www.FunFlicks.com) domain.

159. UOM allowed FunFlicks Licensees and FF HUNTER/DIAS to continue to use the LANDERS IO SYSTEM in reliance of Mr. Hunter's representations.

160. In return, FF HUNTER/DIAS and FF SEVERN permitted UOM to continue to operate as a FunFlick's licensee without a FunFlicks license during negotiations and pending what UOM believed to be a final agreement as to the major terms.

161. Unbeknownst to Laura, Darrell, and UOM, the HDS Defendants and Mr. Gaither were already acting to sabotage UOM's business at the time Mr. Hunter made this statement.



162. Prior to UOM releasing control of the LANDER's IO SYSTEM, Mr. Hunter, and Mr. Dias and Mr. Severn had already entered into discussions with Mr. Gaither to take over UOM's Maryland territory.

163. In further reliance of Mr. Hunter's representations and after the major terms of the license were agreed to, in early February 2018, UOM released control of the LANDERS IO SYSTEM to the individual FunFlicks licensees for reasons including, *inter alia*, to show good faith to the other FunFlicks Licensees and to demonstrate UOM's willingness to continue as a FunFlicks Licensee.

164. Unbeknownst to FF DARRELL and UOM at the time, on or about February 5, 2018, James Gaither and NATJAY signed a licensing agreement with FF HUNTER/DIAS.

165. Mr. Gaither had also worked for FF SEVERN prior to 2013 as a FunFlicks event host.

166. Mr. SEVERN through FF SEVERN was also working closely with FF HUNTER/DIAS to take over PNR Marketing Solutions, Inc.'s FunFlicks Territory in the San Diego Area. *See* California Complaint at page 10 para. 31. **Exhibit 7.**

167. Unbeknownst to FF DARRELL and UOM, on or about February 12, 2018, FF HUNTER/DIAS started with the unauthorized copying of content from FF DARRELL's FunFlicks website and started creating a new FunFlicks website

on FF HUNTER/DIAS web/email server. This act shows that Mr. Hunter and Mr. Dias had no intention of FF HUNTER/DIAS of entering into a contract with UOM because FF DARRELL had already agreed to transfer the FunFlicks Website as part of the terms in UOM's final agreement as reflected in the January 30, 2018, email between Darrell and Mr. Hunter. *See Exhibit 6.* Consequently, there was no need to copy the website.

168. By releasing control of the LANDERS IO SYSTEM, FF HUNTER/DIAS was able to operate the FunFlicks Movie Business more efficiently.

169. Furthermore, FF HUNTER/DIAS now had the ability to sign up new FunFlicks Licensees without UOM being alerted of a new licensee subscribing to the Landers IO System.

170. Upon Information and belief, after receiving access to the LANDERS IO SYSTEM (the most critical component of the FunFlicks business), Mr. Hunter, Mr. Dias, Mr. Gaither and Mr. Severn continued with their conspiracy to destroy UOM's Movie Business while Mr. Gaither was still under contract with UOM.

**J. THE HDS DEFENDANTS AND MR. GAITHER CONSPIRE TO COMMIT FRAUD, THEFT AND DEFAMATORY ACTS AGAINST UOM AND LAURA.**

171. At the time of the conspiracy, Mr. Gaither was a licensed attorney working for a law firm in the state of Maryland.

172. Mr. Gaither was a long and trusted independent contractor who had worked for UOM for the last six years.

173. Mr. Gaither originally worked for UOM as an event host operator from 2013 to 2016 and in 2017 was asked to manage the equipment and contractor/event host hiring and training for UOM in the Maryland territory.

174. UOM placed added trust in Mr. Gaither because he was a licensed attorney in the State of Maryland.

175. In 2018, Mr. Gaither was under contract to work for UOM until December 31, 2018.

176. Mr. Severn knew Mr. Gaither because Mr. Gaither worked for him as FunFlicks event host prior to 2013.

177. Mr. Gaither, prior to January 24, 2018 introduced Mr. Gaither to the HDAV Defendants for purposes inducing Mr. Gaither taking over UOM's territory.

178. Upon information and belief, Mr. Severn, Mr. Hunter and Mr. Dias advised Mr. Gaither of the HDS plans to destroy the UOM's business.

179. Upon information and belief Mr. Gaither agreed to participate.

180. Without UOM's knowledge on January 30<sup>th</sup> 2018, while still under contract with and working for UOM, Mr. Gaither formed NATJAY, LLC, for purposes of operating a Movie Business in Maryland and surrounding areas. A copy of Mr. Gaither's Maryland NATJAY LLC, registration is attached hereto as **Exhibit 8.**

181. On the same day, Mr. Gaither accessed the UOM's LANDERS IO SYSTEM using his secure user name and password and started downloading contracts to use as forms for his own company.

182. Without UOM's knowledge and while still under Contract with UOM, Mr. Gaither executed a licensing agreement with FF HUNTER/DIAS on or about February 5, 2018.

183. From February 1, 2018 to February 14, 2018, Darrell requested numerous times from Mr. Hunter the status of the license agreement by text and by phone. Mr. Hunter delayed and/or ignored Darrell's requests.

184. On February 14, 2018, FF DARRELL and Darrell's attorney, while working on the 2018 SETTLEMENT AGREEMENT with FF SEVERN and Mr. Severn, received information from Todd Severn's attorney that there was an issue

with Maryland; that FF HUNTER/DIAS had someone else to run the Maryland territory and that there was something about an option for someone else to run the Texas territory.

185. On February 14, 2018, at 12:42pm Darrell texted Mr. Hunter and asked Mr. Hunter if FF HUNTER/DIAS had someone else to run the Maryland territory and that there was something about an option for someone else to run the Texas territory.

186. On February 14, 2018, Darrell contacted Mr. Severn by phone at 1:55 pm and inquired with Mr. Severn about Mr. Severn's Attorney's comments that FF HUNTER/DIAS had someone else to run the Maryland Territory and the Texas Territory. Mr. Severn responded to Darrell, "I don't know, you have to talk to Chad and Matt". At the time Mr. Severn made this statement, he knew it was false and made the statement for purposes of deceiving Darrell and UOM into relying on this statement.

187. Based on information and belief, Mr. Severn had full knowledge the conspiracy to take over the UOM's territories including Mr. Gaither's involvement in the state of Maryland.

188. Mr. Hunter responded to Darrell's February 14, 2018, text message to Darrell on February 14, 2018 at 1:56 pm which provides:

Sorry for the delay. I am in meetings all day but wanted to shoot you a quick text. After you shared specifically the territories your planning on operating, Maryland is a concern since we bought the customer list<sup>5</sup> and planned on running it remotely or relicensing. As for TX FF and UOE I have no ideas what he's talking about!"

189. A copy of the text string between Darrell and Mr. Hunter is attached hereto as **Exhibit 10**.

190. Once Mr. Hunter made this statement, he owed a duty to advise UOM that FF HUNTER/DIAS had signed a licensing agreement with James Gaither and/or NATJAY because Mr. Hunter's statement gave the false impression that FF HUNTER/DIAS hadn't decided exactly what to do with the Maryland territory. Mr. Hunter and Mr. Dias had already licensed the Territory to Mr. Gaither and NATJAY.

191. Mr. Hunter's statement is also false because he lied to UOM about not having any idea that FF HUNTER/DIAS had plans for another licensee to run

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<sup>5</sup> At the time, Mr. Hunter had full knowledge of the entirety of the 2017 Asset Sale was in dispute and the FF HUNTER/DIAS hadn't actually purchased any FunFlicks assets at that time.

UOM's Texas territories when plans were already place to do so with Shawn Sanders and others.

192. On February 14, 2018, Darrell had another telephone conversation with Mr. Hunter at 5:08pm wherein, Mr. Hunter, inter alia, advised Darrell and Laura not to attend the FunFlicks Chicago Conference to be held on February 23 - 25, 2018.

193. On February 14, 2018, Darrell attempted to call Mr. Gaither for a meeting. Mr. Gaither delayed the phone call texting Darrell that he was on a phone call. A copy of the email string between Mr. Gaither and Darrell is attached hereto as **Exhibit 9**. Based on information and belief Mr. Gaither was in discussions with Mr. Hunter and/or Mr. Severn regarding Darrell's discovery about the Maryland Territory.

194. On or about February 15, 2018, at 6:57 pm, Darrell contacted Mr. Gaither, *via text*, and asked Mr. Gaither if he had been contacted by Mr. Severn or anyone else at FunFlicks.

195. Mr. Gaither responded by text and represented to Darrell on February 15<sup>th</sup> at 7:02 and 7:03 pm as follows:

**“No just you guys, You and Kenneth really.”**

**“Todd Severn, I thought, he was done with FunFlicks?”**

A copy of the email string between Mr. Gaither and Darrell is attached hereto as **Exhibit 10**.

196. Unbeknownst to Darrell and UOM at the time Mr. Gaither made these representations, Mr. Gaither had already agreed to participate in the HDS Defendants conspiracy to destroy UOM's business.

197. Had Mr. Gaither, or Mr. Hunter told the truth to Darrell, UOM would have immediately shut down Mr. Gaither's access, to UOM's IO database, fired or held Mr. Gaither to the terms of the contract and/or taken further measures to protect UOM's interests.

198. Needing additional time to initiate the attack on UOM's business, Mr. Gaither continued to work for UOM under false pretenses. On February 18, 2018, at 4:09 pm, Darrell and Mr. Gaither spoke about UOM's plans for the 2018 season. This telephone call lasted sixty-one minutes, Darrell asked James to come up with a list of processes, training and/or equipment that he thought needed improvement for the upcoming season. Darrell recommended that Mr. Gaither come to Austin to train with Darrell in March/April 2018 and suggested that one of UOM's experienced techs in the Maryland area, Matt Goon, come with him. Mr. Gaither told Darrell that he was excited about working again for UOM in 2018 as manager



and that he was going to talk to Matt Goon about his available dates to travel to Texas to train with UOM.

199. At the time Mr. Gaither, made the statements about working with UOM for the upcoming season, he knew they were false and made said statements for purposes of deceiving Darrell and UOM.

200. Based on information and belief Mr. Gaither made these false statements with the specific support and direction from FF HUNTER/DIAS officers and directors, Mr. Hunter and Mr. Dias and from FF SEVERN's managing member, Mr. Severn.

201. FF HUNTER/DIAS, Mr. Hunter and Mr. Dias continued to delay in their dealings with UOM.

202. From February 15, 2018 to February 20, 2018, Mr. Hunter ignored Darrell's texts and calls.

203. On February 21, 2018, Mr. Hunter texted Darrell regarding his license agreement. "As soon as your negotiations are done with Todd and after our conference".

204. Based upon Mr. Hunter's conduct described above, it became obvious to UOM that FF HUNTER/DIAS had no intent of entering into a contract with UOM.

205. However, UOM was still unaware of HDS's scheme with Mr. Gaither against UOM at this time.

206. UOM switched its Brand to "Ultimate Outdoor Movies, on February 20, 2018 and sent out a notice to all of its customers, notifying them of the switch from FunFlicks to UOM to notify all of UOM customers of its new name and its new email contacts using the URL [www.ultimateoutdoormovies.com](http://www.ultimateoutdoormovies.com).

207. On January 24, 2018, UOM sent to its customers again another e-mail advising UOM that it was switching its brand and provided new email contact information.

208. While still working for UOM under false pretenses, Mr. Gaither accessed and stole the UOM Mid-Atlantic Client List using his confidential UOM user name and password and provided the stolen information to the HDS defendants.

209. Unbeknownst to Plaintiffs, Mr. Gaither attended the FunFlicks Conference in Chicago held on February 23-25, 2018, while he was still under

contract for UOM.

210. Mr. Gaither met with Mr. Severn, Mr. Dias and Mr. Hunter at the Chicago FunFlicks Conference and upon information and belief further discussed the HDS conspiracy to destroy UOM's business.

211. At the Chicago FunFlicks Conference, Mr. Hunter offered the stolen UOM Mid-Atlantic Client list to another FunFlicks licensee that contained UOM's Northern Virginia clients; this licensee refused to take this stolen client list.

212. Upon his return from the Conference on February 27, 2018, Mr. Gaither, in cooperation with and with the authority and/or approval of the HDS Defendants, initiated their attack on the UOM business, in part, as follows:

On February 27, 2018, Mr. Gaither attempted<sup>6</sup> to sabotage a UOM hosted movie event scheduled for February 28 by replacing the current host worker with himself with no intention of showing up for the event;

On February 27, 2018, Mr. Gaither downloaded another copy of the UOM Mid-Atlantic Client List information showing that he had last accessed the secure UOM IO system at 10:43 pm.

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<sup>6</sup> UOM discovered Mr. Gaither's sabotage on February 28, 2018 and was able to assign a new host before the event occurred on the evening of February 28, 2018.

One minute later, on February 27, 2018, Mr. Gaither sent out the following via e-mail, to UOM customers from the UOM Mid-Atlantic Client List using an e-mail address on the URL, funflicksusa.com, which is registered to FF HUNTER/DIAS.

From: FunFlicks Outdoor Movies <maryland@funflicksusa.com>

Subject: Check to make sure your event is safe!

Date: February 27, 2018 at 10:44:19 PM EST



Are you sure you booked with FunFlicks?

Dear FunFlicks Customer:

This is to notify you that a Texas business has been marketing outdoor movies using the FunFlicks® name without authorization. You may have received an e-mail or call this past month from FunFlicks, however, FunFlicks did not send or call. We are sorry to report that a prior defaulted business owner has deceitfully marketed as FunFlicks®, sent invoices and confirmed events using multiple aliases including ultimate outdoor movies and ultimate outdoor entertainment. Their names would include Darrell, Laura, Michael, Chandra & Kenneth. Please look at your email, it will show it came from an alternate company! Don't fall for this!!

Your events and deposits are at risk! This out of state company formed in August and is attempting to undermine FunFlicks business across America. Most importantly, they MAY NOT have infrastructure in Maryland or other states to handle these events, and they are not registered to conduct business in Maryland.

James Gaither is your local Maryland FunFlicks® business owner and lives in Pasadena, MD. You should recognize his name since James has managed FunFlicks® since 2013 and has been a FunFlicks® event host since 2011. James is the only person in MD / DC / DE / NJ that represents FunFlicks®.

To remedy the current situation and to properly confirm your events, call James at: (410) 353-5654. If you have not deposited your event, you are safe. If you have mistakenly deposited prior to receiving this message, your best line of defense is to deny any credit card charges applied, or call and cancel your event with Ultimate requesting a full refund. You will note that on the bottom of each contract there is a statement that reads: "This document is copyrighted material owned by FunFlicks, Inc. and may not be copied or used, in whole or in part, for any purpose without express written permission from FunFlicks, Inc." FunFlicks has not provided Ultimate Outdoor Entertainment with any permission, written or otherwise, to use these agreements. Therefore, your contract is invalid!

Be prepared for fast talk and recognize they are not the business that hosted your events in the past. If you need further verification, please call us immediately!

-FunFlicks Team

213. From 2013 to 2018 UOM's Mid-Atlantic Client List contained information as to 7,101 individuals and business. Out of this number 3,063 were Maryland residents and businesses. The Defendants by misappropriating the stolen UOM Mid-Atlantic Client List sent the Gaither Defamatory Statements to 7,101 individuals and businesses from the Mid-Atlantic Client List.

214. Notably, the Gaither Defamatory Statement is prepared in the third person and signed by the "**FunFlicks Team.**"

215. Mr. Hunter and Mr. Dias knew of the high quality of service that UOM provided because Darrell had trained them.

216. Mr. Hunter and Mr. Dias both knew that UOM owned the UOM Mid-Atlantic Client List and they both knew that FF HUNTER/DIAS had not purchased UOM's FunFlicks license agreements. Consequently, the HDAV Defendants had no control over UOM except through what Mr. Gaither could steal from UOM, the Mid-Atlantic Client List.

217. Upon information and belief, Mr. Hunter and Mr. Dias had not anticipated that UOM would figure out that FF HUNTER/DIAS had no intention of entering into a FunFlicks Licensing Agreement with UOM this quickly.

218. FF HUNTER/DIAS had not completed their copied website and they had not finished with the setup of their email server (which they did not complete until near the end of the first week of March 2018).

219. FF HUNTER/DIAS paid \$350,000.00 to FF SEVERN for what they thought was the Pre UOM MDD Client List (a five year old list) and the Post 2013 UOM MDD Client List; However FF HUNTER/DIAS never obtained and was never entitled to the Post 2013 MDD Client List.

220. Upon information and belief, FF HUNTER/DIAS was desperate, knowing that it would not take long for UOM to separate itself from the FunFlicks name and needed to act quickly to destroy UOM's reputation.

221. Upon information and belief, Mr. Dias and Mr. Hunter, through FF HUNTER/DIAS, specifically, inspired, directed and/or cooperated in the creation and sending of the Gaither defamatory statements for the following reasons including but not limited to:

- a. The discombobulated attempt to purchase the FunFlicks Movie Business assets;
- b. Mr. Hunter and Mr. Dias not requiring Mr. Gaither to file a retraction statement;
- c. The timeline of events set forth in this complaint;
- d. The Defamatory Statement being written in the third person and signed the "FUNFLICKS TEAM."

- e. Mr. Hunter and Mr. Dias being the directors and officers of FF HUNTER DIAS;
- f. FF HUNTER/DIAS entering into a Licensing Agreement with Mr. Gaither and NATJAY.
- g. Mr. Hunter Receiving the stolen UOM Mid-Atlantic Client List from Mr. Gaither at the February 23-25 2018 FunFlicks Convention; Mr. DIAS providing Mr. Gaither with an email address unique to employees and agents of FF HUNTER/DIAS;
- h. As Licensors of the FunFlicks Name, FF HUNTER/DIAS stand to profit from the Defamatory Statements through increased royalties generated from the Gaither Defamatory Statements (based on other licensees royalty structure, the FF HUNTER/DIAS receives between 6-8% of the NATJAYS gross sales in the Movie Business).

222. Likewise, upon information and belief, Mr. Severn participated in the preparation and publication of the Gaither Defamatory Statements because Mr. Severn stood to gain financially from the statements and has a motive for inflicting harm on UOM.

223. Mr. Gaither did not have significant knowledge of the marketing or administrative side of the FunFlicks Movie Business. Furthermore, Mr. Gaither was working full time as an attorney for a multistate law firm.

224. The MDD Territory had a value exceeding \$450,000.00 which Mr. Gaither could not afford to pay in full evidenced by his working for UOM as a FunFlicks host and event manager.



225. FF SEVERN is financially capable of running a FunFlicks Territory and has full knowledge of the FunFlicks Movie Business.

226. FF SEVERN had previously run the Maryland FunFlicks territory in from 2008 to 2012.

227. Mr. Severn desperately wanted the MDD Territory. He had tried to negotiate for it back in November 2017 with FF LANDERS and had failed.

228. Upon information and belief Mr. Severn trained and/or assisted Mr. Gaither and NATJAY in the FunFlicks business in Maryland and the Mid-Atlantic Territories.

229. Upon information and belief Mr. Severn assisted Mr. Gaither and NATJAY in acquiring the equipment necessary to carry out the operations.

230. FF HUNTER/DIAS hired Mr. Severn to be a consultant and train licensees for territories being taken over by FF HUNTER/DIAS. Mr. Severn also lives in Maryland.

231. Mr. Severn recruited James Gaither for FF HUNTER/DIAS.

232. Mr. Severn is also extremely knowledgeable on the marketing, management and sales side of the FunFlicks business because he created it and provided training to FunFlicks Licensees.

233. A Maryland UCC search reflects that neither Mr. Gaither nor NATJAY purchased Movie Business Equipment on credit.

234. Mr. Severn received \$50,000.00 from FF HUNTER/DIAS, the same amount necessary to obtain the basic equipment to run a FunFlicks Movie Business. The 2017 ASSET SALE obtained from the United States Patent and Trademark Office shows \$50,000.00 in payments to be made to FF SEVERN before May 1, 2018 and is attached to this complaint as **Exhibit 11**<sup>7</sup>.

235. Mr. Severn is directly involved with the interception of UOM's customer e-mails and using deceptive means to misappropriate UOM's customers as set forth in this Complaint.

236. Mr. Severn lied and failed to disclose Mr. Gaither's involvement, and failed to disclose his own involvement in the MDD Territory.

237. FF HUNTER/DIAS did not purchase UOM's FunFlicks Licensee Contracts which included the Maryland Territory.

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<sup>7</sup> Exhibit 11 is submitted for purposes of showing payments only. As to what FF HUNTER/DIAS and FF SEVERN represented to the USPTO what was sold to FF HUNTER/DIAAS as shown on this Exhibit, Exhibit 11 contradicts what was actually purchased by FF HUNTER/DIAS from the 2018 Settlement Agreement.

238. The deficiency claimed and released by FF Severn in the 2018 Settlement Agreement was \$450,000.00, approximately the same amount FF SEVERN had originally sold the MDD Territory to Darrell for in 2013.

239. In the 2013 ASSET SALE, FF HUNTER/DIAS excluded the UOM's FunFlicks Licenses which included the Mid-Atlantic Territory.

240. Based on information and belief, Mr. Severn has a financial interest in UOM's Mid-Atlantic Territories and is using the stolen Mid-Atlantic Client List and profiting from the Defamatory Statements for purposes of monetary gain and to inflict harm on UOM.

241. Mr. Severn through FF SEVERN also receives a portion of the ill-gotten gains in the form of Note payments from FF HUNTER/DIAS and or other compensation paid by FF HUNTER/DIAS and/or NATJAY.<sup>8</sup>

242. Notably, the Gaither's Defamatory Statements was written in the third person, using the term "FunFlicks Team" and contains a contested issue arising out

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<sup>8</sup> Pursuant to the terms of the 2018 SETTLEMENT AGREEMENT; Mr. Severn was permitted to work for FF HUNTER/DIAS.

the relationship between FF SEVERN and FF LANDERS (“a prior defaulted business owner . . .”) which was used to falsely imply that UOM was that defaulting party.

**K. MR. GAITHER MOCKS UOM AFTER STEALING UOM’S CLIENT LIST AND SENDING DEFAMATORY LETTER**

243. On March 14, 2018, attorneys for UOM and Darrell and Laura and their respective companies sent Mr. Gaither a letter notifying him, *inter alia*, of Mr. Gaither’s theft of UOM’s customer lists, defamatory acts, and breach of contract. This letter further demanded, in part, that Mr. Gaither cease using the confidential information and cease contacting clients from the stolen UOM client list. A copy of the letter is attached hereto as **Exhibit 12**.

244. In his response, Mr. Gaither responded to Mr. Simon’s letter’s in an email dated March 14, 2018, in part as follows:

Your clients have done nothing to protect “company secrets” and their claim of defamation is going no where.  
If you allege that I took customers lists and used them, then  
there is no list to return, that hypothetical cat is out of the bag.

**L. FF SEVERN AND MR. SEVERN AND FF DARREL AND DARRELL EXECUTE A SETTLEMENT AGREEMENT WITH AN EFFECTIVE DATE OF MARCH 3, 2018.**

245. FF SEVERN, Mr. Severn and FF DARRELL and Darrell settled their dispute as reflected in the 2018 SETTLEMENT AGREEMENT with an effective date of March 3, 2018. FF DARRELL executed the 2018 SETTLEMENT AGREEMENT on or about March 7, 2018. A copy of the 2018 SETTLEMENT AGREEMENT is attached hereto as **Exhibit 13**.

246. The 2018 SETTLEMENT AGREEMENT defined what FF HUNTER/DIAS, actually received from the 2017 Asset Sale.

247. Neither, Laura nor UOM were parties to the 2018 SETTLEMENT AGREEMENT.

248. The 2018 SETTLEMENT AGREEMENT did not transfer the FunFlicks' brand goodwill to the HDS Defendants.

249. The 2018 SETTLEMENT AGREEMENT did not include UOM's FunFlicks current goodwill or any part of UOM's Global Client List.

250. The 2018 SETTLEMENT AGREEMENT did not include the transfer of UOM's FunFlicks License with FF DARRELL.

251. The 2018 SETTLEMENT AGREEMENT did not include a transfer of UOM's existing business to the HDS Defendants.

252. The 2018 SETTLEMENT AGREEMENT did not include the FunFlicks Licensees Client Information owned by the FunFlicks licensees.

253. Although the 2018 SETTLEMENT AGREEMENT included the sale of the www.Funflicks.com, url, it **did not include** the sale or transfer of any of the @funflicks.com e-mail addresses, the FF LANDERS current FunFlicks web/email servers or its contents, or the sale or transfer of the FF LANDERS's FunFlicks website content.

254. The HDS Defendants obtained no rights to any of UOM's business goodwill obtained by UOM as a FunFlicks licensee.

255. Under the 2018 SETTLEMENT AGREEMENT, the HDS Defendants did not obtain any of the goodwill associated with the FunFlick's Brand.

**M. DEFENDANTS WIRETAP UOM'S EMAIL FOR PURPOSES OF STEALING UOM'S CLIENTS.**

256. One of the acts of the HDS Conspiracy included the Defendants intercepting UOM's emails when the UOM Customers responded to the prior emails sent out by UOM on the UOM FunFlicks email addresses.

257. FF SEVERN had the ability to redirect the www.funflicks.com URL to FF HUNTER/DIAS because FF SEVERN held this URL in escrow through a DNS server in FF SEVERN'S control.

258. FF SEVERN did not have access, authority or the ability to redirect FF DARRELL's web/email server information which contained the website and e-mail data associated with the www.funflicks.com url when used by FF LANDERS. This website and e-mail data was stored on a completely different web/server host.

259. On or about March 1, 2018, FF SEVERN disconnected the FunFlicks URL link to the FF LANDER's web/email servers by changing the DNS server setting on the Escrow DNS Server which prevented all users, including UOM, from sending and receiving emails whose emails contained the @FunFlicks.com, URL.

260. FF HUNTER/DIAS. Mr. Severn then caused a new link to be created directing the www.FunFlicks.com domain to FF HUNTER/DIAS's newly created web/email servers. *See* Illustration at **Exhibit 3**

261. FF HUNTER/DIAS had to re-create the e-mail addresses for each existing FunFlick's Licensee and then re-create related directional protocols on its own separate e-mail/web server for the FF HUNTER/DIAS FunFlicks Licensees

because FF HUNTER/DIAS did not have access to FF LANDERS web/email server. *See* Illustration attached hereto as **Exhibit 3**.

262. Once .....@funflicks.com e-mails were recreated by FF HUNTER/DIAS and linked to their respective users, FF HUNTER /DIAS became the new e-mail service provider for the users with the @funflicks.com email addresses.

263. UOM was not a user of FF HUNTER/DIAS' mail/web servers.

264. UOM was never able to send and receive the UOM FunFlicks e-mails from the FF HUNTER/DIAS mail/web servers.

265. In addition to creating the other user's @funflicks, emails, Mr. Hunter and Mr. Dias, through FF HUNTER/DIAS, specifically inspired, directed, cooperated and/or participated in the re-creation of counterfeit UOM FunFlicks Email addresses and then created protocols directing these new counterfeit email addresses to the FF HUNTER/DIAS webserver and to the Defendants for the specific purpose of stealing UOM's clients by intercepting emails from UOM's customers when they responded to UOM's pre-February 20, 2018 e-mails.

266. Mr. Gaither through Natjay specifically, inspired, directed, cooperated and/or participated in the interception, disclosure and or use of the email messages intended for UOM.



267. Mr. Severn and FF SEVERN specifically, inspired, directed, cooperated and/or participated in the interception disclosure and or use of the email messages intended for UOM.

268. In June 2018, Darrell became suspicious that the HDS Defendants were intercepting the UOM FunFlicks Emails.

269. Darrell, posing as a fictitious client of UOM sent an e-mail to himself using his former FunFlicks e-mail address (Darrell@funflicks.com).

270. Mr. Severn, through FF HUNTER/DIAS's web/email servers intercepted, disclosed and or used Darrell's intercepted email to solicit what he believed to be a UOM Customer. A copy of this email string is attached hereto as **Exhibit 14**. The email communication between Mr. Severn and Darrell a/k/a Richard Hornacek reads in part as follows:

Subject: Mall Movie Nights  
Date: Thu, 14 Jun 2018 02:41:43 +0000

From: Richard Hornacek richard\_hornacek@federatedmarketingllc.com

To: Darrell Landers <darrell@funflicks.com>

Darrell,

My apologies for taking so long to get back to you, I finally got concept approval from all of the local mall marketing directors to move forward with the movie nights that we discussed in Jan and I have a finalized list of locations for you below. I thought we were going to have 6-8 that were interested but ended up with 14 that loved the idea and another 2-3 that are still considering. We need updated pricing for this list since we've had so many changes since we started. We appreciate the 10% discount you provided when we discussed doing 6-8 events but wanted to know if you can do any better with the price now that we have 14 on board? Each mall director is working on their movie title and we would like for you to take care of licensing for us. I set a deadline of July 1 for each mall director to get me their movie name.

You mentioned that we could do this with one contract. Our national marketing team is paying for the events even though each mall is funding from their local budgets. When can you let me know about availability and pricing for each of these? My objective is to get the pricing approved and then hold a planning call in July to coordinate details.

August 4th – 45' Epic Screen Drive-In  
Biltmore Fashion Mall – Phoenix, AZ ....  
...Northlake Mall – Charlotte, NC

August 18th – 45' Epic Screen Drive-In (need generator service at The Summit)  
Fashion Show Mall – Newport Beach, CA . . .  
...The Galleria – Houston, TX

I'm traveling to Boston the rest of this week and would like to present pricing to my team when I get back to Cincinnati on Monday.

Thank you,

Richard Hornacek

Sent from my iPhone

271. Mr. Severn responded to this email as follows:

**From:** FunFlicks <all@funflicks.com>

**Date:** June 14, 2018 at 5:11:50 PM CDT

**To:** <richard\_hornacek@federatedmarketingllc.com>, "todd@funflicks.com"  
<todd@funflicks.com>

**Subject: Fwd: Fwd: Mall Movie Nights**

Hi Richard,

Great to hear from you. Your events were mentioned in the office months ago and was wondering if this might be a reality. Glad this has been such a success on your end!!

We are currently working on a package quote for all of your locations listed.  
(FYI, Darrell is no longer here at FunFlicks® - will explain when we talk)

Please reach out to me directly - if you have easy access to zip codes for each location, that would help me tighten up the prices.

My goal is to have a package to you by end of day tomorrow.

Thanks!

Talk soon,

Todd

(818) 732-6872

www.funflicks.com

todd@funflicks.com

272. FF HUNTER/DIAS used the information from another intercepted UOM FunFlicks Email to steal at least one \$15,000.00 UOM client in Austin, Texas by telling the UOM client that Darrell and Laura were no longer around giving the false impression that Darrell were no longer with the same entity, UOM.

273. In another instance, HUNTER/DIAS intercepted an e-mail to a competing FunFlicks licensee who falsely represented to UOM's customer in Dallas, Texas that UOM and/or Darrell had filed for bankruptcy.

274. On or about April 27, 2018, Mr. Gaither, NATJAY, and the HDAV Defendants intercepted, disclosed and/or used an intercepted UOM FunFlicks E-mail "events@FunFlicks.com intended for Kenneth Schwausch an existing employee with UOM. A copy of the email discussion is attached hereto as **Exhibit 15**. This e-mail was sent from Megan in the state of Maryland to Kenneth which provides:

**Subject:**Re: Rental Agreement for Your 9/29/2017 FunFlicks Screen Rental

**Date:**Fri, 27 Apr 2018 07:47:13 -0400

**From:**Megan [REDACTED]

**To:**FunFlicks Outdoor Movies <events@funflicks.com>

Hi Kenneth!

Wanted to see if the same movie package would be available on May 18,

Thank you

Megan

From: **james@funflicks.com**

Date: Fri, Apr 27, 2018 at 12:01 PM

Subject: RE:Rental Agreement for Your 9/29/2017 FunFlicks Screen Rental

To: [REDACTED]

Hey Megan,

You are in luck! We have one spot open for that date. I will prepare the quote for you shortly and send it over.

Thanks!

James

275. By the Defendants intercepting, the UOM FunFlicks E-mail, Mr. Gaither was able to book an event with Megan when she was trying to book an event with Kenneth at UOM.

276. Megan had a negative experience with James Gaither's Natjay t/a FunFlicks and later discovered that she was not dealing with the same entity she had dealt with in 2017. A copy of Megan's email to Laura is attached hereto as **Exhibit 16**

277. In Maryland alone, the Defendants through their counterfeit UOM FunFlicks emails had the ability to intercept 851 or more Maryland customers or leads who clicked reply to one of the UOM FunFlicks Emails sent out in 2017 and in early January and February 2018.

278. Overall, the HDAV Defendants' creation of the counterfeit e-mails gave them the ability to intercept more than 5,719 UOM customer emails.

**N. FF HUNTER/DIAS CREATES FICTITIOUS CORPORATIONS TO PREVENT UOM FROM OPERATING IN CALIFORNIA.**

279. On or about May 22, 2018, Mr. Hunter incorporated in the State of California, the following corporate name: **Ultimate Outdoor Movies, Inc.** A copy of the registration is attached hereto as Exhibit 17.

280. On or about May 22, 2018, Mr. Hunter incorporated in the State of California: **Ultimate Outdoor Movies, LLC.** A copy of the Registration is attached hereto as Exhibit 18.

281. Mr. Hunter admitted through Chad Harrison and his own attorney that Mr. Hunter's sole intention in creating these fictitious registrations was to "lock out" UOM from operating in California and for purposes of ill will and spite. These registrations interfere with UOM's ability to register their corporate name and/or trade name in the state of California.

282. Mr. Hunter's registration of this name further confuses the Ultimate Outdoor Movies name with FunFlicks because the HUNTER UOM name registrations contain the same principal place of business as the FunFlicks address.

**O. THE DEFENDANTS INFLICT INURIES ON UOM AND LAURA**

283. The Defendant's conduct caused UOM customers to leave or not re-book their events with UOM and go to NATJAY / Mr. Gaither and to other FF HUNTER/DIAS Fun Flicks Licensees or with another company. The following are just a few examples of former clients identified by City and State in the UOM Mid-Atlantic territory, who switched from UOM to NATJAY after the Defendant's Defamatory Statements.

Owings Mills	MD	765.62
Ellicott City	MD	628.34
Fords	NJ	733.49
Stevenson	MD	425.34
Dover	DE	999
Owings Mills	MD	1154.91
Washington, DC	DC	\$18,000.00

284. The Defendants conduct inflicted injuries as to UOM's profits, and reputation and caused injury to Laura's reputation and to Laura, physically and emotionally.

285. The Defendants' unlawful and wrongful conduct caused UOM to lose \$358,863.10 in total lost profits (-35%) as of October 2018. As to its Mid-Atlantic

Client List Territory, UOM has lost profits in the amount of \$153,574.40 (-42%) as of October 2018 compared to 2017.

286. The Defendants' unlawful and wrongful conduct was directed in substantial part to UOM's Maryland business. In Maryland alone, as of October 2018, Defendants' conduct caused a 45% loss in profits (-\$62,412.00 difference) compared to its profits in 2017.

287. The Defendants' unlawful and wrongful conduct continues to cause damages to Laura and UOM in the form of future lost profits.

288. The Defendants' unlawful and wrongful conduct caused and continues to cause UOM to lose an immeasurable amount of goodwill in the form of lost referrals and/or lost business reputation.

289. The Defendants' unlawful and wrongful conduct caused UOM to incur other damages, *inter alia*, by having to hire public relations firms to mitigate the damages caused by the Defendants.

290. The Defendants continue to use the illegally obtained information from the Mid-Atlantic Client List for personal profit and a gain with the intention of inflicting ill will on the Defendants.

291. As a result of the Defendants' unlawful and wrongful conduct, the Defendants have disparaged UOM's name, reputation and goodwill of its business in the territories where it does business.

292. As a result of the Defendants' unlawful and wrongful conduct, the Defendants have disparaged the name and reputation of Laura who has suffered professionally, emotionally and physically. Ms. Landers is being treated, inter alia, for ulcers, fatigue, depression, anxiety, nausea thyroid and other complications.

293. In addition, the Defendants' unlawful and wrongful conduct caused Laura financial injury, personal humiliation and emotional distress. Laura's personal income is directly proportionate to UOM's gross sales ranging from 24-27% of UOM's gross sales. As of October 2018, Laura has incurred losses of \$135,332.91.

## **VII CAUSES OF ACTION**

### **COUNT I.**

#### **FRAUD BY MR. HUNTER AND FF HUNTER/DIAS**

#### **AIDING & ABETTING REMAINING DEFENDANTS**

294. UOM re-alleges and incorporates by reference each and every allegation of the preceding paragraphs into this cause of action.



295. Mr. Hunter, as a director and officer of FF HUNTER/DIAS made false representations of a material fact when he advised UOM that FF HUNTER/DIAS wanted UOM to keep the Maryland Territories.

296. At the time, Mr. Hunter made the statement, he had actual knowledge it was false because Mr. Hunter had no present intention of UOM keeping any territories as a FunFlicks Licensee.

297. Mr. Hunter through FF HUNTER/DIAS made a false representation of material fact when he promised to Laura that he would not “screw her over” meaning that he would not engage in activities to sabotage UOM’s business as Mr. Severn had attempted to do with FF DARRELL.

298. At the time, Mr. Hunter made this statement, he had actual knowledge it was false because FF HUNTER/DIAS, Mr. Hunter and Mr. Dias had no present intention of UOM keeping any territories as a FunFlicks Licensee evidenced by the HDS Defendants engaging in subversive acts to take over UOM’s business when Mr. Hunter made this statement.

299. Mr. Hunter through FF HUNTER/DIAS made a false representation of material fact when he responded to Darrell’s inquiry as to whether Mr. Hunter had someone running the Maryland and Texas Territories. Mr. Hunter’s false statement is as follows:

After you shared specifically the territories your planning on operating, Maryland is a concern since we bought the customer list and planned on running it remotely or relicensing. As for TX FF and UOE I have no ideas what he's talking about!"<sup>9</sup>

300. At the time Mr. Hunter made this statement, he knew it was false because Mr. Dias and Mr. Hunter, through FF HUNTER/DIAS were already working with the licensees and UOM workers, to take over UOM's FunFlicks territories including but not limited to Maryland and Texas.

301. When Mr. Hunter made this statement, he also gave the false impression that FF HUNTER/DIAS had not yet made a decision as to who was going to run the Maryland Territory.

302. Consequently Mr. Hunter's statement imposed a duty on Mr. Hunter to disclose to UOM that he had engaged and was continuing to engage in subversive tactics by hiring Mr. Gaither and others to steal UOM's Client Information and takeover UOM's FunFlicks territories.

303. Mr. Hunter made the false statements and failure to disclose with the

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<sup>9</sup> At the time Mr. Hunter made this statement, he knew that UOM had the Maryland Territory as set forth in his earlier statement that he wanted to keep UOM in Maryland and (2) FF HUNTER/DIAS excluded the purchase of the UOM license agreements. Mr. Hunter was a FunFlicks licensee for a number of years and had complete knowledge which territories UOM was running.

present intent that UOM rely on them.

304. Mr. Hunter made the false statements and failure to disclose for purposes of defrauding UOM.

305. Justifiably relying on Mr. Hunter's false statements and non-disclosure, UOM continued with the negotiations allowing Mr. Hunter, Mr. Dias, through FF HUNTER/DIAS and others time to engage in the unlawful and overt acts set forth in this Complaint.

306. Justifiably relying on Mr. Hunter's false statements and non-disclosure UOM released control of the LANDERS IO system to FF HUNTER/DIAS and the other FunFlicks Licensees. By releasing control of the LANDERS IO SYSTEM, FF HUNTER/DIAS could now act covertly in providing licensees who were going to take over UOM's territories.

307. UOM relied on Mr. Hunter's False Statements and had a right to rely on them.

308. Mr. Gaither, through NATJAY knew that Mr. Hunter was engaging in the fraudulent negotiations with UOM and aided and abetted in the fraud by providing substantial encouragement and assistance in furtherance of Mr. Hunter's fraud which included, *inter alia*, Mr. Gaither lying to UOM about his contacts with

Mr. Severn, and FF HUNTER/DIAS, stealing the UOM Client List, preparing and publishing the Gaither Defamatory Statement. Forming NATJAY and otherwise profiting from Mr. Hunter's and FF HUNTER/DIAS's fraud.

309. Mr. Severn and FF SEVERN knew about Mr. Hunter's fraudulent negotiations with UOM and aided and abetted in the fraud by providing substantial encouragement and assistance in furtherance of Mr. Hunter's fraud which included, *inter alia*, assisting in the planning of the fraudulent negotiations; assisting FF HUNTER/DIAS in the procuring of James Gaither as a FunFlicks licensee in the Maryland Territory; and prolonging negotiations with FF LANDERS; lying to Darrell and UOM and failing to disclose Mr. Gaither's involvement with FF HUNTER/DIAS; and assisting Mr. Gaither in starting a FunFlicks business in Maryland.

310. Mr. DIAS knew about Mr. Hunter's fraudulent negotiations with UOM and aided and abetted in the fraud by providing substantial encouragement and assistance in furtherance of Mr. Hunter's fraud which included, *inter alia*: (1) planning the fraudulent negotiations with Mr. Hunter; (2) providing technical assistance to the FunFlicks licensees who were taking over UOM's territories; (3) specifically inspiring, directing, and/or cooperating with Mr. Hunter to engage in the fraud through FF HUNTER/DIAS; (4) preparing the HUNTER/DIAS

web/email servers with new web-pages and emails while the fictitious negotiations were taking place and otherwise profiting from Mr. Hunter's and FF HUNTER/DIAS fraudulent acts.

311. As a direct and proximate cause of Mr. Hunter's and FF HUNTER/DIAS's fraud and aggravated by the remaining defendants aiding and abetting: UOM incurred the following damages: (1) UOM lost \$358,863.10 in total lost profits (-35%) as of October 2018 compared to 2017. As to its Mid-Atlantic Territory, UOM lost profits in the amount of \$153,574.40 (-41%) as of October 2018 compared to 2017. In Maryland alone, UOM lost profits in the amount of \$62,412.00 (-45%) as of October 2018 compared to 2017; (2) UOM continues incur damages in the form of future lost profits; (3) UOM has lost and continues to lose an immeasurable amount of goodwill in the form of lost referrals and/or lost business reputation; (4) UOM has incurred and continues to incur other damages, *inter alia*, by having to hire public relations firms to mitigate the damages;

312. Mr. Hunter and FF HUNTER/DIAS conduct is willful and malicious.

313. Mr. Severn's and FF SEVERN's conduct was willful and malicious;

314. Mr. Dias's conduct was willful and malicious.

315. Mr. Gaither and NATJAY'S conduct was willful and malicious.

316. UOM is entitled to compensatory and punitive damages.

**WHEREFORE**, the Plaintiff, Ultimate Outdoor Movies, LLC demands that this court enter judgment in favor of Ultimate Outdoor Movies, LLC and against the Defendants, Charles Hunter, Matthew Dias, FunFlicks Audiovisuals, Todd Severn, FunFlicks, LLC, James Gaither and NATJAY, LLC, jointly and severally in an amount exceeding \$1,000,000.00 in compensatory damages; punitive damages to be determined at trial, injunctive relief and for other just and proper relief.

**COUNT II.**

**BREACH OF CONTRACT  
MR. GAITHER**

317. UOM re-alleges and incorporates by reference each and every allegation of the preceding paragraphs into this cause of action.

318. On February 25<sup>th</sup> 2017, as part of the employment negotiations with UOM, Mr. Gaither submitted a written proposal to outline his offer of services to UOM, the terms of which are set forth in an e-mail, dated February 25<sup>th</sup> 2017. The offer made by Mr. Gaither provides in part the following definite terms:

Here is my rough draft proposal which can be inserted into an official agreement once the terms are approved:

Term:

1 year contract (January 1 through December 31) automatically renewable contract unless 30-day notice is provided by either party.

We can make it retroactive this year.

Compensation:

James is paid \$9,500.00 on May 1 of each season.

Thereafter, James is paid \$1,500.00 on the 1st of the month from June through December (7 payments) of each season.

Total yearly misc. compensation \$20,000.00.

Job responsibilities: . . .

319. Mr. Gaither provided a list of responsibilities associated with his contract as follows:

- a. Post and maintain job advertisements for new movie hosts;
- b. Interview and hire new movie hosts;
- c. Coordinate new hire paperwork;
- d. Train all new hosts;
- e. Ensure a full roster of hosts by 5/1 of each season;
- f. Ensure all equipment is prepared and ready by 5/1 of each season prepare check-out sheets for Darrell and Laura;
- g. Prepare report for all hosts requesting off. Provide Darrell and Laura with monthly status updates concerning weekends where full rosters are not available;

- h. Manage 1-2 off-season movie hosts,-
- i. Responsible for pickup and delivery of popcorn. Maintain popcorn levels during season;
- j. Be available for technical questions throughout season;
- k. Prepare an plan for equipment failure during events;
- l. Transport or coordinate the transfer of equipment;
- m. Weekly checks on equipment in storage. Monthly inspections of trailer equipment for all hosts;
- n. Schedule hosts according to host location and availability;
- o. Monitor hosts work schedule and number of events to ensure hosts are not overworked, and events are distributed evenly,-
- p. Hire new hosts as needed throughout season;
- q. Keep track of equipment and coordinate with Darrell or Laura regarding reordering or prior to purchasing;
- r. Keep record of cancelled events, refunds, or customer complaints for each host (optional-figured it might help you for bonuses);
- s. Receive equipment at the end of season;
- t. inspect equipment once host is finished for season - prepare check-in sheet for Darrell & Laura;
- u. Provide Laura and Darrell all host equipment check-in sheets by 12/1 each season.
- v. Correspond with all movie hosts throughout season regarding any questions, including bonuses, pay-related issues, etc. If necessary, relay information to Laura and Darrell.
- w. Make arrangements for the storage of trailers, winterize and store trailers.



320. UOM accepted and approved the definite terms as set forth in a February 27, 2017 email from Darrell.

James:

I think this an excellent overview of the responsibilities and will be a good foundation for inserting into an annual contract agreement. I think the comp plan is fair and is inline with what were budgeting for the year. I'll send you a 1099 Contractor Agreement with this language added for comp and job responsibilities.

Hereinafter, the "E-mail Contract."

321. UOM manifested its acceptance of the Email Contract by paying Mr. Gaither \$9,500.00 on or about May 1, 2017 and continued to pay Mr. Gaither the remaining terms in accordance with the terms outlined in the Email contract set forth above.

322. Mr. Gaither manifested his acceptance to the Email Contract by performing the tasks outlined in the Email Contract and accepting the contracted for payments in 2017.

323. At the end of 2017, neither UOM nor Mr. Gaither gave notice to the other to terminate the Email Contract between them. Pursuant to the agreed upon terms of the Email Contract, Mr. Gaither agreed to work for UOM for another year under the same terms and with the same obligations and responsibilities.

324. Mr. Gaither and UOM's decision to continue on for another year was manifested by Mr. Gaither performing services for UOM in 2018 and servicing UOM clients.

325. Mr. Gaither was obligated under the Email Contract to work for UOM until December 2018.

326. Mr. Gaither committed the above-described acts against UOM while he was under contract with UOM. Furthermore Mr. Gaither hired away UOM event hosts while he was employed and/or was subject to the one year contract.

327. Mr. Gaither breached his contract with UOM by breaching the implied covenant of good faith and fair dealing.

328. Mr. Gaither's breach of the implied covenant of good faith and fair dealing preventing UOM from receiving the benefit of sales from these lost clients.

329. As a direct and proximate cause of Mr. Gaither's breach UOM has incurred the following damages: As to its Mid-Atlantic Territory, UOM lost profits in the amount of \$153,574.40 (-42%) as of October 2018 compared to 2017. In Maryland alone, UOM lost \$62,412.00 (-45%) in profits as of October 2018 compared to 2017. (2) UOM continues to lose future profits. (3) UOM has lost and continues to lose an immeasurable amount of goodwill in the form of lost referrals

and/or lost business reputation; (4) UOM continues to incur other damages, *inter alia*, by having to hire public relations firms to mitigate the damages.

330. Mr. Gaither's acts were willful and malicious.

331. UOM is entitled to compensatory and punitive damages.

**WHEREFORE**, the Plaintiff, Ultimate Outdoor Movies, LLC demands that this court enter judgment in favor of Ultimate Outdoor Movies, LLC and against the Defendants, James Gaither in an amount exceeding \$500,000.00 in compensatory damages; punitive damages to be determined at trial, injunctive relief and for other just and proper relief.

**COUNT III.**  
**ALL DEFENDANTS**  
**MARYLAND UNIFORM TRADE SECRETS ACT.**  
**("MUTSA") §11-1201 et. seq.**

332. UOM re-alleges and incorporates by reference each and every allegation of the preceding paragraphs into this cause of action.

333. The policy underlying the Uniform Trade Secrets Act is to maintain standards of commercial ethics and the encouragement of invention. Necessity of good faith and honest fair dealing is the very life and spirit of the commercial world. *E.I. Dupont De Nemours & Co. v. Kolon Indus.*, 894 F. Supp. 2d 691, 717

(E.D. Va. 2012) *citing Oil Co. v. Bicron Corp.*, 416 U.S. 470, 481, (1974). Trade secret laws are the equitable principles of good faith applicable to confidential relationships. *Consumer Direct v. Limbach*, 62 Ohio St. 3d 180, 183, (1991).

334. UOM is the owner of the UOM Mid-Atlantic Client List.

335. The UOM Mid-Atlantic Client List is a trade secret because it derives independent economic value from not being generally known to, and not being readily ascertainable by proper means, by other persons who can obtain economic value from its disclosure or use.

336. The UOM Mid-Atlantic Client List is a valuable client list. Mr. Severn had entered into a contract to sell this same list to FF HUNTER/DIAS for \$350,000.00 and later found out he didn't have the right to sell it. Mr. Severn has strong financial and nefarious reasons for acquiring it and used Mr. Gaither to obtain it.

337. Likewise, Mr. Hunter and Mr. Dias had a strong financial incentive to obtain the Pre and Post 2013 UOM MDD Client List. They had just paid \$350,000.00 to acquire a five year old Pre 2013 UOM MDD List thinking it also included the Post 2013 UOM MDD Client List as well.

338. The UOM Global Client List is the result of UOM's five years of time and effort obtained at a considerable expense to develop and maintain the

list.

339. The UOM Global Client List is secret;

340. The value of this list is derived from being kept secret;

341. UOM has used reasonable efforts to safeguard the confidentiality of the information.

342. To access the UOM Global Client List, UOM implements a two-tiered security protocol. The first protocol requires UOM to issue a user name and password unique to a specific user. The second protocol requires UOM to issue the user a specific level of administrative access to all or part of the Global UOM Client list.

343. For example, Mr. Gaither was the only on-location UOM worker to have access to the UOM Mid-Atlantic Client List. Mr. Gaither did not have access to the Global UOM Client List.

344. UOM provided Mr. Gaither access to the UOM Mid-Atlantic Client List for business purposes in scheduling and managing the local UOM FunFlicks event hosts in the Mid-Atlantic area.

345. Notably, UOM event host providers which the HDS Defendants utilized as corporate spies against UOM in Texas and Alabama did not have the

administrative access like Mr. Gaither did to access UOM's "Client lists. Consequently, the HDS Defendants were unable to access the UOM's Client Lists for Texas or Alabama.

346. The UOM Mid-Atlantic Client List, until it was stolen acquired and/or used by the Defendants, was not known to anyone outside UOM.

347. UOM required Mr. Gaither to have the workers they hired in the Mid-Atlantic area sign independent contractor agreements with confidentiality provisions requiring the workers to keep all non-public information confidential.

348. Mr. Gaither had signed similar confidentiality agreements with UOM in the past.

349. UOM entrusted Mr. Gaither with access to the UOM Mid-Atlantic Client List because he was a long time trusted worker for UOM and a licensed Maryland attorney held to a higher degree of ethical conduct.

350. Mr. Gaither admitted to UOM that the Mid-Atlantic Client List was a "Secret."

351. The HDS Defendants were recently involved in a transaction for \$350,000.00 involving the 5 year-old Pre-2013 UOM MDD Client list for a territory smaller than the Mid-Atlantic Territory.

352. The UOM Mid-Atlantic List is very difficult to properly acquire or

duplicate by others.

353. Mr. Hunter and Mr. Dias, though FF HUNTER/DIAS, specifically, inspired, directed, cooperated and/or participated in the acquiring, disclosure and/or use of UOM Mid-Atlantic Client List and profited thereby.

354. Mr. Severn, through FF SEVERN, FF HUNTER/DIAS and/or NATJAY specifically inspired, directed, cooperated and/or participated in the acquiring, disclosure and/or use of UOM Mid-Atlantic Client List, and profited thereby.

355. The Defendants, working in concert with each other, knowingly misappropriated the UOM Mid-Atlantic Client List by acquiring it through improper means<sup>10</sup> as MUTSA §11-1201(c)(1).

356. The Defendants, without UOM's consent, disclosed or used the UOM Mid-Atlantic Client List when they knew or should have known that it was

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<sup>10</sup> MD Comm. Code Ann. 11-1201(b) provides: The term "Improper" under MUTSA includes theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means.

obtained by another through improper means under MUTSA §11-1201(c)(2)(ii)(1);

357. The Defendants' misappropriation of the UOM Mid-Atlantic Client List caused UOM the following damages: (1) as to its Mid-Atlantic Client List Territory, UOM has lost profits in the amount of \$153,574.40 (-42%) as of October 2018 compared to 2017. In Maryland alone UOM has lost profits in the amount of \$62,412 (-45%) as of October 2018 compared to 2017 (2) UOM continues incur damages in the form of future lost profits. (3) UOM to lose an immeasurable amount of goodwill in the form of lost referrals and/or lost business reputation. (4) UOM has incurred and continues to incur other damages, *inter alia*, by having to hire public relations firms to mitigate the damages; UOM has lost the value to its Mid-Atlantic Client List exceeding \$350,000.00.

358. The Defendants were unjustly enriched as a result of their misappropriation.

359. The Defendants' misappropriation of the UOM Client List was willful and malicious.

360. UOM is entitled to damages in excess of \$500,000.00

361. UOM is entitled to exemplary damages equal to two times the



actual damages.

362. UOM is entitled to statutory attorney's fees and costs.

363. UOM is entitled to injunctive relief pursuant to MUTSA 11-1202.

**WHEREFORE**, the Plaintiff, Ultimate Outdoor Movies, LLC demands that this court enter judgment in favor of Ultimate Outdoor Movies, LLC, and against the Defendants, Charles Hunter, Matthew Dias and FunFlicks Audiovisuals, jointly and severally, Todd Severn and FunFlicks, LLC, jointly and/or severally, and James Gaither and NATJAY, LLC, jointly and severally, in an amount (1) exceeding \$500,000.00 for compensatory, unjust enrichment damages, other damages, and costs; exemplary damages not to exceed two times the actual damages and reasonable attorney's fees and costs; injunctive relief; and for other just and proper relief.

**COUNT IV.  
ALL DEFENDANTS  
FEDERAL TRADE SECRETS ACT  
18 USC §1836 ("FTSA")**

364. UOM re-alleges and incorporates by reference each and every allegation of the preceding paragraphs into this cause of action.

365. The UOM Mid-Atlantic Client List is a "trade secret" as that term is defined under FTSA§ 1839.

366. The UOM Mid-Atlantic Client List affects interstate commerce.

367. UOM is the owner of UOM Mid Atlantic Client List.

368. UOM has taken reasonable measures to keep the UOM Mid-Atlantic Client List Secret.

369. The Defendants misappropriated the UOM Mid-Atlantic Client List by acquiring it through improper means under FTSA §1839(5)(A).

370. The Defendants, without UOM's consent, disclosed or used the UOM Mid-Atlantic Client List when they knew or should have known that it was obtained by another through improper means per FTSA §1839(5)(B).

371. The Defendants' misappropriation of the UOM Mid-Atlantic Client List caused UOM damages in excess of \$500,000.00.

372. The Defendants are entitled to relief under FTSA §1836(b)(3).

373. The Defendants were unjustly enriched as a result of their misappropriation.

374. The Defendants' misappropriation of the UOM Client List was willful and malicious.

375. UOM is entitled to injunctive relief;

376. UOM is entitled to damages in excess of \$500,000.00.

377. UOM is entitled to exemplary damages equal to two times the actual damages.

378. UOM is entitled to statutory attorney's fees and costs.

**WHEREFORE**, the Plaintiff, Ultimate Outdoor Movies, LLC demands that this court enter judgment in favor of Ultimate Outdoor Movies, LLC, and against the Defendants, Charles Hunter, Matthew Dias and FunFlicks Audiovisuals, jointly and severally, Todd Severn and FunFlicks, LLC, jointly and/or severally, and James Gaither and NATJAY, LLC, jointly and severally, in an amount (1) exceeding \$500,000.00 for compensatory, unjust enrichment damages, other damages, and costs; exemplary damages not to exceed two times the actual damages and reasonable attorney's fees and costs; injunctive relief; and for other just and proper relief.

**COUNT        V.**  
**FRAUD BY MR. GAITHER**  
**AIDING AND ABETTING**  
**THE HDS DEFENDANTS**

379. UOM re-alleges and incorporates by reference each and every allegation of the preceding paragraphs into this cause of action.

380. Mr. Gaither made a false representation of material fact when he responded to Darrell's text on February 14, 2018 denying that he had contact with

anyone from FunFlicks.

381. Darrell contacted Mr. Gaither, *via text*, and asked Mr. Gaither if he had been contacted by Mr. Severn or anyone else at FunFlicks:

382. Mr. Gaither falsely represented to Darrell on February 15, 2018 at 7:02 and 7:03 pm as follows:

**“No just you guys, You and Kenneth really.”**

**“Todd Severn, I thought, he was done with FunFlicks?”**

383. Mr. Gaither made a false representation of material fact when he discussed plans with Darrell regarding the 2018 Season with that he looked forward to working with UOM in the 2018 season. Mr. Gaither’s statements gave the false impression that Mr. Gaither was still working with UOM, and therefore owed a duty to disclose his involvement with the HDS Defendants.

384. At the time, Mr. Gaither made these false statements and failure to disclose Mr. Gaither had actual knowledge that his representations were false set forth as follows:

- a. Mr. Gaither set up a corporation NATJAY, LLC for purposes of operating a Movie Business in direct competition with UOM;
- b. Mr. Gaither executed a FunFlicks license agreement with FF HUNTER/DIAS on February 5, 2018, while he was an agent for UOM.
- c. Mr. Gaither was also receiving administrative assistance from Mr. DIAS

who provided Mr. Dias with an e-mail account using the URL [Maryland@funflicksusa.com](mailto:Maryland@funflicksusa.com) FF HUNTER/DIAS and setting up an account with using the Landers IO System and providing access to FF HUNTER/DIAS domain and email server at [www.FunFlicksUSA.com](http://www.FunFlicksUSA.com)

- d. Mr. Gaither had already downloaded contracts from the UOM IO DATABASE to create forms for his own company on February 5, 2018.
- e. Based on information and belief; Mr. Gaither already receiving financial and administrative assistance from Mr. Severn and FF SEVERN prior to making the statement.

385. Mr. Gaither made the false representation with the present intent that Darrell, Laura and UOM would rely on it.

386. Mr. Gaither made the false representation with the present intent to deceive and defraud UOM into believing that FF HUNTER/DIAS was negotiating under honest pretenses with UOM.

387. Mr. Gaither made the false representation with the present intent to deceive and defraud UOM into continuing to allow Mr. Gaither confidential password access to UOM's confidential Mid-Atlantic Client List and other confidential information.

388. Mr. Gaither made the false representation with the present intent to deceive and defraud UOM into keeping Mr. Gaither employed enabling him to sabotage upcoming existing jobs with which UOM had with existing clients

389. Mr. Gaither made the false representation with the present intent to

deceive and defraud UOM into keeping Mr. Gaither employed until Mr. Gaither could prepare and send out the Defamatory Email.

390. UOM justifiably relied on Mr. Gaither's false statements by continuing to allow Mr. Gaither password access to UOM's confidential and proprietary information and by continuing to allow Mr. Gaither to handle UOM clients and perform services on UOM's behalf.

391. UOM justifiably relied on Mr. Gaither's false statements by continuing to operate under the FunFlicks brand.

392. Had Mr. Gaither told the truth to UOM, it would have immediately shut down Mr. Gaither's access to the UOM's database, held Mr. Gaither to the terms of his contract, and/or fired Mr. Gaither.

393. During the period of time UOM continued to rely on Mr. Gaither's false statements, Mr. Gaither stole UOM's Client List and attempted to sabotage UOM's client events.

394. UOM continued to rely on Mr. Gaither's false statements; Mr. Gaither was able to steal the UOM Mid-Atlantic Client List, and then send out the Gaither Defamatory Statement to UOM's clients.

395. UOM had a right to rely and did rely on Mr. Gaither's false representations.

396. The Mr. Hunter and Mr. Severn were aware of Mr. Gaither's intent to defraud UOM, because they both had made false statements to Darrell and UOM a day before Mr. Gaither made his false statements to Darrell and UOM.

397. Based on information and belief, Mr. Severn and Mr. Hunter had discussions with Mr. Gaither on February 14, 2018 and provided substantial aid and/or encouragement to Mr. Gaither to continue with the deception. Furthermore, after the Mr. Gaither made the defamatory statements, Mr. Severn and Mr. Hunter continued with their deception notwithstanding their duty to disclose to UOM that Mr. Gaither was now a FunFlicks Licensee. The HDS Defendants continued to provide substantial assistance and encouragement to Mr. Gaither's fraud by continuing to delay negotiations, and prepare for the takeover of UOM's territories.

398. As a direct and proximate cause of Mr. Gaither's fraud aggravated by the HDS's defendants acts of aiding and abetting, UOM incurred the following damages: (1) UOM lost \$358,863.10 in total profits (-35%) as of October 2018. As to its Mid-Atlantic Client List Territory, UOM lost profits in the amount of \$153,574.40 (-42%) as of October 2018 compared to 2017. In Maryland alone, UOM lost \$62,412.00 (-45%) in profits as of October 2018 compared to 2017. (2) UOM continues to lose future profits. (3) UOM has lost and continues to lose an

immeasurable amount of goodwill in the form of lost referrals and/or lost business reputation; (4) UOM continues to incur other damages, *inter alia*, by having to hire public relations firms to mitigate the damages.

399. Mr. Gaither and NATJAY'S conduct was willful and malicious.

400. UOM is entitled to compensatory and punitive damages and/or injunctive relief.

**WHEREFORE**, the Plaintiff, Ultimate Outdoor Movies, LLC demands that this court enter judgment in favor of Ultimate Outdoor Movies, LLC, and against the Defendants, James Gaither and NATJAY, LLC, jointly and severally, in an amount exceeding \$500,000.00 in compensatory damages; punitive damages, injunctive relief and for other just and proper relief.

## **COUNT VI.**

### **DEFAMATION ALL DEFENDANTS ALTERNATIVELY DEFAMATION BY MR. GAITHER AIDING AND ABETTING HDS DEFENDANTS**

401. UOM re-alleges and incorporates by reference each and every allegation of the preceding paragraphs into this cause of action.

402. The Defendants prepared, authorized, approved, profited and/or



ratified the Gaither Defamatory Statement.

403. Mr. Gaither, on behalf of NATJAY and with the full support of the HDS Defendants, sent the Gaither Defamatory Statements to UOM's Mid-Atlantic Clients from the "FUNFLICKS TEAM" a/k/a the Defendants.

404. At the time Mr. Gaither sent the Defamatory Statements, he was also under Contract and working for UOM.

405. The Gaither Defamatory Statements consisted of the following:

**FALSE STATEMENTS:**

- a. That UOM was a prior defaulted business owner.
- b. That UOM was formed in August 2017.
- c. That UOM was marketing outdoor movies using the FunFlicks name without authorization.
- d. That UOM deceitfully marketed itself as FunFlicks.
- e. That UOM deceitfully confirmed events using multiple aliases.
- f. That Laura, whose name is associated with UOM in her territories as well as her email, Laura@ultimateoutdoormovies.com, UOM and others were involved with the deceit and illicit acts alleged in Gaither Defamatory Statement
- g. That the deposits of UOM customers were at risk.
- h. That UOM was attempting to undermine FunFlicks businesses across America.
- i. That UOM did not have the infrastructure in Maryland or other states to handle the Movie Business events.

- j. That Mr. Gaither has managed FunFlicks since 2013.
- k. That Mr. Gaither was the only person that represented FunFlicks.
- l. That in order to properly confirm their events, UOM customers were to call Mr. Gaither.
- m. Those UOM customers who had made deposits with UOM were to deny any credit card charges applied, or call and cancel their event with UOM requesting a full refund.
- n. That FunFlicks had not provided UOM with any permission, written or otherwise, to use these agreements.
- o. That the contracts with UOM customers were invalid.
- p. That FunFlicks did not send or call the UOM customers.
- q. That if a UOM customer made a deposit with UOM prior to receiving this email, their best line of defense was to deny any credit card charges applied, or call and cancel your event with UOM requesting a full refund.
- r. That the UOM customer should be prepared for fast talk and recognize that UOM is not the business that hosted your events in the past.
- s. That if the UOM customer needs further verification, they should call Mr. Gaither immediately!

406. The Defendants caused the Gaither Defamatory Statement to be published to UOM's Mid-Atlantic Clients which consisted primarily of families and business located in the State of Maryland.

407. At the time the Defendants caused the Gaither Defamatory Statements to be published, the Defendants had actual knowledge that the statements were

false.

408. The Defendants' publication of the Gaither Defamatory Statements disparaged UOM and Laura's business reputation.

409. The Gaither Defamatory Statements falsely accused and or imputed that UOM and Laura engaged in the criminal behavior of fraud and deceit.

410. Defendants' publication of the Gaither Defamatory Statements caused economic and reputational injury to UOM and Laura.

411. As to UOM's Mid-Atlantic Territory,

412. The Defendants' published the Gaither Defamatory Statements were done for purposes to obtain money and property through unlawful and tortious and to harm UOM and Laura.

413. The Defendants publication of the Gaither Defamatory Statements caused UOM's sales and profits to plummet by 42%

	MD DC DE, VA NJ PA
Sales 2017 Before Gaither Defamatory Statement	\$524,350.00
Sales 2018 After Gaither Defamatory Statement	\$304,958.00
Difference	-\$219,392.00
% loss	42%
Profits 2017 Before Gaither Defamatory Statement	\$367,045.00
Profits 2018 After Defamatory Statement.	\$213,470.60
Difference	-\$153,574.40
%loss	42%

414. The Defendants' Defamatory Statements caused UOM's prior customers to go to NATJAY. From what UOM has been able to discover in part, without formal discovery, the following customers identified by city and state and amount paid to NATJAY below, represent a sample of the clients who switched to NATJAY's services after the Gaither Defamatory Statements were published.

City State	State	Paid to NATJAY
Owings Mills	MD	765.62
Ellicott City	MD	628.34
Fords	NJ	733.49
Stevenson	MD	425.34
Dover	DE	999
Owings Mills	MD	1154.91
Washington, DC	DC	>3,000.00

400. The Defendants' Defamatory Statements caused UOM's multi year customers to leave UOM. At a minimum, after the Gaither Defamatory Statements were published, UOM lost thirty corporate clients from Maryland who were multi year customers representing \$43,339.38 in yearly sales alone. In addition, these thirty corporate clients would not return UOM's phone calls or emails after the Defendants' sent out the Gaither Defamatory Statements.

415. Alternatively as HDS Defendants, with full knowledge aided and abetted Mr. Gaither and NATJAY by providing substantial encouragement and

assistance in furtherance of Mr. Hunter's publication of the Defamatory Statements.

416. Based on information and belief, the Gaither Defamatory Statements have caused hundreds of clients to leave UOM.

417. As a direct and proximate cause of the Defendants' publishing the Gaither, Defamatory Statement – (1) UOM lost as to its Mid-Atlantic Client List Territory, UOM lost profits in the amount of \$153,574.40 (-42%) as of October 2018 compared to 2017. In Maryland alone, UOM lost \$62,412.00 (-45%) in profits as of October 2018 compared to 2017; (2) UOM continues to lose future profits. (3) UOM has lost and continues to lose an immeasurable amount of goodwill in the form of lost referrals and/or lost business reputation; (4) UOM continues to incur other damages, *inter alia*, by having to hire public relations firms to mitigate the damages;

418. Laura Landers is the face of UOM and is the person referred to as Laura in Mr. Gaither's Defamatory Statements.

419. The Defendants publication of the Gaither Defamatory Statements caused Laura severe emotional distress, mental suffering and physical harm as well as financial harm in the form of medical expenses and lost income. Laura's income

is directly related to UOM's gross sales. Laura's non salaried income from UOM amounts to approximately 27% of gross sales. Consequently, for 2018, Laura has incurred a loss of income \$41,465.09.00 as a result of the Defendants' Defamatory Statements and continues to lose income.

420. The Gaither Defamatory Statements caused Laura damage to her professional reputation.

421. The Defendants' publication of the Defamatory Statements:

- a. was willful and malicious;
- b. was made with the intent to inflict ill will on the Plaintiffs;
- c. was made to persons without a common interest; and
- d. was made to persons who were not necessary to the protection of any interest; and/or not reasonably in line with the purpose of any privilege.

**WHEREFORE**, the Plaintiff, Ultimate Outdoor Movies, LLC and Laura Landers demands that this court enter judgment in favor of Ultimate Outdoor Movies, LLC and Laura Landers and against the Defendants, Charles Hunter, Matthew Dias, FunFlicks Audiovisuals, Todd Severn, FunFlicks, LLC, James Gaither and NATJAY, LLC, jointly and severally in an amount exceeding

\$500,000.00 in compensatory and presumed damages; punitive damages to be determined at trial, injunctive relief and for other just and proper relief.

**COUNT VII.  
HDS DEFENDANTS**

**INTENTIONAL INTERFERENCE WITH CONTRACT**

422. UOM re-alleges and incorporates by reference each and every allegation of the preceding paragraphs into this cause of action.

423. The HDS Defendants had knowledge that Mr. Gaither was under contract and still working for UOM.

424. The HDS Defendants intentionally interfered with the Gaither/UOM contract by inducing Mr. Gaither to breach his Contract with UOM.

425. As a result of said interference, UOM incurred damages.

426. The HDS Defendants' acts were willful and malicious.

427. UOM is entitled judgment against the HDS Defendants, jointly and severally for: (1) compensatory damages, (2) punitive damages; (3) injunctive relief; and/or (4) other just and proper relief.

**WHEREFORE**, the Plaintiff, Ultimate Outdoor Movies, LLC demands that this court enter judgment in favor of Ultimate Outdoor Movies, LLC, and against the Defendants, Charles Hunter, Matthew Dias and FunFlicks Audiovisuals, jointly

and severally and/or Todd Severn and FunFlicks, LLC, jointly and severally, in an amount (1) exceeding \$500,000.00 in compensatory damages; (2) punitive damages to be determined at trial; (3) injunctive relief; and/or (4) for other just and proper relief.

**COUNT VIII.**

**ALL DEFENDANTS**

**VIOLATION OF 18 U.S.C. § 2511  
FEDERAL WIRETAP ACT**

428. UOM re-alleges and incorporates by reference each and every allegation of the preceding paragraphs into this cause of action.

429. At all relevant times herein, the Electronic Communications Privacy Act, 18 U.S.C. § 2510 *et. seq.* was in full force and effect and governed the acquisition and disclosure of electronic communications transmitted by a provider of electronic communications services.

430. The Defendants actions took place on premises in the United States and affected interstate commerce.

431. The Defendants intentionally intercepted, disclosed and/or intentionally used in knowing violation 18 U.S.C. §2511(1) the electronic communications intended for UOM.



432. The Defendants used electronic devices which included but were not limited to FF HUNTER/DIAS web/email servers.

433. FF HUNTER DIAS specifically created the counterfeit UOM Email Addresses to intercept the UOM FunFlicks Emails;

434. FF HUNTER/DIAS prepared the email address commands created to intercept the UOM emails.

435. Mr. Hunter intentionally inspired, directed, cooperated and and/or participated in the interception, disclosure and/or use of the UOM FunFlicks emails intercepted though the FF HUNTER/DIAS email/web servers by, inter alia, intentionally authorizing and/or manipulating the devices used in the e-mail interception scheme and/or actively participated in responding or redirecting the intercepted e-mails to further the theft of UOM's clients rather than allowing FF HUNTER/DIAS enter into a license agreement with UOM.

436. Mr. Dias intentionally inspired, directed, cooperated and and/or participated in the interception, disclosure and/or use of the UOM emails intercepted though the FF HUNTER/DIAS email/web servers by, inter alia, intentionally creating and/or manipulating the devices used in the e-mail interception scheme and/or actively participated in responding to or redirecting the

UOM FunFlicks Emails to further, the theft of UOM's clients rather than FF HUNTER/DIAS enter into a license agreement with UOM.

437. The HDAV Defendants knowingly intercepted UOM FunFlicks e-mails sent by residents and businesses from the state of Maryland.

438. Mr. Severn and Mr. Gaither knowingly inspired, directed, and and/or participated through their respective companies, NATJAY and FF SEVERN in the interception, disclosure and use of the UOM emails intercepted though the FF HUNTER/DIAS email/web servers by, inter alia, intentionally intercepting, disclosing and/or using the intercepted e-mails to steal clients from UOM.

439. UOM is not and was not a "user thereof" of the electronic communication e-mail services provided by FF HUNTER/DIAS.

440. FF HUNTER/DIAS did not authorize UOM to use its electronic communications service.

441. The persons sending the emails intended for UOM are not "users thereof" of the electronic communication services provided by FF HUNTER/DIAS.

442. FF HUNTER/DIAS re-creation the UOM's FunFlicks Email addresses, for purposes of covertly intercepting, disclosing, and/or using these

electronic communications to steal UOM's customers, is not in the ordinary course of FF HUNTER/DIAS's business; nor is it a necessary incident to protect the rights or property of HUNTER/DIAS's business.

443. FF HUNTER/DIAS is not subject to the exceptions set forth in 18 U.S.C. §2510(5); or 18 U.S.C. §2511(2).

444. The Defendants' interception, disclosure and or use of the electronic communications intended for UOM was done for purposes of Defendants' engaging in unlawful or tortious acts against UOM.

445. The interception of the electronic communications intended for UOM was done without the prior consent of one or more parties to the electronic communication.

446. The electronic communications intended for UOM was intercepted by the Defendants simultaneously with the transmission.

447. In 2017 and early 2018 UOM sent out emails using the UOM FunFlicks emails to its customers and leads to over 5,719 individuals and leads, including more than 829 emails to customers and leads in the state of Maryland.

448. Based on information and belief, the Defendants have intercepted hundreds if not thousands of emails intended for UOM and continue to do so.

449. In the State of Maryland, UOM has been able to determine that at least one Maryland resident's email was intercepted by the FF HUNTER/DIAS web/email servers. Based on information and belief, the FF HUNTER/DIAS web/email servers intercepted several hundred emails from Maryland residents and businesses.

450. As a direct and proximate cause of the Defendant's acts, UOM incurred the following damages: (1) UOM lost \$358,863.10 in total lost profits (-35%) as of October 2018 compared to 2017. As to its Mid-Atlantic Territory, UOM lost profits in the amount of \$153,574.40 (-41%) as of October 2018 compared to 2017. In Maryland alone, UOM lost profits in the amount of \$62,412.00 (-45%) as of October 2018 compared to 2017; (2) UOM continues incur damages in the form of future lost profits; (3) UOM has lost and continues to lose an immeasurable amount of goodwill in the form of lost referrals and/or lost business reputation; (4) UOM has incurred and continues to incur other damages, *inter alia*, by having to hire public relations firms to mitigate the damages.

451. Pursuant to 18 U.S.C. §2520, UOM is entitled to judgment against the Defendants, jointly, and/or severally, for their unlawful acts in violation of 18 U.S.C. § 2511(1)(a), (c) and (d) as follows:

452. UOM is entitled to actual damages;

453. UOM is entitled to statutory damages not to exceed \$10,000.00;

454. UOM is entitled to punitive damages because the Defendants' acts are willful and malicious;

455. UOM is entitled to a reasonable attorney's fees and other litigation costs reasonably incurred;

456. UOM is entitled to such preliminary and other equitable or declaratory relief as may be appropriate; and

457. UOM is entitled to other just and proper relief.

458. The Defendants' acts were willful and malicious.

**WHEREFORE**, the Plaintiff, Ultimate Outdoor Movies, LLC demands that this court enter judgment in favor of Ultimate Outdoor Movies, LLC, and against the Defendants, Charles Hunter, Matthew Dias and FunFlicks Audiovisuals, jointly and severally, Todd Severn and FunFlicks, LLC, jointly and severally, and/or James Gaither and NATJAY, LLC, jointly and severally, (1) in an amount exceeding \$1,000,000.00 in compensatory damages; (2) statutory damages in an amount not to exceed \$10,000.00; (3) punitive damages to be determined at trial (4) a reasonable attorney's fees and other litigation costs reasonably incurred; (5) such preliminary and other equitable or declaratory relief as may be appropriate; (6) and for other just and proper relief.

**COUNT IX.  
ALL DEFENDANTS  
VIOLATION OF  
TEX. CIV. PRAC. & REM. CODE §123.001 et., seq  
TEXAS WIRETAP ACT**

459. UOM re-alleges and incorporates by reference each and every allegation of the preceding paragraphs into this cause of action.

460. The Defendants intercepted, attempted to intercept and/or obtained another to intercept the UOM FunFlicks Emails; and/or divulged information from the UOM FunFlicks Email communication when they knew or reasonably should have known that these emails were obtained by interception without the prior consent of a party in violation of Tex. Civ. Prac. & Rem. Code §123.002.

461. The intercepted UOM FunFlicks Emails intercepted communications designated for UOM, a Texas based business.

462. As a direct and proximate cause of the Defendant's acts, UOM incurred the following damages: (1) UOM lost \$358,863.10 in total lost profits (-35%) as of October 2018 compared to 2017. As to its Mid-Atlantic Territory, UOM lost profits in the amount of \$153,574.40 (-41%) as of October 2018 compared to 2017. In Maryland alone, UOM lost profits in the amount of \$62,412.00 (-45%) as of October 2018 compared to 2017; (2) UOM continues

incur damages in the form of future lost profits; (3) UOM has lost and continues to lose an immeasurable amount of goodwill in the form of lost referrals and/or lost business reputation; (4) UOM has incurred and continues to incur other damages, *inter alia*, by having to hire public relations firms to mitigate the damages.

463. For each occurrence of the Defendants' violation, UOM is entitled to an award of \$10,000.00 in statutory damages. Tex. Civ. Prac. & Rem. Code §123.004.

464. UOM is also entitled to compensatory damages exceeding the statutory award. Tex. Civ. Prac. & Rem. Code §123.004.

465. UOM is entitled to punitive damages in an amount determined by the court or jury; reasonable fees and costs. Tex. Civ. Prac. & Rem. Code §123.004.

466. UOM is entitled to an injunction prohibiting further interception or use of information obtained by interception. Tex. Civ. Prac. & Rem. Code §123.004.

467. UOM is entitled to a judgment against the Defendants, jointly and/or severally under Tex. Civ. Prac. & Rem. Code §123.004 for the following: (1) \$10,000.00 for each violation of Tex. Civ. Prac. & Rem. Code §123.002; compensatory damages in excess of the statutory violation; (3) punitive damages because the Defendants acts are willful and malicious; (4) injunctive relief

prohibiting a further interception or use of information obtained by interception; and for other just and proper relief.

**WHEREFORE**, the Plaintiff, Ultimate Outdoor Movies, LLC demands that this court enter judgment in favor of Ultimate Outdoor Movies, LLC, and against the Defendants, Charles Hunter, Matthew Dias and FunFlicks Audiovisuals, jointly and severally, Todd Severn and FunFlicks, LLC, jointly and severally, and/or James Gaither and NATJAY, LLC, jointly and severally, the statutory remedy of (1) \$10,000.00 for each violation of Tex. Civ. Prac. & Rem. Code §123.002; (2) compensatory damages in excess of the statutory violation damages; punitive damages to be determined at trial, injunctive relief; and for other just and proper relief.

**COUNT       X.**  
**ALL DEFENDANTS**

**15 U.S.C. § 1125(1)(A)**  
**FEDERAL LANHAM ACT**  
**Interception of UOM Emails**

468. UOM re-alleges and incorporates by reference each and every allegation of the preceding paragraphs into this cause of action.

469. 15 U.S.C. §1125(a)(1) provides in part:



any person who, on or in connection with any goods or services, . . . uses in commerce any . . . device<sup>11</sup> or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact,

(A) is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, **or commercial activities by another person.**, or

(B) in commercial advertising or promotion, misrepresents the nature, characteristics, qualities, or geographic origin of his **or her or another person's goods, services, or commercial activities.**

470. The Defendants used in interstate commerce, *inter, alia*, devices and/or false or misleading descriptions and/or representations of fact to falsely associate themselves with UOM's past present and potential customers when the Defendants intercepted these customers emails intended for UOM.

471. The Defendants' interception of the UOM FunFlicks emails creates a false impression that the UOM customer was contacting UOM.

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<sup>11</sup> The term device as used in this section is not restrictive and consists of almost anything carrying this meaning. *Wal-Mart Stores v. Samara Bros.*, 529 U.S. 205, 209-10 (2000) *citing Qualitex Co. v. Jacobson Products* 514 U.S. 159, 162 (1995) ("Since human beings might use as a 'symbol' or 'device' almost anything at all that is capable of carrying meaning, this language, read literally, is not restrictive.")

472. After intercepting the UOM FunFlicks Emails, the Defendants took advantage of this false association by: (1) the Defendants responding to the e-mails using false representations and/or false descriptions of fact resulting in the UOM customer being deceived into contracting with UOM; and/or (2) the Defendants using the intercepted e-mail to dissuade potential, existing and/or prior UOM customers away from UOM using deceptive disparaging and/or defamatory means.

For example, Mr. Severn used an intercepted e-mail as follows:

Hi Richard,

Great to hear from you. *Your events were mentioned in the office months ago* and was wondering if this might be a reality. Glad this has been such a success on your end!! . . . We are currently working on a package quote for all of your locations listed. 227. (FYI, Darrell is no *longer here at FunFlicks®* - will explain when we talk). . .

Talk Soon

Todd.

See Exhibit 14.

473. Rather than state that Darrell is operating under another brand, Mr. Severn through FF SEVERN used the deceptive phrase “no longer here at FunFlicks” to give the false impression that the customer is dealing with the same entity. Mr. Severn’s statement “*Your events were mentioned in the office months ago and was wondering if this might be a reality*” was a lie and used to deceive the

customer into giving a false impression that a customer is dealing with the same entity.

474. On April 27, 2018, Mr. Gaither, through NATJAY and with the help of FF HUNTER/DIAS intercepted a UOM FunFlicks email from Megan, a repeating UOM Maryland Customer who wanted to place an order with UOM. **See Exhibits 15 and 16.**

475. Megan purchased one event from NATJAY and had a negative experience with NATJAY. When she originally ordered the event, Megan thought she was dealing with the same entity she had dealt with in 2017. In August, 2018, she discovered that she had been duped by James and returned to UOM.

476. Defendants' use of the device and statements caused economic and reputational injury to UOM directly flowing from the deception wrought by the Defendants as follows: (1) UOM lost \$358,863.10 in total lost profits (-35%) as of October 2018 compared to 2017. As to its Mid-Atlantic Territory, UOM lost profits in the amount of \$153,574.40 (-41%) as of October 2018 compared to 2017. In Maryland alone, UOM lost profits in the amount of \$62,412.00 (-45%) as of October 2018 compared to 2017; (2) UOM continues incur damages in the form of future lost profits; (3) UOM has lost and continues to lose an immeasurable amount of goodwill in the form of lost referrals and/or lost business reputation; (4)

UOM has incurred and continues to incur other damages, *inter alia*, by having to hire public relations firms to mitigate the damages.

477. The allegations in this cause of action fall within the zone-of- interests under the Lanham Act designed to protect UOM from the Defendants' conduct including but not limited to protecting UOM from unfair competition.

478. Defendants' conduct is knowing, intentional, wanton, willful, malicious, oppressive and in bad faith, and thus warrants this case being designated as exceptional under 15 U.S.C. §1117, and the imposition of treble damages against them.

**WHEREFORE**, the Plaintiff, Ultimate Outdoor Movies, LLC demands that this court enter judgment in favor of Ultimate Outdoor Movies, LLC, and against the Defendants, Charles Hunter, Matthew Dias and FunFlicks Audiovisuals, jointly and severally, Todd Severn and FunFlicks, LLC, jointly and severally, and/or James Gaither and NATJAY, LLC, jointly and severally, in an amount (1) exceeding \$1,000,000.00 for compensatory, unjust enrichment damages, other damages, and costs as set forth in 15 U.S.C. §1117(a); (2) treble damages and reasonable attorney's fees as set forth in 15 U.S.C. §1117(a) to be determined at trial; (3) injunctive relief pursuant 15 U.S.C. §1116 and/or the applicable laws of equity; and for other just and proper relief.

**COUNT XI.**

**15 U.S.C. § 1125(1)(A)  
FEDERAL LANHAM ACT  
ALL DEFENDANTS  
THE GAITHER DEFAMATORY STATEMENTS**

479. UOM re-alleges and incorporates by reference each and every allegation of the preceding paragraphs into this cause of action.

480. The Defendants' use of the Gaither Defamatory Statements in interstate commerce constitutes false or misleading descriptions of and/or representations of, fact used for purposes of falsely associating Mr. Gaither and NATJAY with UOM's past, present and potential customers.

481. Defendants' knowingly used the Gaither Defamatory Statements which caused economic and reputational injury to UOM directly flowing from the deception wrought by the Defendants as follows: (1) As to its Mid-Atlantic Territory, UOM lost profits in the amount of \$153,574.40 (-41%) as of October 2018 compared to 2017. In Maryland alone, UOM lost profits in the amount of \$62,412.00 (-45%) as of October 2018 compared to 2017; (2) UOM continues incur damages in the form of future lost profits; (3) UOM has lost and continues to lose an immeasurable amount of goodwill in the form of lost referrals and/or lost

business reputation; (4) UOM has incurred and continues to incur other damages, *inter alia*, by having to hire public relations firms to mitigate the damages.

482. As a direct and proximate cause of the Defendants' acts UOM incurred damages included but not limited to damages in the form of present and future lost profits exceeding \$500,000.00, Furthermore, UOM has lost and continues to lose an immeasurable amount of goodwill in the form of lost referrals and/or business reputation.

483. The allegations in this cause of action falls within the zone-of-interests under the Lanham Act designed to protect UOM from the Defendants' conduct including but not limited to protecting UOM from unfair competition.

484. The Defendants' conduct is knowing, intentional, wanton, willful, malicious, oppressive and in bad faith, and thus warrants this case being designated as exceptional under 15 U.S.C. §1117, and warranting the imposition of treble damages against the Defendants.

485. This cause of action falls within the zone-of-interests designed to protect UOM from the Defendants conduct including but not limited to protecting UOM from unfair competition.

**WHEREFORE**, the Plaintiff, Ultimate Outdoor Movies, LLC demands that this court enter judgment in favor of Ultimate Outdoor Movies, LLC, and against

the Defendants, Charles Hunter, Matthew Dias and FunFlicks Audiovisuals, jointly and severally, Todd Severn and FunFlicks, LLC, jointly and severally, and James Gaither and NATJAY, LLC, jointly and severally, in an amount (1) exceeding \$500,000 for compensatory, unjust enrichment damages, other damages, and costs as set forth in 15 U.S.C. §1117(a); (2) treble damages and reasonable attorney's fees as set forth in 15 U.S.C. §1117(a) to be determined at trial; (3) injunctive relief pursuant 15 U.S.C. §1116 and/or the applicable laws of equity; and for other just and proper relief.

**COUNT XII.**

**15 U.S.C. § 1125(1)(B)  
FEDERAL LANHAM ACT  
ALL DEFENDANTS  
THE GAITHER DEFAMATORY STATEMENTS**

486. UOM re-alleges and incorporates by reference each and every allegation of the preceding paragraphs into this cause of action.

487. The Defendants' use of the Gaither's Defamatory Statements also constitutes a commercial advertisement/promotion containing false or misleading statements about UOM and NATJAY's services which deceives or has the tendency to deceive a substantial segment of the Defendants' audience.

488. The misrepresentations are material and likely to deceive a substantial segment of the Defendant's audience.

489. The Defendants placed the misrepresentation into interstate commerce.

490. UOM was injured and/or likely to be injured by the misrepresentation by a direct diversion of sale and/or the lessening of good will.

491. UOM's allegations in this count satisfy the zone-of-interests the Lanham Act seeks to protect. – "protecting persons engaged in such commerce against unfair competition"

492. Defendants' use of the Gaither Defamatory Statements caused economic and reputational injury to UOM directly flowing from the deception wrought by the Defendants follows: (1) As to its Mid-Atlantic Territory, UOM lost profits in the amount of \$153,574.40 (-41%) as of October 2018 compared to 2017. In Maryland alone, UOM lost profits in the amount of \$62,412.00 (-45%) as of October 2018 compared to 2017; (2) UOM continues incur damages in the form of future lost profits; (3) UOM has lost and continues to lose an immeasurable amount of goodwill in the form of lost referrals and/or lost business reputation; (4) UOM has incurred and continues to incur other damages, *inter alia*, by having to hire public relations firms to mitigate the damages.



493. As a direct and proximate cause of the Defendants' acts, UOM incurred damages included but not limited to damages in the form of present and future lost profits exceeding \$500,000.00. Furthermore, UOM has lost and continues to lose an immeasurable amount of goodwill in the form of lost referrals and/or business reputation.

494. Defendants were unjustly enriched as a result of their acts.

495. The Defendants' conduct is knowing, intentional, wanton, willful, malicious, oppressive and in bad faith, and thus warrants this case being designated as exceptional under 15 U.S.C. §1117, warranting the imposition of treble damages against them.

496. UOM is entitled to injunctive relief pursuant to 15 U.S.C. §1116.

497. UOM is entitled to attorneys' fees and costs.

**WHEREFORE**, the Plaintiff, Ultimate Outdoor Movies, LLC demands that this court enter judgment in favor of Ultimate Outdoor Movies, LLC, and against the Defendants, Charles Hunter, Matthew Dias and FunFlicks Audiovisuals, jointly and severally, Todd Severn and FunFlicks, LLC, jointly and/or severally, and James Gaither and NATJAY, LLC, jointly and severally, in an amount (1) exceeding \$500,000.00 for compensatory, unjust enrichment damages, other damages, and/or costs as set forth in 15 U.S.C. §1117(a); (2) treble damages and

reasonable attorney's fees as set forth in 15 U.S.C. §1117(a) to be determined at trial; (3) injunctive relief pursuant 15 U.S.C. §1116 and/or the applicable laws of equity; and for other just and proper relief.

**COUNT XIII.**

**ALL DEFENDANTS**

**UNFAIR COMPETITION**

498. UOM re-alleges and incorporates by reference each and every allegation of the preceding paragraphs into this cause of action.

499. The Defendants caused injury to plaintiffs' business through fraud, deceit, trickery and/or unfair methods.

500. As direct and proximate cause of Defendants' acts, UOM incurred damages.

501. Defendants' acts were willful and malicious.

502. UOM is entitled to punitive damages.

**WHEREFORE**, the Plaintiff, Ultimate Outdoor Movies, LLC demands that this court enter judgment in favor of Ultimate Outdoor Movies, LLC, and against the Defendants, Charles Hunter, Matthew Dias and FunFlicks Audiovisuals, jointly and severally, Todd Severn and FunFlicks, LLC, jointly and severally, and James Gaither and NATJAY, LLC, jointly and severally, in an amount exceeding

\$1,000,000.00 in compensatory damages; punitive damages to be determined at trial, injunctive relief and for other just and proper relief.

**COUNT XIV.**

**ALL DEFENDANTS**

**INTENTIONAL INTERFERENCE WITH ECONOMIC RELATIONS**

503. UOM re-alleges and incorporates by reference each and every allegation of the preceding paragraphs into this cause of action.

504. The Defendants intentionally and willfully interfered with the UOM's existing and potential customers.

505. The Defendants engaged in the intentional and willful acts described in this complaint for purposes of:

506. ill will or spite,

507. using independent unlawful or wrongful means including but not limited to the following:

1. Violating 15 U.S.C. § 1125(a)(1), the Lanham Act;
2. Violating 18 U.S.C. §2511; the Federal Wiretap Act;
4. Violating 18 U.S.C. §1836; the Federal Trade Secrets Act;
5. Violating 18 U.S.C. §1832; the Federal Theft of Trade Secrets Act;

6. Violating MD Comm. Law Art. Ann. §11-1201, et., seq. – theft of trade Secrets;
7. Violating Md. CRIMINAL LAW Code Ann. §7-101, et., seq. theft of records, secrets information, and/or services;
8. Violating, the Maryland Consumer Protection Act., §13-301et., seq;
9. Violating, the Texas Wiretap Act. CIV. Texas PRAC. & REM. CODE §123.001 et., seq;
10. Common law defamation and fraud; and/or
11. Common Law Unfair Competition;

508. The Defendants acts were calculated to cause damage to UOM with its lawful business.

509. The Defendants acts were conducted with the unlawful purpose to cause damage and loss to UOM without right or justifiable cause on the part of the Defendants.

510. As a result of the Defendants' Acts, UOM lost present and former customers thereby causing UOM to lose customers profits, goodwill and incur other damages as a result thereof.

511. The Defendants' acts were willful and malicious.

512. UOM is entitled to punitive damages.

513. UOM is entitled to injunctive relief.

**WHEREFORE**, the Plaintiff, Ultimate Outdoor Movies, LLC demands that this court enter judgment in favor of Ultimate Outdoor Movies, LLC, and against the Defendants, Charles Hunter, Matthew Dias and FunFlicks Audiovisual, jointly and severally, Todd Severn and FunFlicks, LLC, jointly and severally, and/or James Gaither and NATJAY, LLC, jointly and severally, in an amount exceeding \$1,000,000 in compensatory damages; punitive damages, injunctive relief and for other just and proper relief.

**COUNT        XV.**  
**CIVIL CONSPIRACY<sup>12</sup>**  
**“The FunFlicks Team”**  
**ALL DEFENDANTS**

514. UOM re-alleges and incorporates by reference each and every allegation of the preceding paragraphs into this cause of action.

515. The Defendants, by agreement and/or understanding entered into a conspiracy for the purposes of diverting customers, monies, business revenues, and

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<sup>12</sup> This conspiracy count was modeled after the plaintiff’s first amended complaint in the case styled *Shoregood Water Company, Inc. v. US Bottling Company*, et. al. filed in the United States Bankruptcy Court for the District of Maryland in Case No. 08-CV-02470 RDB.

business opportunities away from Plaintiffs for the direct or indirect benefit of the Defendants and for purposes of destroying UOM's business.

516. The Defendants engaged in unlawful or tortious acts<sup>13</sup> to carry out this conspiracy as set forth in this Complaint.

517. Defendants' conspiracy caused actual damages to UOM and Laura.

518. Each of the Defendants engaged in one or more overt acts identified in this complaint in furtherance of the conspiracy.

519. UOM incurred actual damages in the form of present and future lost profits exceeding \$1,000,000.00, loss of good will, and other damages.

520. Laura has incurred actual damages in the form of present and future lost income, incurred medical expenses and suffered emotional humiliation and distress in excess of \$500,000.00.

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<sup>13</sup> The tortious acts include common law tort action and statutory violations which are considered to be tortious in nature. The common law tort and statutory violations in this complaint include Fraud, Defamation, Intentional Interference of Contract, Intentional Interference of Economic/Contractual Relations, Unfair Competition, Violation, of Federal and State Electronic Communication Privacy Acts (tortious in nature allowing for compensatory and punitive damages) Lanham Act violations (*Alitalia-Linee Aeree Italiane S.p.A. v. Casinoalitalia.com*, 128 F. Supp. 2d 340, 348 (E.D. Va. 2001) (Lanham Act claims are tortious in nature); ("Violation of MUTSA is tortious in nature").

521. The Defendants acts were willful and malicious.

522. The Plaintiffs are entitled to compensatory and punitive damages.

**WHEREFORE**, the Plaintiff, Ultimate Outdoor Movies, LLC and Laura Landers demands that this court enter judgment in favor of Ultimate Outdoor Movies, LLC and Laura Landers and against the Defendants, Charles Hunter, Matthew Dias, FunFlicks Audiovisuals, Todd Severn, FunFlicks, LLC, James Gaither and NATJAY, LLC, jointly and severally in an amount exceeding \$1,000,000.00 in compensatory damages; punitive damages to be determined at trial, injunctive relief, and for other just and proper relief.

## **VII. INJUNCTIVE RELIEF**

523. UOM re-alleges and incorporates by reference each and every allegation of the preceding paragraphs into this cause of action.

524. In addition to the damages requested in each of the individual counts, the Plaintiffs request the injunctive relief set forth below. Monetary damages are inadequate to compensate UOM and Laura for the Defendants' acts described in this complaint. The Defendants are continuing to intercept the emails in violation of Federal and State Law; the Defendants are continuing to profit off of the ill gotten gains obtained by the Defendants. Based on information and belief, the

Defendants are continuing to disparage UOM and Laura, The lingering negative shadow cast on UOM by the Defendant's defamatory statements and deceptive conduct makes it difficult to sufficiently calculate and compensate fully the Plaintiffs for their injuries. Furthermore, equity demands that the defendants should not be allowed to jump start their business by stealing UOM's goodwill and property and deceiving UOM's customers. Considering the balance of the hardships between the Plaintiffs and Defendants, a remedy in equity is warranted. Furthermore, the public interest would not be disserved by an injunction because the Defendants have defrauded the public as to nature and origin of their services and as to the nature and origin of UOM's and Laura's services. Consequently, Plaintiffs request that this court enter the following injunctive relief.

A. Issue Temporary Restraining Order, and Preliminary, and Permanent Injunction directing the Defendants and all persons/entities in active concert or participation with any of them, be enjoined **from the following**:

(1) intercepting any emails intended for UOM through the UOM FunFlicks

Emails:

- a. Darrell@Funflicks.com
- b. Laura@Funflicks.com



c. Kenneth@funflicks.com

d. Chandra@funflicks.com

e. MB@funflicks.com

f. Events@funflicks.com

(2) using or disclosing any information obtained or derived from the UOM FunFlicks Emails

(3) keeping active or re-activating the UOM FunFlicks Emails.

(4) contacting, servicing, and/or soliciting any customer whose UOM FunFlicks emails were intercepted by one or more of the Defendants for a period of three years from the date of the injunction.

B. Issue a Temporary Restraining Order, and Preliminary, and Permanent Injunction directing the Defendants and all persons/entities in active concert or participation with any of them, to:

(1) immediately deactivate UOM's FunFlick's Email addresses;

(2) turnover all documents and electronic communications in their original form related to the intercepted UOM communications which were received sent or otherwise generated by or through the use of the intercepted UOM FunFlicks Emails within 10 days from the date of this Court's Order;

(3) Subject to UOM's and this Court's approval, send an e-mail subject to the Plaintiff's approval to each and every person whose UOM FunFlicks emails were intercepted by the one of more of the Defendants advising the person that his e-mail was intercepted for purposes of deceiving the person into purchasing their services, instead of UOM's services;

C. Issue a Temporary Restraining Order, and Preliminary, and Permanent Injunction directing that the Defendants and all persons/entities in active concert or

participation with any of them, immediately provide UOM with a list of each and every person who received a copy of the Gaither Defamatory Statement; (2) order the Defendants to send a retraction email, approved by the court and the Plaintiffs, to the FunFlicks licensees and the recipients of the Gaither Defamatory Statement as well as publish a copy of the retraction in the local newspaper of all cities and all areas where UOM and Laura were affected by the Gaither Defamatory Statement.

D. Issue a Temporary Restraining Order, and Preliminary, and Permanent Injunction directing that the Mr. Hunter and FF HUNTER/DIAS and all persons/entities in active concert or participation with any of them shall immediately rescind the corporate names filed in the state of California as Ultimate Outdoor Movies, Inc. and Ultimate Outdoor Movies, LLC and enjoin them from re-filing the names again.

E. Issue a Permanent Injunction enjoining the Defendants and all persons/entities in active concert or participation with any of them, from licensing and/or competing in the Movie Business in UOM's territories for a period of five years from the date of the Injunction;

F. Issue a Temporary Restraining Order, and Preliminary, and Permanent Injunction requiring the Defendants and all persons/entities in active concert or participation with any of them to return to UOM's Mid-Atlantic Client List and enjoin the Defendants and all persons/entities in active concert or participation with any of them from misappropriating, using or disclosing UOM's Mid-Atlantic Client List; and

G. For other just and proper relief.

/s/Troy Swanson  
Troy C. Swanson  
USDC MD Bar #05806  
Cipriani & Werner, P.C.  
641 Ivy Lane, Suite 600,  
Greenbelt, Maryland 20770  
Telephone 410-420-0700  
Fax #410-420-0222  
Email: tswanson@c-wlaw.com  
Attorneys for Plaintiffs

**REQUEST FOR JURY TRIAL**

Plaintiffs request a trial by jury on all counts triable by a jury.

/s/Troy Swanson  
Troy C. Swanson  
USDC MD Bar #05806  
Cipriani & Werner, P.C.  
641 Ivy Lane, Suite 600,  
Greenbelt, Maryland 20770  
Telephone 410-420-0700  
Fax #410-420-0222  
Email: tswanson@c-wlaw.com  
Attorneys for Plaintiffs

**From:** FunFlicks Outdoor Movies <maryland@funflicksusa.com>

**Subject:** Check to make sure your event is safe!

**Date:** February 27, 2018 at 10:44:19 PM EST

**To:** [REDACTED] [REDACTED]@yahoo.com>



*Are you sure you booked with FunFlicks?*

Dear FunFlicks Customer:

This is to notify you that a Texas business has been marketing outdoor movies using the FunFlicks® name without authorization. You may have received an e-mail or call this past month from FunFlicks, however, FunFlicks did not send or call. We are sorry to report that a prior defaulted business owner has deceitfully marketed as FunFlicks®, sent invoices and confirmed events using multiple aliases including ultimate outdoor movies and ultimate

fall for this!!

Your events and deposits are at risk! This out of state company formed in August and is attempting to undermine FunFlicks business across America. Most importantly, they MAY NOT have infrastructure in Maryland or other states to handle these events, and they are not registered to conduct business in Maryland.

James Gaither is your local Maryland FunFlicks® business owner and lives in Pasadena, MD. You should recognize his name since James has managed FunFlicks® since 2013 and has been a FunFlicks® event host since 2011. James is the only person in MD / DC / DE / NJ that represents FunFlicks®.

To remedy the current situation and to properly confirm your events, call James at: (410) 353-5654. If you have not deposited your event, you are safe. If you have mistakenly deposited prior to receiving this message, your best line of defense is to deny any credit card charges applied, or call and cancel your event with Ultimate requesting a full refund. **You will note that on the bottom of each contract there is a statement that reads: "This document is copyrighted material owned by FunFlicks, Inc. and may not be copied or used, in whole or in part, for any purpose without express written permission from FunFlicks, Inc." FunFlicks has not provided Ultimate Outdoor Entertainment with any permission, written or otherwise, to use these agreements. Therefore, your contract is invalid!**

Be prepared for fast talk and recognize they are not the business that hosted your events in the past. If you need further verification, please call us immediately!

-FunFlicks Team



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*Copyright © 2018 FunFlicks, All rights reserved.*

You are receiving this email because you are or have been a FunFlicks Customer.

**Our mailing address is:**

FunFlicks  
7534 Hearthside Way  
#258  
Elkridge, Maryland 21075

Add us to your address book

Want to change how you receive these emails?  
You can [update your preferences](#) or [unsubscribe from this list](#).



**Reply-To:** <us17-33e2dcc835-30abdef885@conversation01.mailchimpapp.com>

**EXHIBIT 2.2(h)****ALLOCATION OF PURCHASE PRICE**

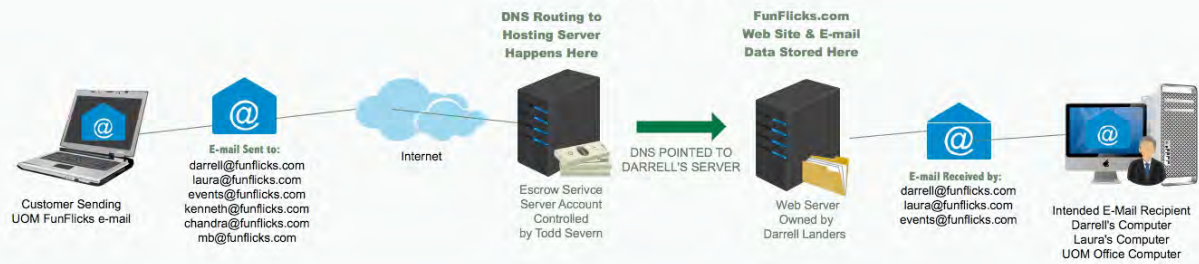
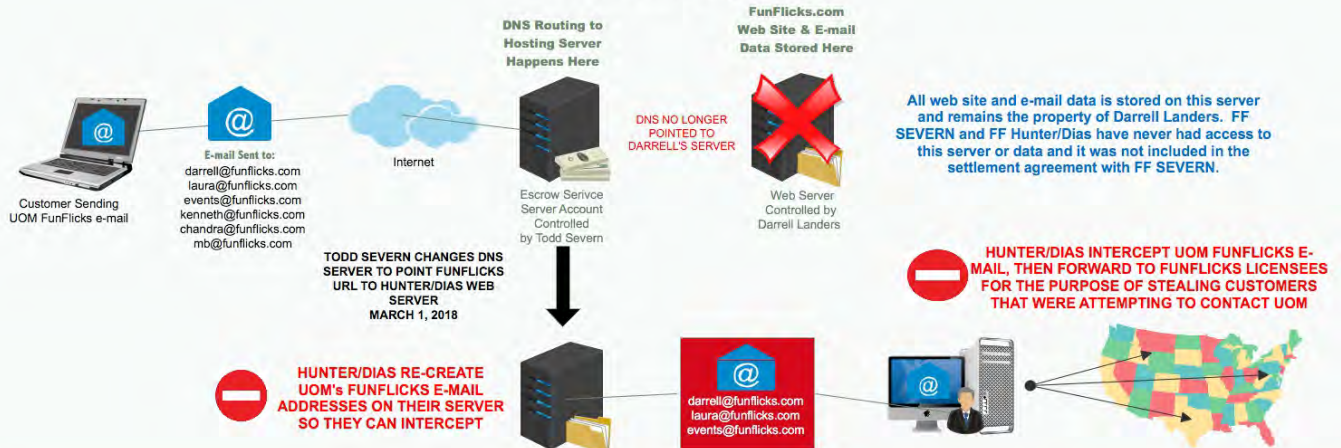
<b><u>Asset</u></b>	<b><u>Amount</u></b>
Equipment, Trailers and Current Inventory [See Schedule 1 Attached to this Exhibit]	\$70,000.00
Website	\$50,000.00
Multiple Domain Names	\$10,000.00
Trade Name, Federally Registered Trademark, Common Law Trademarks	\$30,000.00
Right to sell products, licenses, franchises of FUNFLICKS® to third parties	\$108,000.00
Customer Base of MD including client list, phone numbers, emails, past invoices and Quikbooks accounting records	\$450,000.00
Supplier base including vendors, suppliers, and business contacts	\$10,000.00
Marketing materials, Designs artwork and logo files	\$5,000.00
Promissory Notes Receivables being assumed by Buyer	\$279,779.59
Non-Competition Agreement for 12 years	\$5,000.00
Goodwill of brand and continued Business	\$1,521,248.00
Information base and know-how	\$10,000.00
Three Days of consulting during transition	\$600.00
<b>TOTAL</b>	<b>\$2,549,628.59</b>

11

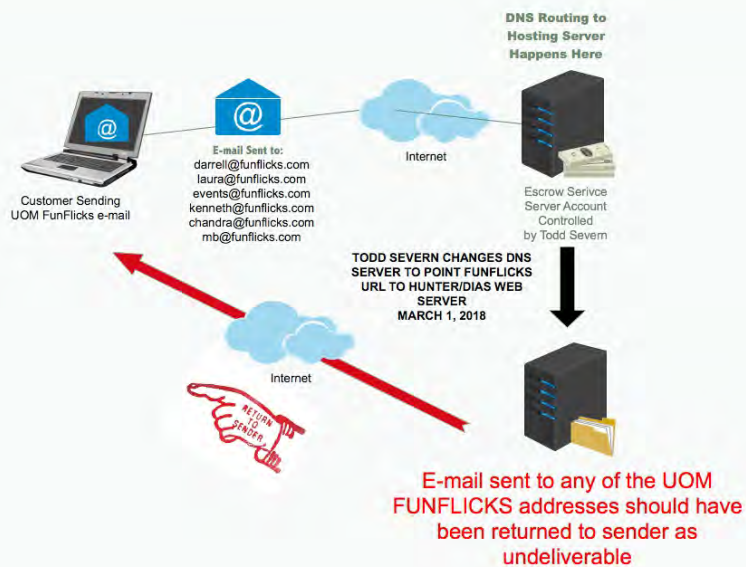
12



## E-MAIL ROUTING PROCESS FOR FUNFLICKS.COM DOMAIN (URL)

**Jan 1, 2013 - Feb 28, 2018****After March 1, 2018**

## PROPER PROTOCOL FOR E-MAIL ADDRESSES THAT NO LONGER EXIST



Electronic Version v1.1  
 Stylesheet Version v1.2

ETAS ID: TM469348

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	SECURITY INTEREST		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
FunFlicks Audiovisuals		01/01/2018	Corporation: CALIFORNIA
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Fun Flicks, LLC		
<b>Street Address:</b>	4932 Jenkins Lane		
<b>City:</b>	Baldwin		
<b>State/Country:</b>	MARYLAND		
<b>Postal Code:</b>	21013		
<b>Entity Type:</b>	Limited Liability Company: MARYLAND		
<b>PROPERTY NUMBERS Total: 2</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	3138905	FUNFLICKS	
<b>Registration Number:</b>	5122699	FUNFLICKS OUTDOOR MOVIES	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	4108252583		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
<b>Phone:</b>	4107699070		
<b>Email:</b>	kyle@jiraneklaw.com		
<b>Correspondent Name:</b>	Kyle Hildreth		
<b>Address Line 1:</b>	16 Willow Avenue		
<b>Address Line 2:</b>	Jiranek, P.a.		
<b>Address Line 4:</b>	Towson, MARYLAND 21286		
<b>NAME OF SUBMITTER:</b>	Kyle Hildreth		
<b>SIGNATURE:</b>	/Kyle Hildreth/		
<b>DATE SIGNED:</b>	04/11/2018		
<b>Total Attachments: 4</b>			
source=corrected Security Agreement X#page1.tif			
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source=corrected Security Agreement X#page3.tif			
source=corrected Security Agreement X#page4.tif			

OP \$65.00 3138905

**SECURITY AGREEMENT**

FunFlicks Audiovisuals  
-KJH

THIS SECURITY AGREEMENT made as of this 1<sup>st</sup> day of January, 2018, between ~~Fun Flicks Audiovisual~~, a California corporation having an address at 11000 Brimhall Road, Suite 56, Bakersville, California 93312 ("**Borrower**"); and **Fun Flicks, LLC**, a Maryland limited liability company having a principal place of business at 4932 Jenkins Lane, Baldwin, Maryland 21013 ("**Secured Party**").

**WITNESSETH:**

WHEREAS, pursuant to that certain Private Sale Agreement, dated December 21, 2017, Secured Party is accepting from Borrower payment of a portion of the purchase price in the form of a certain Promissory Note, of even date herewith (hereinafter, the "**Note**").

**NOW, THEREFORE**, to induce Secured Party to accept the Note from the Borrower, as provided therein, the parties hereto agree as follows:

**1. Security Interest.**

1.1 To its obligations to Secured Party, Borrower grants, to Secured Party, its successors and assigns, a security interest (the "**Security Interest**") in all of Borrower's assets (the "**Collateral**"), including, without limitation, (i) rights in all registered and common law trademarks owned by Borrower, together with the goodwill associated with the trademarks, along with all rights of action, powers and benefits accruing to the trademarks, including without limitation, the right to recover damages and profits for past infringements thereof; (ii) the URLs [www.funflicks.com](http://www.funflicks.com) and [www.shoscreen.com](http://www.shoscreen.com) and passwords necessary to control them (collectively, the "**URLs**"); (iii) copyrights in information and artwork used in connection with the websites hosted at the URLs (the "**Copyrights**"); (iv) information pertaining to customers ("**Customer Information**"); and (iv) rights from contracts with third parties (the "**Contracts**")

1.2 Any term used in the Uniform Commercial Code ("**UCC**") and not defined in this Security Agreement shall have the meaning given to the term in the UCC.

1.3 The security interests granted herein shall be continuing security interests and shall attach to all proceeds and all after acquired assets of Borrower.

**2. Obligations.** This Security Interest shall secure the following obligations (the "**Obligations**"): (a) all sums owed or to be owed by Borrower pursuant to the Note or this Security Agreement; and (b) all obligations provided by Borrower to Secured Party as part of the purchase transaction.

**3. Financing Statements and Other Action.** Borrower will do all lawful acts which Secured Party deems necessary or desirable to protect the Security Interest or otherwise to carry out the provisions of this Agreement, including, but not limited to the procurement of waivers and disclaimers of interest in the Collateral. Borrower irrevocably appoints Secured

Party as its attorney-in-fact, coupled with an interest, during the term of this Agreement to do all acts which it may be required to do under this Agreement. With regard to the trademarks, Borrower will execute, deliver, file and record with the USPTO (in such manner and form as the Secured Party may require), or permit the Secured Party to file and record, any financing statements, any carbon, photographic or other reproduction of a financing statement or this Agreement (which shall be sufficient as a financing statement hereunder), and specific assignments or other paper that may be reasonably necessary or desirable, or that Secured Party may request, in order to create, preserve, perfect or validate any Security Interest or to enable the Secured Party to exercise and enforce its rights hereunder with respect to any of the Collateral.

**4. Authorization to File Financing Statements.** Borrower hereby irrevocably authorizes Secured Party at any time and from time to time to file UCC-1 Financing Statements in applicable filing offices evidencing the security interest granted hereunder. Upon the satisfaction by Borrower of the Obligations in full, Secured Party shall file or authorize Borrower to file UCC-3 statements that will terminate the UCC-1 Financing Statements.

**5. Default.**

5.1 If breach or default shall be made in the due performance or observance of any provision of this Agreement and such breach or default shall continue for a period of thirty (30) business days after notice thereof shall have been received by Borrower from Secured Party; then upon the occurrence of any such Default or at any time or times thereafter, unless such Default shall have been cured within any applicable grace period, or waived in writing by Secured Party, Secured Party shall have all of the rights and remedies of a secured party under the UCC and shall have full power and authority to notify the account debtors to make payment directly to Secured Party and to sell or otherwise dispose of the Collateral or any part thereof.

5.2 Any such sale or other disposition, subject to the provisions of applicable law, may be by public or private proceedings and may be made by one or more contracts, as a unit or in parcels, at such time and place, by such method, in such manner and on such terms as Secured Party may determine.

5.3 Except as required by law, such sale or other disposition may be made without advertisement or notice of any kind or to any third party or third person. In the event any consent, approval or authorization of any governmental agency shall be necessary to effectuate any such sale or sales, Borrower shall execute, as necessary, all applications or other instruments as may be required.

**6. Proceeds and Expenses of Dispositions.** Borrower shall pay to Secured Party on demand any and all expenses, including reasonable attorneys' fees and disbursements, incurred or paid by Secured Party in protecting, preserving, or enforcing its rights under or in respect of any of the Obligations or any of the Collateral. After deducting all of said expenses, the residue of any proceeds of collection or sale of the Obligations or Collateral shall, to the extent actually received in cash, be applied to the payment of the Obligations.

**7. Waivers.** To the extent permitted by law, Borrower hereby waives demand for payment, notice of dishonor or protest and all other notices of any kind in connection with the

obligations except notices required hereby, by law or by any other agreement between Borrower and Secured Party, Secured Party may release, supersede, exchange or modify any Collateral or security which it may from time to time hold and may release, surrender or modify the liability of any third party without giving notice hereunder to Borrower. Such modifications, changes, renewals, releases or other actions shall in no way affect any of the Obligations or Borrower's obligations hereunder.

**8. Transfer Expenses, etc.** Borrower will pay, indemnify and hold harmless Secured Party from and against all costs and expenses (including taxes, if any) arising out of or incurred in connection with any transfer of Collateral into or out of the name of Secured Party and all reasonable costs and expenses, including reasonable legal fees, of Secured Party arising out of or incurred in connection with this Agreement; provided, however, that Borrower shall not be responsible for expenses arising out of or incurred as a result of gross negligence, or willful misconduct by Secured Party.

**9. Modification.** This Agreement may not be modified or amended without the prior written consent of each of the parties hereto.

**10. Notices.** Except as otherwise provided in this Agreement, all notices and other communications hereunder shall be deemed to have been sufficiently given when mailed, postage prepaid, by certified or registered mail, return receipt requested, sent by courier or telefaxed or e-mailed, with confirmation of receipt in the case of a telefax or e-mail, and the sender shall have received such return receipt or confirmation, such notices or communications to be, addressed to the parties at their addresses provided to one another.

**11. Rights; Merger.** No course of dealing between Borrower and Secured Party, nor any delay in exercising, on the part of Secured Party, any right, power or privilege hereunder, shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies hereunder are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law or in equity, including, without limitation, the rights and remedies of a secured party under the UCC. It is understood and agreed that all understandings and agreements heretofore had between the parties, if any, with respect to the subject matter hereof are merged into this Security Agreement, which alone fully and completely expresses their agreement; provided, however, that this Agreement shall be construed to be consistent with other documents executed by the parties substantially contemporaneously herewith, and the obligations defined in those other loan agreements or documents shall be enforceable and secured by the Security Interests granted hereunder.

**12. Governing Law, Binding Effect, Etc.** This Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the laws of the State of Maryland without regard to the conflict of law principles thereof. In the event of a dispute arising under this Agreement, the parties acknowledge and agree that the state and federal courts located within the County of Baltimore, State of Maryland shall have co-exclusive jurisdiction to resolve such a dispute. Notwithstanding the foregoing, either may elect to join any dispute hereunder in an arbitration proceeding required by paragraph 21 of the parties Private Sale Agreement. This Agreement shall be binding upon and inure to the benefit of the

parties hereto and their respective successors and assigns, including any other holder or holders of any obligations and may be executed in one or more counterparts, each of which shall together constitute one and the same agreement.

**13. Severability; Miscellaneous.** The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision hereof. To the extent judicial intervention is necessary to resolve disputes hereunder, and such disputes are intertwined with disputes that must be arbitrated pursuant to other agreements between the parties, the parties shall submit the disputes to arbitration as required in the other agreements. Notwithstanding anything herein to the contrary, to the extent Secured Party has the legal right under the UCC to sell the Collateral at private sale, or to exercise self-help, without judicial intervention, or without the consent of Borrower, Secured Party shall be free to pursue such legal rights without the need to pursue arbitration or a judicial action. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and all of such counterparts shall together constitute one and the same agreement. A facsimile or e-mail signature may be accepted the same as an original signature to signify an agreement amongst the parties.

**IN WITNESS WHEREOF**, the parties hereto have executed this Security Agreement as of the day and year first above written.

**WITNESS:**

**FUN FLICKS, LLC**

Angela Hunt By: Todd Severn  
Todd Severn, Sole Member

**WITNESS:**

**FUN FLICKS AUDIOVISUAL, a Ca. Corporation**

Angela Hunt By: Matt Dias  
Matt Dias, Shareholder, Director & Officer

Angela Hunt By: Chad Hunter  
Chad Hunter, Shareholder, Director & Officer

## **TRADEMARK LICENSE AGREEMENT**

THIS TRADEMARK LICENSE AGREEMENT (the "Agreement") is made this 1st **day of May 2012** (the "Effective Date") by and between Fun Flicks, LLC, a Maryland limited liability company having a principal place of business at 4932 Jenkins Lane, Baldwin, Maryland 21013 ("Licensor") and **Charles Hunter and Amy Hunter of 11209 Bardon Hill Drive, Bakersfield, California 93312** ("Licensee").

### **W I T N E S S E T H:**

WHEREAS, Licensor is the owner of the mark FUNFLICKS®, United States Registration Number 3,138,905, Registration Date: September 5, 2006 (the "Mark"); and

WHEREAS, Licensee desires to obtain a license from Licensor to use the Mark in connection with the Licensee's business of entertainment, educational and commercial services, sponsorships, namely, the provision of indoor and outdoor parties and events utilizing popcorn machines, projectors, sound systems, equipment, and big screens for movies, video gaming and similar projection type services (the "Business").

NOW THEREFORE, in consideration of the mutual premises set forth herein the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Grant of License.** Subject to the terms and conditions set forth herein, for the term of this Agreement, Licensor hereby grants to Licensee a non-transferable right within the territory set forth on Exhibit A attached hereto and made a part hereof (the "Territory") to use the Mark specifically in connection with the Business.

2. **Term.** The term of this Agreement shall commence on the Effective Date, shall last until December 31<sup>st</sup>, 2012 and shall, subject to Section 3 of this Agreement, automatically renew for successive one (1) year periods unless terminated by either party not less than thirty (30) days prior to the end of such one (1) year period. Notwithstanding the previous sentence, Licensor may terminate this Agreement prior to the expiration period in accordance with the terms and conditions set forth in Section 8 of this Agreement.

3. **Consideration.** (a) In consideration for the license to use the Mark granted pursuant to Section 1 of this Agreement, Licensee shall pay to Licensor: A ("Minimum Annual Royalty Payment") described as: (i) The greater amount of a Royalty equal to eight percent (8%) of the gross sales made by Licensee in connection with its Business during the Initial Term or Three Thousand Four Hundred Fifty Dollars (\$3,450.00); and (ii) The greater amount of a Royalty equal to (8%) of the gross sales made by Licensee in connection with its Business during each Renewal Term or Six Thousand Nine Hundred Dollars (\$6,900.00). During the Initial Term and Renewal Terms, a Minimum Monthly Royalty Payment shall be paid by Licensee to Licensor at

the address of Licensor specified above by the fifteenth (15<sup>th</sup>) day of the month. Each Minimum Monthly Royalty Payment will be accompanied by a statement from Licensee that sets forth the gross sales of Licensee for the previous month.

(b) Notwithstanding the terms and conditions of subsection (a), the Licensee shall be required to pay to Licensor a ("Minimum Monthly Royalty Payment") described as: (i) Three Hundred Fifty Dollars (\$350.00) due each month of the first year of the Initial Term (commencing with the first payment due June 15, 2012; and (ii) Five Hundred Seventy Five Dollars (\$575.00) due each month of each consecutive Renewal Terms (commencing with the first payment due January 15, 2013 for the Territory described in Exhibit A. To the extent that the Minimum Monthly Royalty Payments actually paid by Licensee to Licensor in a twelve month period measured from the month and day first above written to the anniversary date of the Effective Date (the "Anniversary Date") are less than the Minimum Annual Royalty Payment, then Licensee shall be required to remit to Licensor the difference between the Minimum Annual Royalty Payment and the Monthly Royalty Payments actually paid by Licensee, within thirty (30) days of the Anniversary Date.

(c) Notwithstanding subsection (b) of this Section, upon execution and delivery of this Agreement, Licensee shall pay the Licensor an amount equal to the Minimum Annual Royalty Payment upon execution and delivery of this Agreement. The first year's Minimum Annual Royalty Payment shall be deemed earned by Licensor upon the execution and delivery of this Agreement and is therefore non-refundable to Licensee. To the extent, however, that Licensee opts for the educational program set forth in Section 7(c) of this Agreement, Licensor, at its sole discretion, may opt to waive the requirement of Licensee to pay the first year's Minimum Annual Royalty Payment up front, upon execution and delivery of this Agreement. The Minimum Annual Royalty will still be due on a monthly payment schedule, just not up-front.

(d) In connection with the Monthly Royalty Payment, Licensee shall keep and maintain records of sales made pursuant to the license granted hereunder for a period of seven (7) years following the expiration of this Agreement. Such records will be open to inspection by Licensor or its designee at Licensee's place of business upon prior notice by Licensor. In the event that an inspection of the Licensee's records reveals that Licensee has underpaid the Monthly Royalty Payment to Licensor, Licensee shall remit such underpayment to Licensor within ten (10) days notice by Licensor to Licensee and if such underpayment exceeds five percent (5%) of the amount paid by Licensee to Licensor, Licensee shall be responsible to pay for Licensor's costs of inspection of Licensee's records.

4. **Quality Standards.** Licensee agrees that the nature and quality of (a) all services and goods rendered by Licensee in connection with the Mark, (b) all services and goods produced, distributed or sold by Licensee under the Mark, and (c) all related advertising, promotional and other related uses of the Mark by Licensee shall conform to the standards set by, and under the consent of Licensor. Licensee agrees to supply Licensor with all specimens of and all uses of the Mark.



5. **The Mark.** (a) Licensee shall include the Mark on all goods and services sold by Licensee under the Mark and shall include all notices and legends with respect to the Mark as are or may be requested by applicable federal, state, and local laws or which may be reasonably requested by Licensors.

(b) Licensee acknowledges the ownership of the Mark by Licensors and agrees that it will do nothing inconsistent with such ownership, and that all uses of the Mark by Licensee and all goodwill developed there from shall inure to the benefit of and be on behalf of Licensors. Licensee agrees that nothing in this Agreement shall give Licensee any right, title or interest in the Mark other than the right to use the Mark in accordance with this Agreement and Licensee agrees that (i) it will not attack the title of Licensors to the Mark, (ii) it shall not attack the validity of this Agreement, (iii) it shall not use the Mark other than in connection with its Business, (iv) it shall not use the Mark outside of the Territory, (v) it shall not permit any third party to use the Mark, trade secrets, or business model and (vi) it shall not attempt to register the Mark or any mark confusingly similar to the Mark as a trademark, trade name, or service mark with the United States Patent and Trademark Office or any state office responsible for the registration of same.

6. **Notification of Infringement.** Licensee shall notify Licensors promptly of any actual or threatened infringements, imitations, or unauthorized use of the Mark by third parties of which Licensee becomes aware. Licensors shall have the sole right, at its expense, to bring any action on account of any such infringements, imitations, or unauthorized use, and Licensee shall cooperate with Licensors as Licensors may reasonably request, in connection with any such action brought by Licensors. Licensors shall retain any and all damages, settlement, and/or compensation paid in connection with any such action brought by Licensors.

7. **Optional Services.** Licensors shall make available the following services to Licensee which Licensee may utilize at its option which in certain cases will be for an additional fee payable by Licensee, as specified herein:

(a) Licensors shall make available to Licensee certain pre-designed advertisements, marketing techniques, advertisements, samples, and ideas, each of which utilize the Mark;

(b) Licensee shall be permitted to list its Business and receive referrals from the Licensors' website, [www.funflicks.com](http://www.funflicks.com) (the "Website") for an annual fee of One Thousand Five Hundred Ninety Dollars (\$1590.00) for two (2) territory landing pages. This fee shall provide email and telephone support in reference to leads to Licensee as needed by Licensee during the term of this Agreement (the "Annual Website Fee"). Non-payment of any optional service fees or royalty payments shall result in immediate removal of Licensee's advertising from all promotional materials, listings on the website and use of reservation tools provided. Additional customization and changes may be billed at One Hundred Twenty Five Dollars (\$125.00) per hour. If Licensee desires a link from the Website to its Business, the Annual Website Fee to be paid by Licensee to Licensors is Two Hundred Ninety Five Dollars (\$295.00);

(c) Licensee can attend a two (2) day optional educational program provided by Licensor at Licensor's principal place of business, pursuant to which Licensor shall provide Licensee with advice pertaining to its Business including without limitation, the opening of the Business, marketing and advertising, promotions, sales and referrals, customer service, event set-up, and equipment maintenance. The fee payable by Licensee to Licensor for this optional training program is One Thousand Eight Hundred Fifty Dollars (\$1,850.00);

(d) Licensor shall provide telephone support to Licensee as needed by Licensee and based upon Licensor's availability during the term of this Agreement;

(e) Licensor may sell certain equipment to Licensee, including, projector(s), sound equipment, popcorn machine(s), screen(s), and signs pursuant to terms and conditions set forth in a separate equipment purchase agreement; and

(f) Licensee can choose an additional optional one (1) day optional educational program provided by Licensor at Licensor's principal place of business, and via telephone and internet, pursuant to which Licensor shall provide Licensee with advice pertaining to its Business including, without limitation, the specific tools used to book and maintain reservations, accounting system, calendar and event scheduling system, research and pricing tools, specific invoices, terms and conditions used in business. Actual computer programs are not included. Uploading specific customizable information (approximately 6 hours) of data entry is included. Additional customization can be added for One Hundred Twenty Five Dollars (\$125.00) per hour. The fee payable by Licensee to Licensor for this additional optional educational program is Nine Hundred Fifty Dollars (\$950.00).

8. **Termination by Licensor.** Notwithstanding the terms and conditions of Section 2 of this Agreement, Licensor may terminate this Agreement upon the provision of written notice to Licensee of Licensee's breach of this Agreement and such breach is not cured by Licensee within fifteen (15) days of Licensor's provision of such notice; provided, however, if said breach results from a failure by Licensee to pay Licensor any of the amounts due in Sections 3(a) or 3(b) of this Agreement, Licensee shall only have ten (10) days after Licensor's provision of such notice to cure such breach; and provided further that this Agreement shall automatically terminate without the requirement for Licensor to provide any notice to Licensee if the Licensee shall apply for or consent to the appointment of a receiver, trustee, or liquidator for any of its assets; be unable or admit in writing its inability to pay its debts as they mature, or make a general assignment for the benefit of creditors; or if a petition in bankruptcy or to take advantage of any insolvency law shall be filed by or against Licensee and shall not be dismissed within thirty (30) days. The exercise of any right of termination by Licensor pursuant to this Section shall not affect any rights which have accrued prior to termination and shall be without prejudice to any other legal or equitable remedies to which Licensor may be entitled by reason of such rights.

9. **Effect of Termination.** Upon expiration or termination of this Agreement for any reason, Licensee agrees immediately to discontinue all uses of the Mark and any term confusingly similar thereto, to destroy all materials bearing the Mark, and that all rights in the Mark and the goodwill connected therewith shall remain the property of Licensor. In addition,

Licensee shall return all materials provided by Licensor pursuant to Section 7(a) of this Agreement and the other optional services set forth in Section 7 which were requested by Licensee, shall automatically terminate. Furthermore, Licensee shall modify its corporate name via the filing of a Certificate of Amendment if the corporate name contains the Mark or a mark confusingly similar to the Mark and shall file a termination of the use of the Mark as an alternate name with the applicable filing office. Moreover, following termination Licensee shall continue to be bound by Sections 5(b), 6, 9, 10, 11, 12, 13 and 14 of this Agreement.

10. **Confidentiality.** Licensee shall treat as confidential the following information (collectively, "Confidential Information"):

(a) information developed, obtained or owned by Licensor concerning trade secrets, techniques, know-how, software, source codes, computer programs, reports, formats, marketing data and plans, business plans, strategies, forecasts, unpublished financial information, orders, agreements and other forms of documents, expansion plans, budgets, projections, customer supplier and subcontractor identities, lists, characteristics and agreements; or

(b) information that has or could have commercial value or other utility in the business conducted by Licensor and all information of which the unauthorized disclosure could be detrimental to the interests of Licensor, whether or not such information is specifically labeled as Confidential Information by Licensor; or

(c) information that Licensor obtains from a third party and which Licensor treats as proprietary or designates as Confidential Information.

Notwithstanding the foregoing, Confidential Information shall not include, and no obligation of confidentiality shall attach to: (i) information which is or becomes publicly known other than as a result of a violation of this Section 10, and (ii) information that becomes the subject of a subpoena, judicial order, or other governmental decree compelling disclosure by Licensee; provided, however, that the Licensee shall give the Licensor notice and a reasonably opportunity under the circumstances to seek a protective order from a Court of competent jurisdiction. Upon termination of this Agreement, Licensee shall return to Licensor all copies of Confidential Information and any memoranda, notes, minutes, or other documents relating to the Confidential Information, with no copies of any such documents retained by Licensee. This Section shall survive the termination of this Agreement, indefinitely.

11. **Non-Competition.** For a period of three (3) years following the termination of this Agreement, Licensee and any third party agrees that it shall not compete with the Business of the Licensor of entertainment, educational and commercial services, namely, the provision of indoor and outdoor parties and events utilizing popcorn machines, projectors, sound systems, and big screens for movies, video gaming and similar projection type services within the United States. Specifically, this provision shall not be applicable if the agreement is terminated by the Licensor through no fault of the Licensee. If Licensee chooses not to renew this agreement, this provision and all parts will continue in full force. In all cases, sections 5(b), 6, 9, 10, 12 and 13 shall survive the termination or non-renewal of this agreement.

12. **Scope Reasonable.** Licensee agrees that the covenants contained in Sections 10 and 11 of this Agreement are fair and reasonable both as to the restricted area, activity and the duration of the restrictions, and Licensee hereby waives any right to challenge these restrictions as being overly broad, unreasonable, or otherwise unenforceable. In the event, however, that a court of competent jurisdiction determines that any such restriction is deemed to be unreasonable or unenforceable, then Licensee agrees to submit to the reduction of any such activity, time period, or geographic restriction to the extent necessary to enable the court to enforce such restrictions to the fullest extent permitted under applicable law. It is the desire and the intent of the parties that the provisions of this Agreement shall be enforced to the fullest extent permissible under the laws and public policies applied in any jurisdiction where enforcement is sought.

13. **Injunctive Relief.** Licensee further acknowledges and agrees that an actual or threatened violation of the covenants contained in Sections 5(b), 9, 10 and 11 of this Agreement will cause Licensor immediate and irreparable harm, damage and injury, which cannot be fully compensated by an award of damages or other remedies at law. Accordingly, Licensee agrees that Licensor shall be entitled, as a matter of right, to an injunction from any Court of competent jurisdiction restraining any further violation by Licensee of such Sections, such right to an injunction shall be cumulative and in addition to, and not in limitation of any rights and remedies that Licensor may have at law or in equity against Licensee.

14. **Indemnification.** Licensee shall indemnify, defend and hold Licensor harmless from and against any and all liabilities, claims, causes of action, suits, damages, and expenses, including reasonable attorneys fees and expenses for which Licensor becomes liable or may incur or be compelled to pay by reason of Licensee's breach of the terms of this Agreement, including but not limited to claims of infringement of any intellectual property right. This Section shall survive the termination of this Agreement.

15. **Relationship of the Parties.** The relationship of Licensee to Licensor is that of an independent contractor and neither Licensee nor its agents or employees shall be considered to be employees or agents of Licensor. This Agreement does not constitute and shall not be construed as construing a partnership or joint venture or grant of a franchise by and between Licensor and Licensee. Licensee shall not have the right to bind Licensor to any obligations to third parties.

16. **No Assignment by Licensee.** This Agreement may not be assigned by Licensee without the prior written consent of the Licensor which shall not be unreasonably withheld and any attempted assignment by Licensee without such prior written consent by Licensor shall be void and of no force and effect. Licensor may freely assign this Agreement to a third party.

17. **Notices.** Any notice required or permitted herein shall be in writing and shall be given personally, by telecopy, by prepaid registered or certified mail return receipt requested, or by overnight delivery via a nationally recognized carrier, addressed to the parties at their respective addresses set forth above or at such other address as a party may hereafter designate in writing to the other party.

18. **Governing Law/Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland, without regard to the conflict of law principles thereof. The parties agree that in the event of any disputes between the parties, the state and Federal Courts of Maryland venued in Baltimore shall have co-exclusive jurisdiction to resolve such disputes.

19. **Entire Agreement, Amendment, Supplement and Waiver.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous agreements, promises, representations, understandings and negotiations whether written or oral. No modification, amendment, supplement to or waiver of this Agreement or any of its provisions shall be binding unless made in writing and duly signed by both parties to this Agreement. A waiver by either party of any of the terms or conditions of this Agreement in any one instance shall not be deemed a waiver of such terms and conditions in the future.

20. **Counterparts.** This Agreement may be executed in one or more counterparts which together shall be deemed one originally executed Agreement.

**{THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK}**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

LICENSOR:

FUN FLICKS, LLC

WITNESS:

\_\_\_\_\_

By: \_\_\_\_\_  
Todd Severn, Member

LICENSEE:

\_\_\_\_\_  
Charles Hunter

WITNESS:

\_\_\_\_\_

LICENSEE:

\_\_\_\_\_  
Amy Hunter

WITNESS:

\_\_\_\_\_

**EXHIBIT A**

**TERRITORY**

San Luis Obispo California Area:

Counties Include:

Kern

Tulare

Kings

Fresno

Total estimated population for your protected territory is 2,365,242

Initial Term Minimum Annual Royalty Payment for above protected territory is \$3450.00.  
2013 Season Minimum is \$6900.00.

From: [darrell@ultimateoutdoormovies.com](mailto:darrell@ultimateoutdoormovies.com)  
Date: 2018-01-30 03:00:34 +0000  
Subject: Re: Agreement  
To: [chad@funflicksusa.com](mailto:chad@funflicksusa.com)  
To: [darrell@funflicks.com](mailto:darrell@funflicks.com)

Hi Chad,

Here are the answers from your last email.

1. AV Consulting - audio video services that fall outside of the defined business in the licensing agreement which includes a/v product consulting and sales, fixed installations, audio rentals, stage lighting and event planning as examples.

2. Yes total transfer to include the web site

3. We don't have a goal to sell screens, but screen sales are a part of multiple licensee's business and our point was that it's not prohibited under any other licensing agreement and we wouldn't sign up for an agreement that prohibited it.

We do have a goal of supporting the brand and we would participate in the concept of the network of licensees selling screens.

4. We have talked with IO and we have a transition plan in place. I'll be sending a message to everyone pending our agreement with you to outline that plan for them and timing, which will be very quick.

I'm not sure why you keep calling Tim at IO since we have told you for the last week or two that we had a fair transition plan in place that would give everyone the ability to manage their own accounts, pending our agreement with you, so let's get this done and move on so everyone is happy.



5. Metrics - we want to help define what this looks like, but as an example, if search placement for our common brand keywords fell by more than XX% and wasn't remedied within XX time frame then we have the option to exit the license.
6. Territories - we can talk about some of these but some of them have very large investments in order to salvage brand reputation in areas where prior to us taking them over, there were significant service issues by the exiting licensee. I'm happy to review these with you to discuss, but for example in Denver and Northern VA we had to provide numerous free or discounted events, in some cases provide refunds to customers that we didn't receive any revenue from due to major service issues by Glen (who kept their money) and buy or replace inferior equipment. In addition there was almost \$200,000 in promissory notes that we could not collect on as well as other customer concessions we made to rebuild brand integrity. We would not consider any of these types of territories for return.  
We would consider a couple of territories and can talk with you about those.

That should answer all the points you made so please let us know when we should be looking for an initial licensing agreement to review.

Thanks,  
Darrell

Sent from Darrell's iPhone

On Jan 24, 2018, at 9:55 AM, Chad Hunter <[chad@funflicksusa.com](mailto:chad@funflicksusa.com)> wrote:

On Jan 21, 2018, at 9:33 PM, Darrell Landers (Ultimate Outdoor Entertainment) <[darrell@funflicks.com](mailto:darrell@funflicks.com)> wrote:

Hi Chad,

Thanks for summarizing for us. We made notes below each of your items in bold text for easy reading.

5 year agreement

Year 1 15k

Year 2 30k

Year 3 50k

Year 4 50k

Year 5 50k

**AGREED - We assume the renewal period and terms after the initial contract will be the same after the initial 5 years but wanted to verify.**

*Yes that is the case!*

8% 6% royalties on sales above 1.5 million in years 1 and 2. Capped at 50k for years 3-5 (except for term below)

**You had indicated 6% on the phone for the overages above \$1.5M (the 8% was for the ancillary programs and national accounts).**

*Yes*

8% royalties on all ancillary programs OR national accounts offered by the national company if you choose to participate.

**AGREED with the notation that our current products/services under Ultimate Outdoor Entertainment would not be subject to this 8%. This would include our Flixr Photo Booths, Premiere Inflatables Party Rentals, A/V Rentals & Consulting, and L&D Designs Event/Wedding Planning**

*I didn't realize you had that many businesses! The answer is yes but i guess we need to define what your a/v/ rental and consulting business entails. The consulting business is ambiguous*

Full transfer of ownership of national company to include websites, urls, logos, artwork, marketing material, etc.

**AGREED, we would provide complete cooperation in the transition of the national brand and all materials we have associated with the brand, however the most current web site isn't covered as part of the purchase you have with Todd. You indicated that Todd could build an equivalent replacement site for around \$3K. If that's the assumed value of the site, we'd rather pay you \$3K extra and let you develop a new site.**

**Since we invested \$50,000+ and more than 500 hours of our own labor time into building the new site and it's custom management capabilities, we would not want to turn it over as part of this agreement.**

*No, the total transfer of ownership including website.*

No sales of screens, seamless inserts, table covers or other items related to the national brand

**Discussion Needed: Many licensees are currently selling screens. How do you plan to stop those sales since the licensing agreements have no restrictions on screen sales? Outside of a franchise agreement**

**If you have an outline of the screen sales program we talked about, we would want to know details in order to close this point. We do not desire to sell any FunFlicks branded items like table covers, etc.**

*I can't elaborate on our plan now. We're still working through the details. I would hope your goal is to not continue to sale screens as a licensee. We didn't!*

Full privileges to IO including your territories and a signed pledge that we are aware the data does not belong to us but to the individual licensees. Furthermore we would never use or exploit their customer data.

**Discussion Needed: Our IO account is 100% separate from the FunFlicks group of accounts, and has been for an extended period of time. As you indicated during our call, licensees are kicking themselves for subscribing to something they don't have 100% control of, and we will not give up control of our IO accounts going forward. I am happy to create an IO login in our account that gives you visibility to our revenue for royalty purposes.**

**What we discussed originally this week was for us to continue to own and manage the IO subscriptions and support. We have a huge monetary and time investment in that contract, much of which was initiated and conducted by our company prior to our purchase of FunFlicks.**

**Proposed Change: Due to the time and effort required to support IO for the licensee network and Laura's desire to recover my time in future support of IO for licensees, we would make a proposed change.**

**In exchange for the overall agreement we are making with you (orderly transfer of national business, new royalty structure, etc.) we would be willing to relinquish our contract with IO in order to allow licensees to own their individual subscriptions. We will need to meet with IO to**

**discuss the transition and verify details with them, but in the end this would be something we convey and communicate to the licensees.**

*This IO issue is a priority and an arrangement with IO needs to happen ASAP !*

Quarterly reports of Google Analytics on all your territories.

**Discussion Needed: Not sure we know what this item is. You would have all of the analytics going forward with your web site.**

**I believe what you're referring to here is that Laura had requested some guarantees that web site SEO performance would not falter going forward and that we would want reporting to validate.**

*The metrics we use would be shared with you quarterly*

I think that's about it. I did forget to ask you if y'all plan on operating on all territories you're currently operating? I heard rumor you were looking to downsize and let a couple of the smaller territories go back to national. Just confirming.

**Not sure where that came from but I can only assume taken out of context in a discussion I had with a licensee. We do not have any intent to reduce territories.**

*It would be nice if you considered giving up some territories that you acquired from licensees forfeiting their territories*

*Like Colorado, North Carolina, etc. Not a deal killer but I would like for you to consider.*

**Added: Inclusion in all marketing, advertising, education, training, communication, etc. made available to any licensee.**

*Of course!*

**Added: Joint communication to address transition and repair of Darrell's reputation after Todd's 180 during settlement talks.**

*Yes*

<LandersD\_TAA2015\_0196.jpg>

**Darrell Landers**

CEO & Vice President

Operations/Technology

Ultimate Outdoor Entertainment & Movies

<clipboard-e8544da4>

darrell@UltimateOutdoorEntertainment | 877-735-4257

[www.UltimateOutdoorEntertainment.com](http://www.UltimateOutdoorEntertainment.com)



<clipboard-f14cdcb9>



On Fri, Jan 19, 2018 at 07:29 pm, <[chad@funflicksusa.com](mailto:chad@funflicksusa.com)> Chad Hunter wrote:

I know why you guys were driving and on we were communicating through speaker phone, so

while I sit here at the chiropractor, I'll recap our terms. Hopefully this is the same you wrote down:)

5 year agreement

Year 1 15k

Year 2 30k

Year 3 50k

Year 4 50k

Year 5 50k

8% royalties on sales above 1.5 million in years 1 and 2. Capped at 50k for years 3-5 (except for term below)

8% royalties on all ancillary programs OR national accounts offered by the national company if you choose to participate.

Full transfer of ownership of national company to include websites, urls, logos, artwork, marketing material, etc.

No sales of screens, seamless inserts, table covers or other items related to the national brand

Full privileges to IO including your territories and a signed pledge that we are aware the data does not belong to us but to the individual licensees. Furthermore we would never use or exploit their customer data.

Quarterly reports of Google Analytics on all your territories.

I think that's about it. I did forget to ask you if y'all plan on operating on all territories you're currently operating? I heard rumor you were looking to downsize and let a couple of the smaller territories go back to national. Just confirming.

Best Regards,

Chad Hunter

[chad@funflicksusa.com](mailto:chad@funflicksusa.com)

b877.263.0480

[www.funflicks.com](http://www.funflicks.com)

**THE LARGEST OUTDOOR MOVIE COMPANY IN THE U.S.**



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Tel: (949) 580-3737  
Fax: (949) 580-3738

Attorneys for Plaintiff PNR MARKETING SOLUTIONS, LLC  
dba FUNFLICKS

**UNITED STATES DISTRICT COURT**

**IN AND FOR THE CENTRAL DISTRICT OF CALIFORNIA**

PNR MARKETING SOLUTIONS, LLC  
dba FUNFLICKS, a California Limited  
Liability Company,

Plaintiff,

vs.

FUN FLICKS OF SOUTHERN  
CALIFORNIA LLC, a California Limited  
Liability Company, FUNFLICKS  
AUDIOVISUALS, a California  
Corporation, CHAD HARRISON, an  
individual, CHARLES HUNTER, an  
individual, MATTHEW DIAS, an  
individual,

Defendants.

No: 8:18-cv-01600

Assigned to:

**COMPLAINT:**

- 1. DEFEND TRADE SECRETS ACT, 18 U.S.C. §1836 et. seq.**
- 2. CALIFORNIA UNIFORM TRADE SECRETS ACT Cal. Civ. Code §3246, et seq.**
- 3. COMPUTER FRAUD AND ABUSE ACT 18 U.S.C. §1030, se. seq.**
- 4. BREACH OF CONTRACT**
- 5. VIOLATION OF CAL. BUS & PROF. CODE §20030 et. seq.**
- 6. VIOLATION OF CAL. BUS & PROF. CODE §20035 et. seq.**
- 7. UNFAIR COMPETITION CAL. BUS. & PROF. CODE §17200 et. seq.**
- 8. UNFAIR COMPETITION-COMMON LAW**
- 9. DEFAMATION**

DEMAND FOR JURY TRIAL

1 Plaintiff PNR MARKETING SOLUTIONS, LLC dba FUNFLICKS, a California  
2 Limited Liability Company, hereby complains and alleges the following against  
3 Defendants FUN FLICKS OF SOUTHERN CALIFORNIA LLC, FUNFLICKS  
4 AUDIOVISUALS, CHAD HARRISON, CHARLES HUNTER, and MATTHEW DIAS:

5 **NATURE OF THE CASE**

6 1. Plaintiff was in the business of providing full service indoor and outdoor  
7 movie products to the public. This included providing large screens for movies,  
8 projection services, sound systems, etc. under the Funflicks® brand Defendants, who  
9 were franchisors and franchisees under the Funflicks brand, conspired to misappropriate  
10 Plaintiff's proprietary trade secret information, particularly customer information,  
11 upcoming scheduled events and other information and used the confidential information  
12 to disrupt Plaintiff's relationships with customers. In addition to soliciting Plaintiff's  
13 clients using the stolen information, Defendants also took over the email accounts of  
14 Plaintiff and represented to customers that they were the Plaintiff in email  
15 communications and on the phone and therefore diverted customers and events away  
16 from Plaintiff.

17 2. This action is based upon (1) the Defend Trade Secrets Act, 18 U.S.C. §  
18 1836, et. seq.; (2) California's Uniform Trade Secrets Act (Cal. Civ. Code §3246, et.  
19 seq. and (3) Computer Fraud and Abuse Act 18 U.S.C. §1030. Plaintiff seeks remedies  
20 against Defendants including injunctive relief and monetary relief, lost profits, an  
21 accounting, and other appropriate relief to stop Defendants' use, disclosure, and  
22 misappropriation of PNR's confidential and trade secret documents and information.

23 **PARTIES**

24 3. Plaintiff PNR MARKETING SOLUTIONS, LLC d/b/a Funflicks ("PNR")  
25 is a California Limited Liability Company having a principal place of business in  
26 Orange County, California. PNR is and at all times material herein was owned and  
27 controlled by STEVEN NERO ("NERO").

28 4. Defendant FUNFLICKS AUDIOVISUALS is a California Corporation

1 with its principal place of business in Bakersfield, California.

2 5. Defendant FUN FLICKS OF SOUTHERN CALIFORNIA LLC is a  
3 California Limited Liability Company with its principal place of business in Newbury  
4 Park, California.

5 6. On information and belief, CHAD HARRISON (“HARRISON”) is an  
6 individual who, at all relevant times herein, resided in Camarillo, California. Chad  
7 Harrison is being sued individually and in his corporate capacity as the managing partner  
8 of FUN FLICKS OF SOUTHERN CALIFORNIA LLC.

9 7. On information and belief CHARLES HUNTER (“HUNTER”) is an  
10 individual who, at all relevant times herein, resided in Bakersfield, California. Mr.  
11 Hunter is being sued individually and in his corporate capacity as an agent of  
12 FUNFLICKS AUDIOVISUALS.

13 8. On information and belief, Defendant MATTHEW DIAS (“DIAS”) is an  
14 individual who, at all relevant times herein, resided in Visalia, California. Mr. Dias is  
15 being sued individually and in his corporate capacity as an agent of FUNFLICKS  
16 AUDIOVISUALS.

17 9. On information and belief, at all times relevant herein HUNTER and DIAS  
18 were majority shareholders and officers and directors of FUNFLICKS  
19 AUDIOVISUALS.

20 10. On information and belief, the actions and omissions alleged herein to have  
21 been undertaken by the Defendants were undertaken by each Defendant individually,  
22 were actions and omissions that each Defendant authorized, controlled, directed, or had  
23 the ability to authorize, control or direct, and/or were actions and omissions each  
24 Defendant assisted, participated in, or otherwise encouraged, and are actions for which  
25 each Defendant is liable. Each Defendant aided and abetted the actions of the other  
26 Defendants in that each Defendant had partial or full knowledge of those actions and  
27 omissions, provided assistance and benefitted from those actions and omissions, in  
28 whole in or part. Each Defendant conspired with, assisted, participated in, or otherwise

1 encouraged the actions for which each Defendant is liable. Each of the Defendants was  
2 the agent of each of the remaining Defendants, and in doing the things hereinafter  
3 alleged, was acting within the course and scope of such agency and with the permission  
4 and consent of other Defendants.

### 5 **JURISDICTION**

6 This Court has federal question jurisdiction over this action pursuant to the  
7 Defend Trade Secrets Act, 18 U.S.C. §1836(c) and 28 U.S.C. §1331 and Computer  
8 Fraud and Abuse Act (18 U.S.C. §1030).

9 11. The Court also has supplemental or pendant jurisdiction over Plaintiff's  
10 remaining claims pursuant to 28 U.S.C. §1367 because such claims are so related to the  
11 federal claims that they form part of the same case or controversy.

12 12. This Court has personal jurisdiction over the Defendants because they are  
13 located in California; Defendants transact business in California and Defendants have  
14 committed and threatened to commit tortious acts in this district.

### 15 **VENUE**

16 13. Venue is proper in this district under 28 U.S.C. §1391(b) as it is brought in  
17 a district in which one or more of the Defendants reside and all Defendants are residents  
18 of California. Furthermore, a substantial part of the events or omissions giving rise to  
19 the claims pled herein occurred in the Central District of California.

### 20 **INTRADISTRICT ASSIGNMENT**

21 14. Assignment to the Central District of this Court is appropriate because two  
22 Defendants reside in this district and events occurred in this county which are the basis  
23 for Plaintiff's claims.

### 24 **FACTUAL ALLEGATIONS.**

#### 25 **A. Funflicks Background**

26 15. Since at least 2010 third party FUNFLICKS LLC, a Maryland LLC, offered  
27 franchises which they called "Trademark License Agreements" to California residents.  
28 The "licenses" offered and sold by Funflicks were for the right to engage in the business



1 of marketing, selling and distributing Funflicks goods and services pursuant to a  
2 marketing plan and system prescribed by Funflicks (including a nation-wide distribution  
3 grid, national promotional programming and advertising identifying the locations of  
4 franchisees, purported secret and proven strategies and systems, the nature and quality of  
5 the goods, services and advertising provided by the “licensee” needing to conform to the  
6 standards set by the “licensor”, education manuals, training seminars, sales presentations  
7 and materials, equipment).

8 16. The franchises were associated with the trademark “FunFlicks.” In addition,  
9 the named “licensee” was required to pay Fun Flicks an initial franchise fee and royalty  
10 fees thereafter, as well as a percentage of monthly gross sales, for the right to enter into  
11 the business.

12 17. In September of 2014, the so called “licenses” offered and sold by Funflicks in  
13 California were declared “franchises” within the meaning of California Corporation  
14 Code Section 31005 by the State of California Business, Transportation and Housing  
15 Agency Department of Corporations (“California State”), whereby consequentially  
16 Funflicks and California State entered into a settlement agreement (Settlement  
17 Agreement”). Pursuant to the Settlement Agreement, Funflicks agreed to refrain from  
18 further offer or sale of Funflicks’ franchises and reimburse California residents the  
19 amount of initial and yearly fees and royalties paid by each California franchisee.  
20 **(Exhibit “A”).**

21 **B. PNR Background**

22 18. On January 1, 2012, prior to the Settlement Agreement, PNR entered into a  
23 franchise agreement with third party FUNFLICKS LLC, a Maryland LLC “operated by  
24 third party TODD SEVERN (“SEVERN”)” to service the Orange County, San Diego  
25 and Riverside Counties (“PNR’s Territories”). A true and correct copy of the Franchise  
26 Agreement is attached hereto as **(Exhibit “B”)**. In October of 2013, “NERO” went to  
27 the NRPA (National Recs and Parks Association) Tradeshow and met third parties  
28 DARRELL LANDERS (“LANDERS”) and LAURA MAURO (“MAURO”).

1 LANDERS was the owner of third party FUNFLICKS LLC, a Texas LLC. On  
2 information and belief, MAURA Mauro managed 16 FunFlicks Territories. LANDERS  
3 and MAURO had a booth representing Funflicks at the NRPA tradeshow and NERO  
4 began a conversation with LANDERS and MAURO at which time NERO expressed  
5 interest in the franchise. LANDERS and MAURO suggested that NERO meet with  
6 Rebecca Sheppard, the previous owner of PNR, who had the franchise rights for  
7 FunFlicks in Orange County, San Diego County and Riverside County California.  
8 NERO met with Sheppard through the end of 2013 and the beginning of 2014. In April  
9 of 2014 NERO acquired 20% ownership of PNR with an option to buy the rest. Nero  
10 acquired 51% ownership in PNR Marketing in July of 2015 and finally acquired 100%  
11 of PNR in December of 2015.

12 19. Since its inception, PNR was successful in completing hundreds of  
13 transactions. PNR's primary focus was organizing and managing high quality indoor  
14 and outdoor cinema social events. At the time of the misappropriation herein PNR was  
15 earning hundreds of thousands of dollars per year.

16 20. Since its inception, PNR paid Funflicks franchise fees and royalties on a  
17 quarterly basis, which established a business pattern between the two entities.

18 **C. PNR's Database**

19 21. At the time of the misappropriation herein, PNR developed and owned a  
20 large Database of information which was maintained in a secure and password protected  
21 CRM Database, called "Inflatable Office". In addition to being password protected,  
22 PNR only allowed unfettered access to the Database to those persons whose job duties  
23 required use of particular portions of the Database.

24 22. The Database contained the names, addresses, telephone numbers and other  
25 personal information of business contacts for the company all coded by contact category  
26 ("Database"). Specifically, the Database contains several thousand individual contacts  
27 coded to include the following primary categories:

- 28 (a) Invoice Numbers (lead ID numbers)

1 (b) Existing Clients (customer first and last names, emails, telephones, city of  
2 customer's location)

3 (c) Prospective Clients

4 (d) Booking dates for inflatable events

5 (e) Actual event dates

6 (f) Total amount of invoices by customer

7 (g) Amounts paid by each customer

8 (h) Employees Personal and Contact Information

9 (i) Referral sources for new clients and

10 (j) Sales and Orders reports

11 23. PNR's Database represented a critical asset to the ongoing business. In  
12 particular, through the use of computer – coded software, the thousands of contacts on  
13 this Database were repeatedly accessed virtually every day to assist in, among other  
14 matters, potential transactions and promoting the company to lucrative referral sources  
15 for new business. The Database has required years of time, expense and effort on the  
16 part of PNR and its original founders to develop. The Database contained a  
17 comprehensive listing of the name, address, telephone numbers, emails and  
18 personal/business-related details of every client, prospective clients and other sources of  
19 business referrals who have ever had any contact with PNR throughout the history of the  
20 company. The vast majority of the contacts in the Database– primarily in the most  
21 important categories of existing and prospective clients and referral sources – were  
22 obtained by PNR's owner Steven Nero.

23 24. This confidential and proprietary information allowed PNR's owner to  
24 focus directly upon the most suitable contacts to assist in all aspects to existing and  
25 future transactions and efficiently and effectively promote PNR's services to the most  
26 receptive group of contacts. PNR's ongoing business since its establishment had been  
27 primarily derived from the Database. PNR regularly conducted targeted emailing to  
28 specific categories of potential clients and referral sources on the Database to directly

1 promote PNR's specialized abilities and achievements over the years. These targeted  
2 marketing activities resulted in millions of dollars of new business throughout the  
3 history of PNR.

4 25. Because of the nature of the Database, it was valuable to any competitor as  
5 anyone with access to the Database could immediately focus marketing efforts on past  
6 and potential clients and see any events that were booked, both past and present.

7 **D. PNR's Inside Sales Person Ideal Gandarilla**

8 26. IDEAL GANDARILLA ("GANDARILLA") was hired by PNR in June of  
9 2014, as PNR's Inside Sales Person. Over the next four (4) years GANDARILLA was  
10 employed at PNR, where she worked exclusively in assisting the Managing Members on  
11 all of the sale and customer relations transactions at PNR, and in doing so, had direct  
12 access to the confidential and proprietary information of PNR's clients including the  
13 PNR's Database. Thus, by virtue of her employment position at PNR, GANDARILLA  
14 acquired specialized, confidential, proprietary, and trade secret information of PNR,  
15 including proprietary information concerning PNR's past, current and prospective  
16 customers.

17 **E. Conspiracy to Take Over PNR Territories**

18 27. PNR is informed and believes and thereon alleges that no later than  
19 November, 2017, Defendants conspired to take over PNR's Territories, to force PNR out  
20 of business in violation of Trademark License Agreement, California Cal. Bus. & Prof.  
21 Code §§20030 and §20035(a) and steal PNR's confidential information, including but  
22 not limited to PNR's customers and employees.

23 28. On or about November 14, 2017, NERO received notice from Jiranek P.A.,  
24 a lawfirm representing FUNFLICKS LLC, a Maryland LLC and TODD SEVERN, that  
25 FUNFLICKS LLC was perfecting a security interest in the Trademark License  
26 Agreement between PNR and FUNFLICKS LLC, a Texas LLC. NERO contacted  
27 landers and was advised at that time, however, that no reassignment had actually  
28 occurred.

1           29. In January, 2018, Defendant CHAD HARRISON (“HARRISON”)  
2 contacted PNR’s employee GANDARILLA via telephone. HARRISON advised  
3 GANDARILLA that Defendant CHARLES HUNTER (an owner and officer of  
4 Defendant FUNFLICKS AUDIOVISUALS) wanted to talk to her and that they wanted  
5 to remove STEVE NERO, the owner of PNR, and PNR as franchisee of the Funflicks  
6 brand. CHAD HARRISON advised GANDARILLA that PNR owed royalties to the  
7 franchisor, FUNFLICKS LLC and that even if PNR paid the owed royalties it would be  
8 “too late”.

9           30. In January, 2018, Defendant CHARLES HUNTER (“HUNTER”) contacted  
10 GANDARILLA and told her not to discuss any of his conversations with her employer,  
11 PNR. He asked GANDARILLA what her job duties were at PNR. She advised him that  
12 she handled customer service, sales, payroll and handled the hosts, paid bills, and  
13 hired/fired employees. HUNTER advised GANDARILLA that she was “handling too  
14 much for PNR” and that if she left PNR and came to work for his competing company,  
15 that she would only have to handle customer service and inside sales. HUNTER advised  
16 GANDARILLA that STEVE NERO was going to lose the PNR business and that he  
17 didn’t want to work with NERO. HUNTER advised GANDARILLA that he was going  
18 to “take the business” from PNR and that the only people who would suffer when the  
19 business was taken were the customers of PNR. He also said that STEVEN NERO  
20 was not going to be able to operate an outdoor movie company and that if PNR tried, it  
21 would be running an “illegal business”. He advised GANDARILLA that that he needed  
22 GANDARILLA to give him PNR’s customer list so that he could “help the customers”  
23 so they would not lose their booked business. He asked GANDARILLA for the login  
24 and password for the Inflatable Office Database account of PNR and stated it would take  
25 too long to get the customer information through the legal system because it would take  
26 “months”. He further stated customers would suffer because they would lose their  
27 deposits from events they booked and no refunds would be given to customers. He  
28 implied that GANDARILLA would not have a job as PNR would not be able to operate.

1           31. In furtherance of their conspiracy, in early February, 2018, HUNTER  
2 contacted GANDARILLA again and told her that “PNR is going under”, that he and his  
3 partner DIAS (from FUNFLICKS AUDIOVISUALS) were closely working with TODD  
4 SEVERN (the principal of FUNFLICKS LLC (who entered into the franchise contract  
5 with PNR) and one of the PNR’s former owners, third party REBECCA SHEPPARD,  
6 implementing a plan of transfer of PNR’s customers and employees to a new entity.  
7 HUNTER then told GANDARILLA that he was going to hire her and other PNR’s  
8 employees and that she would be able to continue working with her current PNR’s  
9 customers. HUNTER stated that he may need GANDARILLA to send him a list of  
10 PNR’s customers and current orders. The same day GANDARILLA sent HUNTER her  
11 resume via email and asked him what her pay and commission structure would be. She  
12 also asked HUNTER if she could keep all customers under her.

13           32. HUNTER responded the same day, advising GANDARILLA that her and  
14 “Matthew” (on information and belief believed to be Defendant MATTHEW DIAS)  
15 would discuss her pay structure and job description. He also asked when she would be  
16 available to start working.

17           33. On or about February 21, 2018, NERO received information of a  
18 contemplated FUNFLICKS ownership transfer to Defendant FUNFLICKS  
19 AUDIOVISUALS (HUNTER and DIAS’ company) and that PNR would be potentially  
20 excluded from the sale. Such exclusion would eliminate PNR as one of FUNFLICKS’s  
21 franchisees, allowing Defendant FUNFLICKS AUDIOVISUALS to take over PNR’s  
22 Territories.

23           34. In mid-March, 2018, PNR received a second notice from a law firm,  
24 Jiranek, P.A in Towson, Maryland (who indicated that it represented FUNFLICKS LLC  
25 and TODD SEVERN (“SEVERN”) that FUNFLICKS LLC and SEVERN had assigned  
26 and transferred the franchise agreement with PNR to FUNFLICKS AUDIOVISUALS  
27 and that HUNTER and DIAS were the officers and directors of FUNFLICKS  
28 AUDIOVISUALS.



1 35. After multiple conversations going back and forth in between NERO and  
2 SEVERN, on or about March 27, 2018, SEVERN and HUNTER advised NERO that a  
3 franchise transfer was completed. NERO asked about a reported attempt to exclude the  
4 PNR territories in the franchise transfer and SEVERN confirmed that he tried to exclude  
5 PNR territories. SEVERN AND HUNTER further told NERO that they did not like him  
6 because of comments Rebecca Sheppard said about NERO, even though NERO had  
7 never previously met SEVERN or HUNTER. HUNTER and SEVERN then informed  
8 NERO that in order to keep his franchise, he had to remit \$3,191.41 to FUNFLICKS  
9 LLC, which constituted payments owed by PNR to FUNFLICKS LLC prior to  
10 December 31, 2018. SEVERN further advised NERO that any payments due after  
11 January 1, 2018 should be paid to FUNFLICKS AUDIOVISUALS. NERO requested  
12 that SEVERN serve a formal notice in writing proving a transfer had, in fact, occurred.

13 36. This conversation was memorialized in an email, the relevant portion of  
14 which was as follows:

15 **From:** Steve Nero <[stevennero@yahoo.com](mailto:stevennero@yahoo.com)>

16 **Date:** February 27, 2018 at 4:55:17 PM PST

17 **To:** [matthew@funflicksusa.com](mailto:matthew@funflicksusa.com), [toddsevern@comcast.net](mailto:toddsevern@comcast.net),  
18 [chad@funflicksusa.com](mailto:chad@funflicksusa.com), [Frn2501@yahoo.com](mailto:Frn2501@yahoo.com)

19 **Subject:** Follow up

20 Hi guys,

21 Here is what we agreed to today.

22 1) we will calculate royalties for oct nov

23 December and send them to Todd

24 2) we will send January and February to chad

25 3) Todd and Chad will amend the agreement to include my territories in the  
26 Funflicks agreement

27 Also Mathew, I haven't been getting emails on my [snero@funflicks.com](mailto:snero@funflicks.com) email  
28 since November 14th. That is why you have been unable to communicate with me.

1 How can I get this fixed. Please use this email instead.

2 Steve

3 Sent from my iPhone

4 37. On or about March 1, 2018 NERO contacted HUNTER and informed him  
5 that PNR's @funflicks.com emails were still disabled and he called HUNTER, who  
6 indicated that "we are working on it" and stated he would forward the message to his  
7 partner DIAS.

8 38. In mid-March, 2018, PNR received a second notice from a law firm,  
9 Jiranek, P.A in Towson, Maryland (who indicated that it represented FUNFLICKS LLC  
10 and SEVERN) that FUNFLICKS LLC and SEVERN had assigned and transferred the  
11 franchise agreement with PNR to FUNFLICKS AUDIOVISUALS and that HUNTER  
12 and DIAS were the officers and directors of FUNFLICKS AUDIOVISUALS. PNR then  
13 promptly remitted \$3,191.40 to FUNFLICKS LLC per their agreement. NERO then  
14 instructed GANDARILLA to contact FUNFLICKS AUDIOVISUALS for their  
15 outstanding invoice.

16 39. Between February, 2018 and April, 2018 HUNTER had multiple  
17 conversations and communications with GANDARILLA trying to convince her to give  
18 up PNR's confidential customer and employee list, as well as information regarding  
19 PNR's open upcoming orders.

20 40. In April, 2018, at HUNTER's request, GANDARILLA emailed him an  
21 excel spreadsheet which contained customer information from the Inflatable office  
22 Database including 2015, 2016, 2017 and 2018 customer data. GANDARILLA had  
23 previously, against company policy, emailed said information from the PNR office to  
24 her home Yahoo email.

25 41. On or about the first week of April, 2018, HARRISON came to the home of  
26 GANDARILLA in Los Angeles County. He represented that he was there to obtain  
27 information from the Inflatable Office Database of PNR and that he was picking up the  
28 information for HUNTER as HARRISON lived closer to GANDARILLA than



1 HUNTER, who resided in Bakersfield. At that time HUNTER requested that  
2 GANDARILLA log into her personal Yahoo email address and secure information from  
3 the PNR Inflatable Office Database. HUNTER then plugged in a drive into  
4 GANDARILLA's home computer and copied 2014 through 2018 contents from the  
5 Inflatable Office Database, including the information discussed above (client contact  
6 information, upcoming events, emails, telephone numbers, etc.) He advised  
7 GANDARILLA that he was delivering the data to HUNTER.

8 42. On or about April 19, 2018, upon HUNTER's request GANDARILLA  
9 emailed HUNTER PNR's most current lead report from the Inflatable Office Database  
10 showing all of the upcoming PNR's event orders from her personal email. This included  
11 the following information on approximately 183 different clients including the following  
12 data:

- 13 a. Client contact names, cell phones, office phones and emails
- 14 b. Lead City
- 15 c. Lead Date
- 16 d. Lead Booking Date
- 17 e. Date the Lead Contract was sent
- 18 f. Lead Totals
- 19 g. Lead Amounts Paid
- 20 h. Status of the lead
- 21 i. Balance due

22 43. Later, the same day, GANDARILLA also provided HUNTER with a pay  
23 request. HUNTER then wrote back to GANDARILLA advising her as follows:  
24 "Legally (since there could be litigation in the future, it would be best to make you an  
25 independent contractor 1099 employee.) would that be a problem?"

26 44. HUNTER advised GANDARILLA that she should not worry about whether  
27 any PNR customers who had refunds coming to them (as a result of having events  
28 cancelled by the ownership change) would lose their funds as he would take care of

1 paying any refunds due to the PNR customers.

2 45. On or about April 24, 2018, at HUNTER'S request, GANDARILLA  
3 emailed to him an Excel spreadsheet which contained the names, cell phone numbers,  
4 emails and cities of the hosts of PNR. Hosts are employees of PNR that run the move  
5 events for PNR and set up screens, video, audio, etc. for PNR movie events, tear down  
6 equipment and return equipment to storage. HUNTER had indicated he needed the  
7 information so that he could hire the hosts from PNR for his competing company as the  
8 hosts were familiar with how to operate PNR move events.

9 46. NERO received a letter to PNR's headquarters sent via U.S. Mail from  
10 Hodges Law Group ("Hodges") in Bakersfield postmarked April 23, 2018, stating that  
11 PNR was given Notice on April 5, 2018 that they were in breach of the Trademark  
12 License Agreement based on lack of payment of the franchise fee and that they only had  
13 10 days to cure the breach. Cure of the breach would have had to be performed by April  
14 15, 2018, long before the April 23, 2018 letter was received. PNR was not aware of any  
15 such Notice and had never received any April 5, 2018 10-day default notice. The April  
16 23, 2018 Hodges letter indicated that FUNFLICKS AUDIOVISUALS had terminated  
17 the Trademark License Agreement. It enclosed a proposed Termination Agreement.  
18 Hodges advised if the Termination Agreement was not signed (which released  
19 FUNFLICKS AUDIOVISUALS from all claims of any kind) that FUNFLICKS  
20 AUDIOVISUALS would send notice of termination.

21 47. Upon receipt of the Termination Letter NERO (STEVEN) and Frank Nero  
22 immediately contacted HUNTER and HUNTER assured NERO that they would  
23 reinstate PNR. NERO proposed to drive the payment to HUNTER and DIAS  
24 immediately, however HUNTER declined acceptance of the payment, stating he had to  
25 talk to his attorney.

26 48. To his surprise, on or about May 1, 2018 NERO received another letter sent  
27 via U.S. Mail to PNR's headquarters from Hodges informing PNR that it's Trademark  
28 License Agreement with FUNFLICKS would be terminated on May 5, 2018.

1        49. In May 2018 GANDARILLA became aware of Defendant's  
2 misrepresentations and true intentions and informed the Defendants that she would not  
3 provide any further information regarding PNR. HUNTER then threatened  
4 GANDARILLA and told her that she had already committed acts of "corporate  
5 espionage" and that if she ever told NERO what HUNTER had done, she would go to  
6 jail.

7        50. Defendants realized that they could no longer use GANDARILLA to get  
8 information and disabled PNR's access to emails, which allowed them to begin to  
9 intercept GANDARILLA's and NERO's incoming email messages to PNR.

10        51. Defendants began responding to PNR's customer's inquiries using  
11 GANDARILLA's email (which they had intercepted) and purporting to be  
12 GANDARILLA when PNR customers contacted PNR re: current and upcoming events.  
13 Defendants HUNTER, DIAS and FUNFLICKS AUDIOVISUALS were able to redirect  
14 GANDARILLA's @funflicks.com e-mail to themselves.

15        52. On information and belief, Defendants HUNTER and DIAS were able to  
16 log into the PNR Database and misappropriate PNR's client and worker data. In May,  
17 2018, HUNTER and DIAS logged into PNR's Database and downloaded data with  
18 PNR's current and potential client information and PNR's employee information using  
19 GANDARILLA's stolen identification.

20        **F. The Unauthorized Use of PNR's Database and Improper Solicitations by**  
21 **Defendants**

22        53. Subsequent to Defendant's illegal termination of PNR's franchise scheme,  
23 PNR also became aware of the active use of the Database to solicit business from current  
24 active clients on pending deals handled by PNR.

25        54. On or about May 5, 2018, Defendants published new phone numbers on  
26 FUNFLICKS' website thereby preventing PNR from receiving any further business  
27 from its franchise agreement.

28        55. On or about May 5, 2018, Defendants also started contacting PNR's

1 customers via email using the information stolen from PNR's Database, announcing  
2 themselves as the new owners.

3 56. In late April or early May, in an attempt to contact the PNR hosts who were  
4 previously working for PNR, PNR contacted Ralis Daum, Sean Bodnar, and Dejuan  
5 Pullen. All advised GANDARILLA that they were now working for Defendants and  
6 that they could no longer speak with PNR as they signed non-compete agreements with  
7 the Defendants.

8 57. PNR was also advised by clients that both emails and voicemails left for  
9 GANDARILLA were being intercepted and responded to by Defendants.

10 **a. Defendants' False Statements Concerning PNR**

11 58. Beginning in May, 2018, HUNTER sent emails to customers using the data  
12 in PNR's Inflatable Office Database advising customers that their Funflicks vendor was  
13 "under new ownership" as of May 7, 2018. The tagline was "New Ownership, New  
14 Logo, New Commitment". The email requested that clients use the new telephone  
15 number 877-263-0480, go to a new website, [www.funflicks.com](http://www.funflicks.com) and send emails to a  
16 new email address, [outdoorcinema@funflicks.com](mailto:outdoorcinema@funflicks.com).

17 59. Defendants also contacted PNR's customers on the Inflatable Office  
18 Database who had previously booked or were booking business with PNR and advised  
19 clients that PNR was no longer in business and they were taking over. They further  
20 advised clients that if PNR conducted business it would be "illegal". Customers who  
21 were advised of these facts were customers in the counties where the franchise  
22 agreement was in place, including Orange County, San Diego, and Riverside counties.

23 60. On or about May 19, 2018, HARRISON sent a text to GANDARILLA  
24 regarding PNR advising her: "...[D]on't do their payroll, answer their calls, texts, talk  
25 to their old or new employees, etc. For your own good cut all ties and get your number  
26 off the forwarding of their calls..." He further advised GANDARILLA on the same day  
27 to "block their number" or "just hang up" on PNR.

28 61. On May 21, 2018, HARRISON sent another text to GANDARILLA with

1 the following content: “Can I have your word on here that you have blocked them and  
2 are 100% done with Frank [Nero], Steve [Nero] and Darrell. And I can let Chad  
3 [Hunter] and Matt [Dias] know you’re not a concern of ours anymore on this front?  
4 Just need you to confirm so I can have them keep you out of everything...”

5 62. On or about the same date HARRISON sent another text advising  
6 GANDARILLA of the following: “Perfect, just don’t do anything else for them.  
7 Because everything circles back to Matt and Chad’s laps and your name pops up again.  
8 So we’ve just removed you from the equation...”

9 63. HARRISON also forwarded texts from HUNTER and DIAS to  
10 GANDARILLA in which they were complaining that her signature was on emails and  
11 that GANDARILLA was discussing matters with customers.

12 64. The above-referenced contacts with PNR’s current and prospective clients  
13 as well as the copying and printing of the PNR’S Database indicates that the Defendants  
14 have possession of PNR’s trade secrets and confidential information and have used it  
15 and will continue to use it for their benefit and to the detriment of PNR. The ongoing  
16 solicitations of PNR’s current and prospective clients as well as unauthorized copying  
17 and printing of the Database warrants the relief requested below. Without limitation,  
18 unless avoided through injunctive relief, the business of PNR--tied directly to its highly  
19 confidential customer Database--will be irreparably harmed by virtue of the Defendants’  
20 unjust and illegal activities.

21 **CLAIMS FOR RELIEF**

22 **FIRST CLAIM FOR RELIEF**

23 **Trade Secret Misappropriation Under the Defend Trade Secrets Act**

24 **(18 U.S.C. §1836 et. seq.)**

25 **Against All Defendants**

26 65. PNR re-alleges and incorporates by reference each and every allegation of  
27 the preceding paragraphs 1 through 65 as through fully set forth herein.

28 66. PNR owned and was in possession of trade secrets and other confidential

1 information, which consisted of specialized and highly confidential lists of existing and  
2 prospective PNR's customers. This included the Inflatable Office Database which  
3 contained the following data: Invoice Numbers (lead ID numbers), Existing Clients  
4 (customer first and last names, emails, telephones, city of customer's location),  
5 Prospective Clients, Booking dates for inflatable events, Actual event dates, Total  
6 amount of invoices by customer, Amounts paid by each customer, Employees Personal  
7 and Contact Information, Referral sources for new clients and Sales and Order reports.  
8 Said information was valuable to competitors as any competitor could easily segregate  
9 both current and future clients for business, undercut prices of Plaintiff and take over  
10 any existing business.

11 67. PNR undertook reasonable efforts to ensure that the trade secrets and  
12 confidential information remained secret including, without limitation: (1) requiring  
13 passwords for access to PNR's computers; (2) completely isolating the PNR's computer  
14 network from all outside access; (3) limiting physical access to the PNR's premises  
15 during business hours and (4) only allowing full access to those employees of PNR who  
16 required access to perform their jobs.

17 68. PNR is informed and believes and thereupon alleges that the Defendants  
18 and each of them, appropriated and are threatening to further appropriate and abuse the  
19 above-described trade secrets and proprietary and confidential information in order to  
20 establish an enterprise offering identical services to those of PNR and to solicit PNR's  
21 existing and prospective customers based upon this misappropriated trade secret  
22 information.

23 69. Defendants have failed to return the confidential information and have  
24 attempted to conceal their theft of such information. On information and belief, if  
25 Defendants are not enjoined, they will continue to misappropriate, disclose, and use for  
26 their benefit and to plaintiff's detriment the confidential information.

27 70. Because plaintiff's remedy at law is inadequate, Plaintiff seeks—in addition  
28 to damages—a temporary, preliminary, and permanent injunction to protect its

1 confidential and trade secret documents and information as well as its legitimate  
2 business interests. Plaintiff will continue to suffer irreparable harm absent injunctive  
3 relief.

4 71. Plaintiff has a substantial likelihood of success on the merits because of  
5 Defendants' blatant, willful, and malicious misappropriation of trade secrets through the  
6 unlawful methods alleged herein.

7 72. Defendants' misappropriation of PNR's confidential information and trade  
8 secrets has caused and will continue to cause substantial injury, including but not limited  
9 to actual damages, lost profits, harm to its reputation, and the diminution in value of its  
10 trade secrets. Defendants have been unjustly enriched by their misappropriation of  
11 PNR's confidential information and trade secrets.

12 73. Defendants' misappropriation of the confidential information was  
13 intentional, knowing, willful, malicious, fraudulent, and oppressive. PNR is entitled to  
14 an award of exemplary damages and reasonable attorneys' fees.

15 **SECOND CLAIM FOR RELIEF**

16 **Misappropriation of Trade Secrets –**  
17 **California Civil Code §3426 et seq.)**

18 **Against all Defendants**

19 74. PNR re-alleges and incorporates by reference each and every allegation of  
20 the preceding paragraphs 1 through 74 as through fully set forth herein.

21 75. PNR owned and was in possession of trade secrets and other confidential  
22 information, which consisted of specialized and highly confidential lists of existing and  
23 prospective PNR's customers. This included the Inflatable Office Database which  
24 contained the following data: Invoice Numbers (lead ID numbers), Existing Clients  
25 (customer first and last names, emails, telephones, city of customer's location),  
26 Prospective Clients, Booking dates for inflatable events, Actual event dates, Total  
27 amount of invoices by customer, Amounts paid by each customer, Employees Personal  
28 and Contact Information, Referral sources for new clients and Sales and Order reports.



1 Said information was valuable to competitors as any competitor could easily segregate  
2 both current and future clients for business, undercut prices of plaintiff and take over any  
3 existing business.

4 76. PNR undertook reasonable efforts to ensure that the trade secrets and  
5 confidential information remained secret including, without limitation: (1) requiring  
6 passwords for access to PNR's computers; (2) completely isolating the PNR's computer  
7 network from all outside access; (3) limiting physical access to the PNR's premises  
8 during business hours and (4) only allowing full access to those employees of PNR who  
9 required access to perform their jobs.

10 77. PNR is informed and believes and thereupon alleges that the Defendants  
11 and each of them, appropriated and are threatening to further appropriate and abuse the  
12 above-described trade secrets and proprietary and confidential information in order to  
13 establish an enterprise offering identical services to those of PNR and to solicit PNR'S  
14 existing and prospective customers based upon this misappropriated trade secret  
15 information.

16 78. Defendants have failed to return the confidential information and have  
17 attempted to conceal their theft of such information. On information and belief, if  
18 Defendants are not enjoined, they will continue to misappropriate, disclose, and use for  
19 their benefit and to Plaintiff's detriment the confidential information.

20 79. Because Plaintiff's remedy at law is inadequate, Plaintiff seeks – in addition  
21 to damages – a temporary, preliminary, and permanent injunction to protects its  
22 confidential and trade secret documents and information as well as its legitimate  
23 business interests. Plaintiff will continue to suffer irreparable harm absent injunctive  
24 relief.

25 80. Plaintiff has a substantial likelihood of success on the merits because of  
26 Defendants' blatant, willful, and malicious misappropriation of trade secrets through the  
27 unlawful methods alleged herein.

28 81. Defendants' misappropriation of PNR's confidential information and trade



1 secrets has cause and will continue to cause substantial injury, including but not limited  
2 to actual damages, lost profits, harm to its reputation, and the diminution in value of its  
3 trade secrets. Defendants have been unjustly enriched by their misappropriation of  
4 PNR's confidential information and trade secrets.

5 82. Defendants' misappropriation of the confidential information was  
6 intentional, knowing, willful, malicious, fraudulent, and oppressive all within the  
7 meaning of California Civil Code, Section 3294. Defendants misappropriated PNR's  
8 confidential and trade secret information intentionally and knowingly and with a  
9 deliberate intent to benefit themselves and injure PNR. PNR is entitled to damages, in  
10 an amount to be determined at trial, as well as injunctive relief, and an award of punitive  
11 damages and/or treble damages and attorney's fees pursuant to California Civil Code,  
12 Section 3426.3(c) and 3426.4.

### 13 **THIRD CLAIM FOR RELIEF**

#### 14 **Computer Fraud and Abuse Act (18 U.S.C. §1030)**

#### 15 **Against all Defendants**

16 83. PNR re-alleges and incorporates by reference each and every allegation of  
17 the preceding paragraphs 1 through 83 as through fully set forth herein.

18 84. The computer on which the Inflatable Office Database and client  
19 information resided was used in interstate and foreign commerce and communication,  
20 and was a protected computer under 18 U.S.C. §1030(e)(2).

21 85. On information and belief, Defendants knowingly and intentionally access  
22 PNR's computers without authorization or in excess of authorization.

23 86. On information and belief, after gaining unauthorized access to Plaintiffs'  
24 email and data, Defendants obtained and accessed valuable information from Plaintiffs'  
25 protected computers. This includes both information from the Database as well as  
26 information sent by PNR clients sent via email. Said emails were directed to PNR but  
27 were intercepted by and responded to by Defendants, who answered on behalf of PNR.

28 87. Defendants knowingly, willfully, and with an intent to defraud accessed

1 PNR's computers without authorization or in excess of authorization and obtained  
2 valuable information from Plaintiff's computers that, on information and belief,  
3 Defendants used to obtain something of value.

4 88. Defendants' conduct has caused a loss to Plaintiff during a one-year period  
5 in excess of \$5,000 and the value of the information accessed far exceeded \$5,000.

6 89. PNR has been damaged by Defendants' actions, including being forced to  
7 expend resources to investigate the unauthorized access and abuse of its computer  
8 network. Plaintiff seeks compensatory and other equitable relief under 18 U.S.C.  
9 §1030(g) in an amount to be proven at trial.

10 90. PNR has suffered irreparable and incalculable harm and injuries resulting  
11 from Defendants' conduct, which harm will continue unless Defendants are enjoined  
12 from further unauthorized use of Plaintiff's protected computers. Plaintiff has no  
13 adequate remedy at law.

#### 14 **FOURTH CLAIM FOR RELIEF**

##### 15 **Breach of Contract**

##### 16 **Against FUNFLICKS AUDIOVISUALS**

17 91. PNR re-alleges and incorporates by reference each and every allegation of  
18 the preceding paragraphs 1 through 91 as through fully set forth herein.

19 92. Upon information and belief, Defendant FUNFLICKS AUDIOVISUALS at  
20 all relevant times was PNR's franchisor under the terms specified by Trademark License  
21 Agreement, California Corporations Code section 31005 and the Settlement Agreement.  
22 While the Trademark License Agreement calls for venue in Maryland Federal Courts  
23 this section is contrary to California Bus. & Prof. Code §20040.5, which prevents parties  
24 from forcing California franchisees to litigate outside the State of California.

25 93. Paragraph 8 of the agreement provides that the Licensors may terminate the  
26 agreement upon failure to receive payment by licensee, but that the Licensee would have  
27 ten days after Licensors' provision of notice to cure such a breach.

28 94. Paragraph 17 of the franchise agreement (as discussed above, the

1 Trademark License Agreement as already been determined by the State of California to  
2 be a franchise agreement) provides as follows: Notices. Any notice required or  
3 permitted herein shall be in writing and shall be given personally, by telecopy, by  
4 prepaid registered or certified mail return receipt requested, or by overnight delivery via  
5 a nationally recognized carrier, addressed to the parties at their respective addresses set  
6 forth above or at such other address as a party may hereafter designate in writing to the  
7 other party. Defendant's alleged April 5, 2018 default notice, indicating PNR had only  
8 10 days to cure the breach, was not sent via any of the means outlined in Paragraph 17  
9 and was never received by PNR. Furthermore, the April 23, 2018 letter from counsel  
10 confirmed that the breach had already occurred and that Defendant sought to terminate  
11 the agreement.

12 95. The Defendant breached the Trademark License agreement by terminating  
13 PNR's license to do business under brand and trademark of Funflicks in violation of  
14 paragraph 8 and 17 of Trademark License Agreement notice requirement,  
15 misappropriating, and thereafter misusing PNR's confidential information, including but  
16 not limited to trade secret information and confidential customer information.

17 96. PNR has performed each of the terms and conditions of its Trademark  
18 License Agreement with Funflicks. Any attempts to pay amounts to FUNFLICKS  
19 AUDIOVISUALS after receiving the April 23, 2018 notice were refused by Defendant.  
20 Therefore, Defendant prevented PNR from performing under the contract.

21 97. As a result of Defendant's conduct as alleged above, PNR has suffered  
22 damages and will continue to suffer damages in an amount subject to proof at trial.

23 **FIFTH CLAIM FOR RELIEF**

24 **Failure to Provide Termination Notice in Violation of Bus. & Prof. Code**  
25 **§20030**

26 **Against Defendant FUNFLICKS AUDIOVISUALS**

27 98. PNR re-alleges and incorporates by reference each and every allegation in  
28 paragraph 1 through 98, as through fully set forth herein.

1 99. By failing to provide Termination notice to Plaintiff, Defendant violated  
2 Bus. & Prof. Code §20030, which requires that “all notices of termination shall be in  
3 writing, posted by registered, certified or other receipted mail, delivered by telegram or  
4 personally delivered to franchise, shall contain a statement of intent to terminate or not  
5 renew the franchise together with the reason therefore, and the effective date of such  
6 termination or nonrenewal or expiration.” The instant franchise agreement, in addition  
7 to the above statute, also had language in Paragraph 17, as discussed above, which  
8 outlined the type of notice to be provided. Defendant did not comply with the notice  
9 requirements.

10 100. As a result of Defendant’s unlawful acts, Plaintiff has been deprived of an  
11 effective notice of the reasons for termination and an opportunity to cure. Plaintiff’s  
12 franchise license was terminated and PNR has been damaged and will continue to be  
13 damaged in an amount subject to proof at trial, including interest thereon, attorneys’ fees  
14 and costs.

### 15 **SIXTH CLAIM FOR RELIEF**

#### 16 **Failure to Renew in Violation of Bus. & Prof. Code 20035**

#### 17 **Against Defendant FUNFLICKS AUDIOVISUALS**

18 101. PNR re-alleges and incorporates by reference each and every allegation of  
19 the preceding paragraphs 1 through 101 as through fully set forth herein.

20 102. By failing to pay PNR the fair market value of the franchised business and  
21 franchise assets and any other damages, Defendant violated Bus. & Prof. Code §20035  
22 which requires that “in the event a franchisor terminates or fails to renew a  
23 franchisee..., the franchisee shall be entitled to receive from the franchisor the fair  
24 market value of the franchised business and franchise assets and any other damages....”

25 103. As a result of Defendant’s unlawful acts, including, but not limited to  
26 failure to provide a fair Notice of Termination, PNR has been damaged and will  
27 continue to be damaged in an amount subject to proof at trial, including interest thereon,  
28 attorney’s fees and costs.

**SEVENTH CLAIM FOR RELIEF**

**Unfair Competition-California Business & Professions Code §§ 17200 et seq. to  
Against All Defendants**

104. PNR re-alleges and incorporates by reference each and every allegation of the preceding paragraphs 1 through 104 as through fully set forth herein.

105. Defendants' aforementioned unlawful conduct, particularly contacting PNR's clients and advising them that PNR was out of business, that they were taking over the business, and intercepting voicemail and emails pretending to be PNR and employees, constituted unfair competition in violation of California Business & professions Code §§ 17200 et seq.

106. Defendants have and continue to actively encourage, direct, finance, authorize and participate in each of the other Defendants' continued attempts to block PNR from doing business including their acts in interfering with PNR's client contacts.

107. Defendants engaged in these acts of unfair competition with the intent, directly and indirectly, to injure PNR's business.

108. PNR has no adequate remedy at law for the injuries currently being suffered in that Defendants will continue to solicit PNR's customers and misuse confidential information. PNR would be required to maintain a multiplicity of judicial proceedings to protect its interests.

**EIGHTH CLAIM FOR RELIEF**

**Unfair Competition-Common Law  
Against All Defendants**

109. PNR re-alleges and incorporates by reference each and every allegation of the preceding paragraphs 1 through 109 as through fully set forth herein.

110. Defendants' aforementioned unlawful conduct, including the misappropriation of PNR's Territories and trade secrets and the solicitation of PNR's customers constitutes unfair competition under California law.

1 111. Defendants have and continue to actively encourage, direct, finance,  
2 authorize and participate in each of the other Defendants' continued use of PNR's  
3 misappropriated confidential, proprietary trade secret information including improper  
4 solicitation and use of confidential customer information.

5 112. Defendants engaged in these acts of unfair competition with the intent,  
6 directly and indirectly, to injure PNR's business.

7 113. As a proximate result of the Defendants' conduct, PNR has suffered actual  
8 damages and will continue to suffer actual damages in an amount that is not presently  
9 ascertainable but will be proven at trial.

10 114. The aforementioned acts of Defendants were and are willful and malicious  
11 and done with the deliberate attempt to grievously injure PNR's business. PNR is  
12 therefore entitled to punitive damages in an amount sufficient to punish Defendants.

13 **NINTH CLAIM FOR RELIEF**

14 **Defamation**

15 **Against All Defendants**

16 115. PNR re-alleges and incorporates by reference each and every allegation of  
17 the preceding paragraphs 1 through 115 as through fully set forth herein.

18 116. Beginning in or about February 2018 and continuing through present,  
19 Defendants intentionally published statements to PNR's various customers about PNR  
20 being an unlawful enterprise and operating without a license. These statements were  
21 false when made.

22 117. The aforesaid statements published by Defendants were not privileged, and  
23 had a natural tendency to injure and/or cause special damages to PNR.

24 118. As a direct and proximate result of the foregoing, PNR suffered general and  
25 special damages to be proved at trial, in excess of the jurisdictional minimum of this  
26 Court.

27 119. On information and belief, Defendants' conduct was undertaken with  
28 oppression, fraud and malice and with intent to injure PNR, who is therefore entitled to

1 an award of punitive damages in an amount to be proved at trial.

2 **PRAYER FOR RELIEF**

3 WHEREBY, PLAINTIFF PRAYS AS FOLLOWS:

4 1. Award of damages as described in each of the above claims, in favor of PNR  
5 and against Defendants in amounts determined at trial;

6 2. For compensatory damages;

7 3. For punitive damages as provided by law;

8 4. For injunctive relief granting a temporary and permanent injunction against  
9 Defendants, enjoining them and any persons/ entities acting in concert with them from  
10 misappropriating or from using PNR's confidential and trade secret documents and  
11 information, including information from Inflatable Office, and directing Defendants to  
12 return all of PNR's property;

13 5. For injunctive relief granting a temporary and permanent injunction against  
14 Defendants enjoining them from intercepting any telephone messages or email intended to  
15 PNR and its employees, past and present that were directed through its website and from  
16 using any information derived through the telephone messages or emails.

17 6. For statutory damages as provided by law;

18 7. For restitution provided as provided by law;

19 8. For attorney's fees and costs and prejudgment and post-judgment interest;

20 9. For such other and further relief as determined appropriate by this Court.

21 **JURY DEMAND**

22 Plaintiff demands a jury trial on all issues so triable.

23 //

24 //

25 //

26 //

27 //

1 Respectfully submitted this, 7<sup>th</sup> day of September 2018

2 **WELLMAN & WARREN LLP**

3  
4 By: /s/Anabella Q. Bonfa

5 Scott W. Wellman

6 Anabella Q. Bonfa

7 Attorneys for PNR MARKETING SOLUTIONS

8 LLC dba FUNFLICKS  
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### NATJAY LLC: W18556837

[General Information](#)[Filing History](#)[Annual Report/Personal Property](#)

## General Information

**Department ID Number:**

W18556837

**Business Name:**

NATJAY LLC

**Principal Office:**7899 WHITES COVE RD  
PASADENA MD 21122**Resident Agent:**REEVE M WALTERS, ESQUIRE  
4800 MONTGOMERY LN  
9TH FLOOR  
BETHESDA MD 20814**Status:**

ACTIVE

**Good Standing:**THIS BUSINESS IS IN GOOD  
STANDING[» Order Certificate of Status](#)**Business Type:**

DOMESTIC LLC

**Business Code:**20 ENTITIES OTHER THAN  
CORPORATIONS

Case 1:18-cv-02315-RDB Document 17-8 Filed 11/02/18 Page 2 of 4

**Date of Formation/ Registration:**

01/30/2018

**State of Formation:**

MD

**Stock Status:**

N/A

**Close Status:**

N/A

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Maryland Department of Assessments &amp; Taxation

410-767-1184 | Outside the Baltimore Metro Area: 888-246-5941

Maryland Relay: 800-735-2258

**FOR TECHNICAL QUESTIONS AND SUPPORT**

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**ARTICLES OF ORGANIZATION**

The undersigned, with the intention of creating a Maryland Limited Liability Company files the following Articles of Organization:

(1) The name of the Limited Liability Company is:

Natjay LLC

---

(2) The purpose for which the Limited Liability Company is filed is as follows:

Outdoor Movies and Entertainment

---

(3) The address of the Limited Liability Company in Maryland is:

7534 Hearthside Way, Unit 258, Elkridge, MD, 21075

---

(4) The Resident Agent of the Limited Liability Company in Maryland is:

Revee M Walters, Esquire

whose address is:

4800 Montgomery Ln, 9th Floor, Bethesda, MD, 20814

---

(5) Signature(s) of Authorized Person(s):

James N. Gaither

---

(6) Signature(s) of Resident Agent(s):

Revee M Walters, Esquire

---

(7) Filing party's name and return address:

James N Gaither, 7899 Whites Cove Rd,  
Pasadena, MD, 21122

---

I hereby consent to my designation in this document.

**RESOLUTION**  
Case 1:18-cv-02315-RDB Document 17-8 Filed 11/02/18 Page 4 of 4  
**TO CHANGE PRINCIPAL OFFICE OR RESIDENT AGENT**

Business Name: NATJAY LLC (W18556837)

State of Formation: MD

**Change Principal Office Address**

From: 7534 HEARTHSIDE WAY  
UNIT 258  
ELKRIDGE, MD 21075

To: 7899 WHITES COVE RD  
PASADENA, MD 21122

**Change Resident Agent Name and Address**

From:

To:

I certify under penalties of perjury the foregoing is true.

Signed: JAMES N. GAITHER, AUTHORIZED PERSON

*Officer/Authorized Person/Partner*

I hereby consent to my designation in this document as  
resident agent for this entity.

Signed:

*Resident Agent*

Signed:

Signed:

*Resident Agent**Resident Agent*

Signed:

Signed:

*Resident Agent**Resident Agent*

February 7, 2018 at 3:31 PM - (iMessage)

Hi James, I wanted to follow up from my email last week about setting up our call. I shot you a reply to your W-9 email and hasn't heard back.

Received - February 7, 2018 at 3:32 PM - (iMessage)

Hey Darrell! Sorry about that. I'm out of town until early next week-do you want to set up a call then? Maybe Tuesday/Wednesday afternoon?

February 7, 2018 at 3:38 PM - (iMessage)

No problem, thanks that works. How about Wed? What time is good for you?

Received - February 7, 2018 at 3:42 PM - (iMessage)

Perfect. I'm good for anytime after 1:00 my time.

---

2/13/18

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February 13, 2018 at 12:25 PM - (iMessage)

I have a 3:00 and a 4:00 tomorrow. How does either 3PM or 6PM your time work for you tomorrow?

---

2/14/18

---

Received - February 14, 2018 at 9:52 AM - (iMessage)

6:00 okay?

Received - February 14, 2018 at 9:52 AM - (iMessage)

Sorry for the late response

February 14, 2018 at 11:25 AM - (iMessage)

Yes that works!

Received - February 14, 2018 at 5:06 PM - (iMessage)

Darrell, can I call you back in 5? On the other line with a client

February 14, 2018 at 5:07 PM - (iMessage)

Yes but I have a call in 10 that I have to jump on and we probably need more than 5 min so can I call you in 20?

Received - February 14, 2018 at 5:07 PM - (iMessage)

Yes, better. I will be here

Received - February 14, 2018 at 5:07 PM - (iMessage)

Thanks!

Received - February 14, 2018 at 5:43 PM - (iMessage)

Hey Darrell I'm still on call here. Can I call you when I finish?

February 14, 2018 at 6:22 PM - (iMessage)

Yes sir.

Received - February 14, 2018 at 7:31 PM - (iMessage)

Darrell-are you going to be around for a little while? I just finished with my call, but I need to take care of a few things and clear my head. I'm sorry, really messy night.



February 14, 2018 at 7:34 PM - (iMessage)

No problem, we can do tomorrow too if needed.

---

2/15/18

February 15, 2018 at 1:43 PM - (iMessage)

Hi James, wanted to check in to see how your afternoon or evening looks for our call?

February 15, 2018 at 6:41 PM - (iMessage)

Hey buddy, you ok? Haven't heard back from you today.

Received - February 15, 2018 at 6:49 PM - (iMessage)

Yes, so sorry Darrell. Work has gotten the best of me-still at the office. Is there any chance we can talk Saturday? I will for sure be free, it's just been a hot mess this week.

Received - February 15, 2018 at 6:50 PM - (iMessage)

I know you're trying to get squared away with a plan, my apologies

February 15, 2018 at 6:57 PM - (iMessage)

Yes Sat works fine but quick question for you- have you been contacted by Todd or anyone else with FunFlicks?

Received - February 15, 2018 at 7:02 PM - (iMessage)

No, just you guys. You and Kenneth really.

Received - February 15, 2018 at 7:03 PM - (iMessage)

Todd Severn? I thought he was done with fun flicks.

February 15, 2018 at 7:09 PM - (iMessage)

Ok thanks. We transferred ownership of the national trademark recently to another FF group and there's been some weirdness going on since then so just curious.

February 15, 2018 at 7:11 PM - (iMessage)

Definitely would like to chat Sat though. I'd like to make this season as efficient as possible for you, add some compensation, review lessons learned from 2017, etc.

---

2/17/18

Received - February 17, 2018 at 4:09 PM - (iMessage)

Hey Darrell, got some time this evening if you are around. Otherwise free all day Sunday

February 17, 2018 at 4:14 PM - (iMessage)

Hello! Yes Sunday is better, we have friends in town this evening. How does Noon your time work tomorrow?

Received - February 17, 2018 at 4:15 PM - (iMessage)

I'm put it on my schedule twice!

Received - February 17, 2018 at 4:15 PM - (iMessage)

Talk to you tomorrow, enjoy your evening

February 17, 2018 at 4:19 PM - (iMessage)

Cool talk to you tomorrow.



2/18/18

Received - February 18, 2018 at 11:00 AM - (iMessage)

Still good for a call?

February 18, 2018 at 11:13 AM - (iMessage)

Sorry yes, got out of church a few minutes late. Call you in 20 min?

Received - February 18, 2018 at 11:13 AM - (iMessage)

That works!

Received - February 18, 2018 at 11:31 AM - (iMessage)

Actually if we can push back a little further that might be better. Have a surprise birthday at 1:00 and I don't want to cut you short. Can you do maybe 3:00-4:00 my time?

February 18, 2018 at 12:02 PM - (iMessage)

Yes that works too. Can I text you when I'm free around then?

Received - February 18, 2018 at 12:06 PM - (iMessage)

Yes.

February 18, 2018 at 3:37 PM - (iMessage)

How does 15-20 min from now work?

Received - February 18, 2018 at 3:55 PM - (iMessage)

Should be good in about 10 minutes

2/27/18

February 27, 2018 at 1:31 PM - (iMessage)

Hi James, wanted to check in with you after our call last Sunday to see if you had a chance to ping Matt and look at possible dates?

Received - February 27, 2018 at 1:41 PM - (iMessage)

Hey Darrell. Matt and I spoke, should be talking again tonight or tomorrow. I'll follow up once we have discussed.

February 27, 2018 at 1:41 PM - (iMessage)

Ok thanks!

---

2/28/18

February 28, 2018 at 8:17 AM - (iMessage)

James, can you call me please. I just saw a very disturbing email.

February 28, 2018 at 8:30 AM - (iMessage)

It's an emergency and I'm assuming since your name is on the FunFlicks email I just saw, you know it's important.

Received - February 28, 2018 at 8:42 AM - (iMessage)

Hi Darrell, good morning. I'm sorry for being abrupt, but I think it's probably best at this point that you speak to me with your attorneys present. Thank you again for everything.

February 28, 2018 at 8:44 AM - (iMessage)

Wow James, just wow. Yes I will. When would you like to schedule a call? I hope you haven't done anything illegal with our equipment and gotten yourself in a position where we have to file theft charges.

Received - February 28, 2018 at 8:52 AM - (iMessage)

Please have your attorneys contact my office, (240) 507-1700. As for the equipment, I would encourage you to refrain from using any equipment that bears the FunFlicks logo, at any events that were signed with FunFlicks contracts. As for theft charges, Darrell, please. I will return the equipment I do have for tonight, as well as any other random or broken pieces I might still have lying around. I have no interest in your equipment.

February 28, 2018 at 9:06 AM - (iMessage)

You guys are unbelievable. I have no idea what BS Todd and company have filled your head with but the ethics (or lack thereof) are incredible. I can't believe you would take this course of action and not talk to us. You have no idea how big a snake you're in bed with now.

Received - February 28, 2018 at 9:16 AM - (iMessage)

Darrell-I appreciate your reaction here but I can't keep telling you not to talk to me without your attorneys. You're not doing yourself any favors by continuing to threaten me, and frankly, threatening a lawyer with litigation isn't worth the text-space. I would strongly recommend you talk to MW first before continuing to talk to me. This will all get sorted out-the back and forth, however, is unnecessary.

February 28, 2018 at 12:50 PM - (iMessage)

Are you representing yourself or who should I have my attorney ask for when he calls?

Received - February 28, 2018 at 12:56 PM - (iMessage)

He can ask for me, and I'll bring the other attorneys in when he calls.

---



1/11/18

Received - FF - Chad (CA. AZ, ID) - January 11, 2018 at 12:51 PM - (iMessage)

Hi Darrel! I hope all is well. We need to talk soon. When would be a good time to chat?

FF - Chad (CA. AZ, ID) - January 11, 2018 at 3:24 PM - (iMessage)

Hi Chad, yes we do. How does your schedule look for tomorrow?

Received - FF - Chad (CA. AZ, ID) - January 11, 2018 at 3:36 PM - (iMessage)

I'm pretty open all day

FF - Chad (CA. AZ, ID) - January 11, 2018 at 8:14 PM - (iMessage)

Ok great. As you may know I'm waiting for information from Todd, which I told him we would reach out to you as soon as we had the info. We tried to meet with his attorney today but he didn't respond to our meeting request, so hopefully tomorrow. I'll setup a call with you as soon as that conversation takes place.

Received - FF - Chad (CA. AZ, ID) - January 11, 2018 at 11:01 PM - (iMessage)



1/13/18

Received - FF - Chad (CA. AZ, ID) - January 13, 2018 at 1:53 PM - (iMessage)

Hello sir! Still waiting for a phone call from you. Hey I'd like to have you onboard just need to work through some details.

FF - Chad (CA. AZ, ID) - January 13, 2018 at 10:45 PM - (iMessage)

Hi Chad, we're ready to talk but Laura at a conference and I'm at a golf tournament and we get back late tomorrow afternoon. We'll call you tomorrow afternoon.

Received - FF - Chad (CA. AZ, ID) - January 13, 2018 at 11:01 PM - (iMessage)

OK sounds good. I have a church function in the pm but should be available after 5 pm pst.

1/18/18

Received - FF - Chad (CA. AZ, ID) - January 18, 2018 at 11:06 AM - (iMessage)

Any progress?

FF - Chad (CA. AZ, ID) - January 18, 2018 at 12:50 PM - (iMessage)

Shot you an email and finishing up a site visit in an hour or so.

Received - FF - Chad (CA. AZ, ID) - January 18, 2018 at 12:51 PM - (iMessage)



1/19/18

Received - FF - Chad (CA. AZ, ID) - January 19, 2018 at 11:52 AM - (iMessage)

Are you available for a call?

FF - Chad (CA. AZ, ID) - January 19, 2018 at 3:22 PM - (iMessage)

Tried to call about 30 min ago and left a vm for you. Give me a call back when you have a chance. FYI, we are still waiting for a written accounting of the sale that details the assets sold. We are very leery about everything right now

since we've asked for it from Todd and his attorney multiple times and there no formal accounting to us for the sale or the note.

1/22/18

FF - Chad (CA. AZ, ID) - January 22, 2018 at 2:49 PM - (iMessage)

Hi Chad, shot you a reply email last night as soon as we got home and wanted to check in with you. On a side note, had some productive progress with Todd as well so hopefully we're close on all fronts.

Received - FF - Chad (CA. AZ, ID) - January 22, 2018 at 2:50 PM - (iMessage)

Yes! I got it but waiting for a response from Matt. I'll update you guys once Matt has looked at it:)

FF - Chad (CA. AZ, ID) - January 22, 2018 at 3:07 PM - (iMessage)

👍 we met with IO and their attorney today as well about our proposed directions and they're good when we're ready.

Received - FF - Chad (CA. AZ, ID) - January 22, 2018 at 3:17 PM - (iMessage)

That direction is just to have everyone with their own accounts correct?

FF - Chad (CA. AZ, ID) - January 22, 2018 at 3:55 PM - (iMessage)

That depends on how we finish up with you guys but yes that would be the direction.

Received - FF - Chad (CA. AZ, ID) - January 22, 2018 at 4:01 PM - (iMessage)

1/23/18



FF - Chad (CA. AZ, ID) - January 23, 2018 at 12:30 PM - (iMessage)

Good morning! You guys got any updates for us?

Received - FF - Chad (CA. AZ, ID) - January 23, 2018 at 1:45 PM - (iMessage)

Not quite yet. There a couple points that need further discussion. Not insurmountable but we need to discuss. When are you guys back from New Orleans.

FF - Chad (CA. AZ, ID) - January 23, 2018 at 2:08 PM - (iMessage)

We'll make windows of time whenever you're ready, the show isn't slowing us down at all.

FF - Chad (CA. AZ, ID) - January 23, 2018 at 2:08 PM - (iMessage)

You guys have been pushing hard and can't imagine you want to wait until next week.

FF - Chad (CA. AZ, ID) - January 23, 2018 at 3:16 PM - (iMessage)

When would you like to have a call to discuss the open items? We've agreed in principle to everything we discussed and in your email summary with just 3 items for discussion. What time is good for you?

Received - FF - Chad (CA. AZ, ID) - January 23, 2018 at 3:17 PM - (iMessage)

Can I call you after 6:00 pst?

FF - Chad (CA. AZ, ID) - January 23, 2018 at 3:20 PM - (iMessage)

Sure, what time?

Received - FF - Chad (CA. AZ, ID) - January 23, 2018 at 3:21 PM - (iMessage)

I have basketball practice until 6, so right after?

FF - Chad (CA. AZ, ID) - January 23, 2018 at 3:47 PM - (iMessage)

Ok let's do 6:30 PST

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1/29/18

FF - Chad (CA. AZ, ID) - January 29, 2018 at 2:01 PM - (iMessage)

Good afternoon! Wanted to check in to see if we should be looking for a draft of the licensing agreement today?

Received - FF - Chad (CA. AZ, ID) - January 29, 2018 at 2:02 PM - (iMessage)

I was waiting for your response to our last email?

FF - Chad (CA. AZ, ID) - January 29, 2018 at 2:37 PM - (iMessage)

Ah ok, I didn't realize you were waiting on me for those to start a draft. You were just summarizing our conversation and had a couple of questions.

FF - Chad (CA. AZ, ID) - January 29, 2018 at 2:37 PM - (iMessage)

I'll get a reply to you in a few hours when I get home.

Received - FF - Chad (CA. AZ, ID) - January 29, 2018 at 2:37 PM - (iMessage)



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1/30/18

FF - Chad (CA. AZ, ID) - January 30, 2018 at 5:40 PM - (iMessage)

Sent you the IO transition email for your review. Can you review and send me the ok? I know you and Tim are anxious to get it out to everyone.

Received - FF - Chad (CA. AZ, ID) - January 30, 2018 at 7:17 PM - (iMessage)



Copy. I replied. Did you see the email I sent earlier?

FF - Chad (CA. AZ, ID) - January 30, 2018 at 7:34 PM - (iMessage)

Yep got it and sent out to everyone already. The info your asking for is all good, and I can start sending you things but wanted to try to assimilate as much as possible and send to you so it's organized. I'll make a transition plan so we cover everything but I can send you contracts and I'll reply to your email. We need to review the web site transition so you can manage it because it's all very custom in WordPress. We would need to setup a meeting with our web developer for you to review how to manage this site so you guys can talk about what you can manage and what you'll need him for.

2/1/18

FF - Chad (CA. AZ, ID) - February 1, 2018 at 11:33 AM - (iMessage)

Good morning, wanted to check in and see how the license agreement is coming along? We need to make plans for the conference but you guys still aren't including us in any basic planning elements.

FF - Chad (CA. AZ, ID) - February 1, 2018 at 3:36 PM - (iMessage)

Hi Chad, we are about to pull the trigger on the IO changes and we don't have a licensing agreement yet. Do you want our attorney to provide a draft or what is the status with your attorney?

Received - FF - Chad (CA. AZ, ID) - February 1, 2018 at 3:37 PM - (iMessage)

Sure if that will expedite. My attorney is already working on something else for us and then he is instructed to work on your agreement. Up to you 😊

FF - Chad (CA. AZ, ID) - February 1, 2018 at 3:48 PM - (iMessage)

I'm good with either but we were under the impression it was in motion already earlier this week. We have drafts going back and forth with Todd's attorney to finalize but just know we can't start any transition activities until we have his signed and have the licensing agreement in place with you.

Received - FF - Chad (CA. AZ, ID) - February 1, 2018 at 3:54 PM - (iMessage)

Well the problem is trying to memorialize all the parts of your last email. Guaranteed SEO, what territories you're keeping, etc. The simple licensing agreement provided to all other licensees has grown into a huge, legal contract that will take time per my attorney.

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2/7/18

FF - Chad (CA. AZ, ID) - February 7, 2018 at 3:19 PM - (iMessage)

Hi Chad, wanted to check in again to see where we are? Are you free for a call today to catch up and get the ball rolling? We're not understanding what the hold up is. Everything was rush, rush a couple of weeks ago with you wanting updates daily, to now it seems like there's intentional delay. You got a time today we can setup a call?

---

2/13/18

FF - Chad (CA. AZ, ID) - February 13, 2018 at 6:18 PM - (iMessage)

Hi Chad, Checking in from my email yesterday to see how we're coming along?

Received - FF - Chad (CA. AZ, ID) - February 13, 2018 at 6:32 PM - (iMessage)

Our attorney has all the terms and we meet with him on Friday morning at 0900. Hopefully no hiccups and we'll be good to go. Have you guys come to terms with Todd? I know you wanted to get past that first

FF - Chad (CA. AZ, ID) - February 13, 2018 at 6:37 PM - (iMessage)

Ok great. We have draft terms with Todd in progress (back and forth draft doc with attorneys) but we don't have a requirement to settle that first though. We'd like to, but not necessary. Did your guy give you an eta on a draft to review?



2/14/18

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FF - Chad (CA. AZ, ID) - February 14, 2018 at 12:42 PM - (iMessage)

Can you give us a call ASAP please? Todd's attorney is telling our attorney that there's an issue with Maryland or something and that you have someone else to run that territory? Is that true?

FF - Chad (CA. AZ, ID) - February 14, 2018 at 1:51 PM - (iMessage)

And something about an option to run Tx as FF and still operate other areas under Ultimate? What the heck????

Received - FF - Chad (CA. AZ, ID) - February 14, 2018 at 1:56 PM - (iMessage)

Sorry for the delay. I am in meetings all day but wanted to shoot you a quick text. After you shared specifically the territories your planning on operating, Maryland is a concern since we bought the customer list and planned on running it remotely or relicensing. As for TX FF and UOE I have no ideas what he's talking about!"

FF - Chad (CA. AZ, ID) - February 14, 2018 at 2:53 PM - (iMessage)

Are you serious? This is the first we've heard of Maryland not being included in our licensing or anyone else running it. That's a whole different ball game. In our 2nd discussion you said if we were staying on as licensees and running Maryland that was all that mattered. We should talk soon before this falls apart because that's not what we talked about.

Received - FF - Chad (CA. AZ, ID) - February 14, 2018 at 5:07 PM - (iMessage)

Can you take a phone call now?

FF - Chad (CA. AZ, ID) - February 14, 2018 at 5:07 PM - (iMessage)

Yes sir

2/15/18

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FF - Chad (CA, AZ, ID) - February 15, 2018 at 10:40 AM - (iMessage)

Good morning. We'd like to see what your schedule is for a call today? We have some pretty serious concerns about you guys changing the terms of what we had agreed to and Laura brought up a good point today. In our discussion that we had with you while we were driving, she asked you to promise that you wouldn't pull the same crap that Todd did and try to change the terms that we agreed to or pull the rug out from under our deal with you, and yet here we are with you doing exactly that. You are mischaracterizing the facts. You said you didn't realize that we intended to continue to operate MD until we sent you a list of territories, which is completely untrue. You talked about MD extensively, you knew that it was part of our territories going forward, and in fact the total revenue that MD makes was one of your key discussion points about accepting the royalty structure we proposed. So please don't tell us that you didn't realize we would be operating MD because that's simply not true. With that being said, your current position is that you now want to change the terms that we agreed to (or go back to renegotiate with Todd) exactly as you had promised to Laura you would not do?

FF - Chad (CA, AZ, ID) - February 15, 2018 at 10:41 AM - (iMessage)

Laura just got out of a hospital procedure and will be sleeping for a couple of hours. What's your availability like this afternoon?

FF - Chad (CA, AZ, ID) - February 15, 2018 at 3:51 PM - (SMS)

Waiting to hear back....

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2/18/18

FF - Chad (CA, AZ, ID) - February 18, 2018 at 4:06 PM - (iMessage)

Chad? What the heck man? You guys said you were having a meeting Fri and we would hear from you after that and we've been patiently waiting to talk to you about our licensing terms. Seems like you lost a whole lot of sense of urgency since we agreed to transfer IO and I've had to reach out to you every few days for the last 2 weeks, in addition to you trying to change the terms of what we agreed to.

Received - FF - Chad (CA, AZ, ID) - February 18, 2018 at 4:23 PM - (iMessage)

I'm out of town at a steer show with the kids until tomorrow night:)

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2/21/18

FF - Chad (CA, AZ, ID) - February 21, 2018 at 8:11 AM - (iMessage)

It's now Wed and we still have not heard a single peep from you guys. Do you plan on communicating with us or not?

Received - FF - Chad (CA, AZ, ID) - February 21, 2018 at 8:46 PM - (iMessage)

As soon as your negotiations are done with Todd and after our conference.

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Electronic Version v1.1  
 Stylesheet Version v1.2

ETAS ID: TM455725

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Fun Flicks, LLC		12/21/2017	Limited Liability Company: MARYLAND
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	FunFlicks Audiovisual, Inc.		
<b>Street Address:</b>	11000 Brimhall Road		
<b>Internal Address:</b>	Suite 56		
<b>City:</b>	Bakersfield		
<b>State/Country:</b>	CALIFORNIA		
<b>Postal Code:</b>	93312		
<b>Entity Type:</b>	Corporation: CALIFORNIA		
<b>PROPERTY NUMBERS Total: 1</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	3138905	FUNFLICKS	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	4108252583		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
<b>Phone:</b>	4107699070		
<b>Email:</b>	kyle@jiraneklaw.com		
<b>Correspondent Name:</b>	Kyle Hildreth		
<b>Address Line 1:</b>	16 Willow Avenue		
<b>Address Line 2:</b>	Jiranek, P.A.		
<b>Address Line 4:</b>	Towson, MARYLAND 21286		
<b>NAME OF SUBMITTER:</b>	Kyle Hildreth		
<b>SIGNATURE:</b>	/Kyle Hildreth/		
<b>DATE SIGNED:</b>	12/22/2017		
<b>Total Attachments: 8</b>			
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PRIVATE SALE AGREEMENT

This Private Sale Agreement (the "Agreement") is made as of this 21st day of December, 2017, between Fun Flicks, LLC, a Maryland LLC having a principal place of business at 4932 Jenkins Lane, Baldwin, Maryland 21013 (hereinafter, the "Seller") and FunFlicksAudiovisual, Inc. a California corporation having a principal place of business at 11000 Brimhall Road Suite 56, Bakersfield, California 93312 (hereinafter, the "Buyer")

Recitals

R1. Seller entered into a certain Asset Sale and Purchase Agreement (hereinafter, the "APA"), dated December 31, 2012, with Fun Flicks, Inc., a Texas corporation (hereinafter, "FFINCTX"), pursuant to which Seller sold certain assets to FFINCTX.

R2. As part of the consideration for the sale, FFINCTX made a certain promissory note to the order of FFLLCMD (hereinafter, the "Seller Take Back Financing Promissory Note") in the original principal amount of \$2,349,629.59, plus an additional \$200,000 under Sections 2.2(c), (d), (e), (f) and (g) of the APA.

R3. To secure repayment of the Seller Take Back Financing Promissory Note, FFINCTX granted Seller a security interest in the following assets: (1) Trademarks identified as: (a) "FUNFLICKS®", United States Registration Number: 3,138,905, Registration Date: September 5, 2006; (b) Shoscreen; (c) FUNFLICKS Outdoor Movie Events; and (d) "FUNFLICKS Outdoor Movie Rentals" (hereinafter, the "Trademarks"); (2) copyrights in artwork, logos and marketing materials sold by Seller to Fun Flicks, Inc., a Texas corporation (hereinafter, the "Copyrights"); (3) the URLs [www.funflicks.com](http://www.funflicks.com) and [www.shoscreen.com](http://www.shoscreen.com) (the "URLs"); (4) goodwill associated with the Trademarks, Copyrights and URLs (the "Associated Goodwill"); and (5) information regarding the customer base of FFINCTX including client list, phone numbers, emails, past invoices and Quickbooks accounting records (the "Customers Info"). Seller perfected these security interests in the Trademarks, Copyrights, URLs, Associated Goodwill and Customers' Info. Hereinafter, the Trademarks, Copyrights, URLs, Associated Goodwill and Customers Info shall be referred to as the "Collateral."

R4. In the APA, Seller and FFINCTX agreed that the Collateral had the following values:

Trademarks - \$30,000;  
 Copyrights - \$10,000;  
 URLs (Multiple Domain Names) - \$30,000;  
 (Associated Goodwill) Goodwill of brand and continued business - \$1,521,248  
 Customers Info - \$450,000

R5. As of November 17, 2017, The amount due under the Seller Take Back Financing Promissory Note totals more than \$1,957,727.22. These amounts are itemized as follows:

Remaining Outstanding and Unpaid Principal: \$1,934,393.20



Accrued and Unpaid Interest: \$22,924.12

Reimbursement of Costs Advanced by FFMDLLC: \$500

Reimbursement of Attorneys Fees and Costs Advanced by FFLLCMD: more than \$10,000

Interest on these unpaid amounts will accrue, and become due, at the rate of \$321.16 per day, if unpaid, after November 17, 2017.

R6. Pursuant to MD. Code Ann., Comm. Law §§ 9-610 – 9-616, Seller wishes to exercise its rights to sell certain of the Collateral in a private sale to Buyer.

R7. Buyer wishes to buy all of the Collateral, except (i) contracts involving Darrell Landers and/or entities under the control or common ownership of Darrell Landers and his family; and (ii) contracts that arose after the date of the APA with customers who were not customers of FFLLCMD prior to the date of the APA (hereinafter, the "Purchased Collateral") pursuant to the terms herein. The contracts excluded from the Purchased Collateral include, but are not limited to, the contracts itemized on attached Exhibit A.

Now, Therefore, it is agreed as follows:

1. Purchase Price and Sale. Buyer shall pay Seller \$350,000 for the Customers' Info and \$1,200,000 for the other Purchased Collateral (hereinafter, collectively, the "Purchase Price"). In exchange for delivering, or agreeing to promptly deliver, the Purchase Price, Seller sells, transfers, assigns and sets over its entire interest and right in the Purchased Collateral to Buyer. This document shall be considered an instrument of transfer, and the transfer shall be deemed effective, as a matter of law, as of the date and time this Agreement is fully executed by the parties. The Purchased Collateral is being transferred "as is, where is."

2. Payment of Purchase Price. Upon execution of this Agreement, Buyer shall deliver \$10,000 of the Purchase Price to Seller in cash or ready funds, and, as soon thereafter as possible, a Promissory Note for the balance of the Purchase Price bearing interest at the annual rate of 6% per annum and requiring a payment of \$40,000 on or before May 1, 2018 (hereinafter, the "Promissory Note"). The Promissory Note may require other periodic payments, and may be prepaid at any time without interest. The Promissory Note shall contain such commercial terms as are reasonably specified by Seller. This transaction shall constitute a private sale under Md. Code Ann., Comm. Law §§ 9-610 – 9-616, taking place on the date and time of this Agreement's full execution.

3. Security for Payment of the Purchase Price. Repayment of the Promissory Note, and any other obligations of Buyer to Seller contained in the instruments and agreements associated therewith, shall be secured by a blanket lien on all assets of Buyer. Buyer agrees to promptly take all actions, and execute any and all agreements, documents and instruments, reasonably specified by Seller regarding the creation and perfection of this security interest.

4. Possession of Purchased Collateral. Following the sale, Buyer shall promptly deliver possession of the Purchased Collateral to Seller where it shall be held by Seller upon such



terms as shall be reasonably specified by Seller until the Promissory Note is satisfied in full. Buyer irrevocably and unconditionally appoints Seller as its attorney in fact to take, in its place and stead, any and all actions necessary to maintain Seller's possession of the Purchased Collateral, including, without limitation, directing third parties as to the use and maintenance of the Purchased Collateral. Seller shall use all reasonable care in maintaining the possession of the Collateral.

5. Representations of Seller. Seller individually warrants and represents:

(a) Seller holds and has perfected its security interests in the Collateral, including the Purchased Collateral.

(b) There are no judgments, liens, actions, or proceedings pending or of which Seller is aware against Seller or against any of its properties that would affect its ability to sell the Purchased Collateral at private sale pursuant to Md. Code Ann., Comm. Law §§ 9-610 – 9-616.

(c) Seller is duly organized, validly existing and in good standing under the laws of the State of Maryland, and is duly authorized to enter into this Agreement.

(d) Neither the execution and delivery of this Agreement by the Seller nor the consummation by Seller of the transactions contemplated hereby will (i) require Seller to register with or file, or notify or obtain any permit or authorization, consent or approval of any governmental authority prior to consummation of the sale; (ii) conflict with or breach any provisions of any organizational documents of Seller; (iii) violate or breach any provision of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, permit, lease, contract, agreement or other instrument, commitment or obligation to which Seller is a party, or by which Seller or any of Seller's material assets may be bound.

(g) To the best of Seller's knowledge, information and belief, there are no laws, statutes, ordinances, prohibiting the sale of the Purchased Collateral and the transfer of title thereto. Seller will give Buyer prompt notice of any such law, statute, ordinance, restriction or regulation arising subsequent to the date hereof to the extent Seller acquires knowledge thereof.

(h) Seller is not aware of any contracts, security interests, liens or claims affecting the Purchased Collateral other than its security interests.

(i) Seller has no knowledge of any actions, suits or proceedings which have been instituted or threatened against or affecting the Purchased Collateral, at law or in equity, or before any federal, state or municipal governmental commission, board, bureau, agency or instrumentality which will materially adversely affect the value or use of the Purchased Collateral. Seller will give Buyer prompt written notice of any such action, suit or proceeding arising subsequent to the date hereof to the extent Seller acquires knowledge thereof.

6. Delivery of Certain Material to Buyer and Seller. Promptly following the date hereof, the Seller shall deliver to the Buyer the following:



(a) Seller shall deliver any and all files, documents and information it has relating to the Purchased Collateral.

(b) Seller shall deliver notifications and filings made by Seller to give notice of this sale and assignment.

(c) Buyer shall execute and deliver the Promissory Note and any financing agreements and instruments specified herein.

(d) In the event the parties fail to deliver these materials reasonably promptly, the noncompliant party shall pay the other party for the damages it suffers because of such failure.

7. **Representations of Buyers.** Neither this Agreement nor any exhibit or any written statement furnished or to be furnished by the parties in connection with the transactions contemplated by this Agreement contains or will contain any untrue statement of material fact.

8. **Costs and Representation.** Each party shall be responsible for paying their own costs for the transaction. This document has been prepared by the law firm of Jiranek, P.A. whose clients are Todd Severn and Seller and no other persons or entities. For the avoidance of doubt, Jiranek, P.A. does not represent Buyer and does not provide Buyer with any legal advice.

9. **Risk of Loss.** All risk of loss to the Purchased Collateral shall remain upon Seller transfer, afterwhich risk of loss shall pass to Buyer.

10. **Conditions Precedent to Buyers' Obligation.** The obligations of the Buyer under this Agreement are subject to the satisfaction or written waiver by Buyer of each of the following conditions or requirements:

(a) Seller's warranties and representations under this Agreement shall be true and correct in all respects when made, and the Seller shall not be in default hereunder.

(b) The obligations of the Seller contained in this Agreement shall have been performed in all respects and Seller shall not be in default under any agreement affecting the Collateral.

11. **Failure of Buyer's Conditions.** If all of the conditions in Section 10 are not satisfied (or waived in writing by the Buyer), then Buyer shall have the right to terminate this Agreement. If Buyer elects in writing to terminate this Agreement pursuant to the previous sentence, then the Buyer shall immediately deliver the Purchased Collateral to Seller.

12. **Conditions Precedent to Seller Obligation.** The obligations of the Seller under this Agreement are subject to the satisfaction or written waiver by Seller of each of the following conditions or requirements on or before the Closing Date:

(a) Buyers' warranties and representations under this Agreement shall be true and correct in all respects, and Buyers shall not be in default hereunder.



(b) The obligations of the Buyers have been performed in all respects.

13. **Failure of Seller's Conditions.** If all of the conditions in Section 12 are not satisfied, then Seller shall have the right to terminate this Agreement and obtain compensatory damages.

14. **Reasonable Efforts.** All of the parties to this Agreement agree to use reasonable efforts to take or to be taken all actions reasonably necessary to consummate the transaction and obligation contemplated by this Agreement. Each party shall deliver to the other party documents reasonably required by the other party to establish the authority of such party to enter into and perform the transactions contemplated by this Agreement.

15. **Agreement Binding.** This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and shall not be assignable by either party. Notwithstanding the foregoing, a party may assign this Agreement to a corporation that is wholly owned or controlled by a party, such restrictions to be binding on such assignee.

16. **Survival.** Except as expressly set forth herein, the representations, warranties and covenants and indemnities contained herein shall survive the Closing for a period of one (1) year.

17. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties, and may not be amended except by written instrument executed by all the parties hereto. The Recitals herein constitute a part of this Agreement.

18. **Time is of the Essence.** Time is of the essence of this Agreement.

19. **Miscellaneous.** Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatever, such illegality or invalidity shall not affect the validity of the remainder of the terms or provisions of this Agreement. No waiver of any default on the part of a party shall be construed as a waiver of any other or subsequent default, and no delay or omission in exercising and enforcing the rights and powers of a party shall be construed a waiver of any other or subsequent default and, likewise, no exercise or enforcement of any rights or powers hereunder by a party shall be held to exhaust such rights or powers, and every such right and power may be exercised from time to time. This Agreement and any amendment may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one agreement. In addition, this Agreement may be executed through the use of counterpart signature pages. The signature of any party on any counterpart agreement or counterpart signature page shall be deemed to be a signature to, and may be appended to, this Agreement. A facsimile or email signature, when notarized, shall be treated the same as an original signature provided it is properly witnessed and notarized. No provision of this Agreement is intended to be for the benefit of or enforceable by any third party.

20. **Relationship of the Parties.** This Agreement creates no relationship of joint venture, franchise, business opportunity, fiduciary duty, partnership, limited partnership, agency,



or employer-employee between the parties, and the parties acknowledge that no other facts or relations exist that would create any such relationship between them. Neither party has any right or authority to assume or to create any obligation or responsibility on behalf of the other party except as may from time to time be provided by written instrument signed by both parties. The relationship between the parties is that of independent contracting parties.

21. Arbitration. Any controversy or claim arising out of or relating to this contract, or the breach thereof, including any agreement incorporated by reference, shall be settled by one arbitrator in an arbitration administered by the American Arbitration Association in Baltimore County, Maryland in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The non-prevailing party or parties shall be required, jointly and severally, to reimburse the prevailing party or parties for their attorney's fees and costs spent on the arbitration. The parties will use best efforts to insure that any third person that becomes involved with material matters relating to this agreement agrees to be joined as a party to any arbitration initiated by a party hereunder and that arbitration will fully and finally resolve all claims arising hereunder.

22. Authority to Bind. The parties executing this Agreement below represent and warrant that they have the legal authority to bind their respective entities indicated.

23. Provision of Notice of Sale. The parties shall make public notice filings, including with the USPTO and or state financing authorities, to implement the terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Buyer: FunFlicks Audiovisual, Inc.

Witness

Chad Hunter, Member

Date

12-21-17

Witness

Matt Diaz, Member

Date

12-21-17

Seller: Fun Flicks, LLC

Witness

Todd Severn, Member

Date



or employer-employee between the parties, and the parties acknowledge that no other facts or relations exist that would create any such relationship between them. Neither party has any right or authority to assume or to create any obligation or responsibility on behalf of the other party except as may from time to time be provided by written instrument signed by both parties. The relationship between the parties is that of independent contracting parties.

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Witness

Witness

Witness

Buyer: FunFlicks Audiovisual, Inc.

Ghad Hunter, Member

Date

Matt Dine, Member

Date

Seller: Fun Flicks, LLC

Todd Severn, Member

Date



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or employer-employee between the parties, and the parties acknowledge that no other facts or relations exist that would create any such relationship between them. Neither party has any right or authority to assume or to create any obligation or responsibility on behalf of the other party except as may from time to time be provided by written instrument signed by both parties. The relationship between the parties is that of independent contracting parties.

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Ghad Hunter, Member

Date

12-21-17

Matt Diaz, Member

Date

12-21-17

Seller: Fun Flicks, LLC

Todd Severn, Member

Date

12/21/17

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McGUIREWOODS

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March 14, 2018

**VIA EMAIL: JGaither@offitkurman.com**

James N. Gaither  
4800 Montgomery Lane, 9th Floor  
Bethesda, MD 20814

Dear Mr. Gaither:

As you are aware, this firm represents Darrell Landers, Laura Landers, and their various companies (collectively referred to herein as "the Landerses"). As you indicated in our prior discussion that you are representing yourself, I am sending this letter directly to you. If counsel represents you, please forward this letter to your counsel.

For the past few years, you have worked as a trusted agent and contractor of the Landerses in Maryland and through January and February 2018, you continued to do so. However, it has come to our attention that, while you continued to hold yourself out as the Landerses' agent and contractor, you were simultaneously setting up a competing enterprise. Worse yet, it appears that you used the access to the Landerses' confidential information and systems that was granted to you as an agent and contractor to misappropriate the Landerses' customer list and to interfere with their contracts, including taking copies of their contracts and assigning yourself to work events that you either intended to cover with your competing company rather than on the Landerses' behalf or did not intend on attending at all to the Landerses' detriment.

Further, since no later than February 27, 2018, you, alone or in concert with the other owners and operators of FunFlicksAudiovisual, Inc., have sent emails to the Landerses' customers, including at least one defamatory email, have offered copies of this customer list to other FunFlicks licensees, and have used the customer list to contact customers to persuade them to cancel their contracts with the Landerses and holding yourself out to be the same company that they have dealt with in the past, despite the fact that you organized your company NatJay LLC on January 30, 2018 and became a licensee of FunFlicks on or about February 5, 2018.

This customer list and these contracts were, and remain, the property of the Landerses. While some assets that previously belonged to the Landerses were repossessed by and/or transferred to Todd Severn and FunFlicks, LLC via a security agreement and settlement agreement, the customer list that you have utilized was not transferred and remains the Landerses' property.

In addition, it has come to our attention that you may be employing or utilizing individuals in running your FunFlicks-licensed enterprise that are former agents and contractors of the



Landerses. As such, you are well aware that they are bound by non-competes that prevent them from engaging in such activities.

Accordingly, based on the evidence that we have uncovered, it appears that your actions are tortious and wrongful in a number of respects, including but not limited to constituting: (1) defamation; (2) tortious interference claims and (3) violations of various statutory provisions such as the Maryland Uniform Trade Secrets Act, Md. Code Ann., Comm. Law § 11-1201 *et seq.*, the Defend Trade Secrets Act, 18 U.S.C. § 1836 *et seq.*, the Computer Fraud and Abuse Act, 18 U.S.C. § 1030 *et seq.*, and the Unfair or Deceptive Trade Practices Act, Md. Code Ann., Comm. Law § 13-301 *et seq.*

Further, it is our understanding that, while you have identified the locations of my client's trailers, you are still in possession of registrations and/or titles for the following seven trailers:

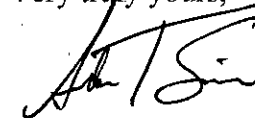
VIN	Year	Make
5A3C408S8BL000179	2011	Carmat
5A3C408S8BL002367	2011	Carmat
5A3C408SXBL002368	2011	Carmat
5A3C408S7AL000026	2010	Carmat
5A3C408SX8L003884	2008	Carmat
5A3C408S9AL000030	2010	Carmat
5A3C408S7CL002541	2012	Carmat

My client would like all documentation regarding these trailers returned.

Accordingly, the Landerses demand that you: (1) cease and desist from communicating with the Landerses' current or former customers regarding the Landerses, their companies, and their business dealings; (2) return to the Landerses all copies, electronic or otherwise, of information related to their customers from 2013 through December 20, 2017 and stop using that information to solicit business or discuss the Landerses; (3) return any and all titles and registrations for the above-referenced vehicles to my office; and (4) pay restitution to the Landerses for damages caused by your actions.

Please contact me, or have your attorney contact me, by no later than 12:00 p.m. on March 16, 2018 to discuss your compliance with the Landerses' demands.

Very truly yours,



Adam T. Simons

### **RELEASE AND SETTLEMENT AGREEMENT**

This Release and Settlement Agreement (the "**Agreement**") is entered into this 3rd day of March 2018, (the "**Effective Date**"), by, between and among, Todd Severn ("**Todd**") a Maryland resident and Fun Flicks, LLC, a Maryland Limited Liability Company ("**FF-Severn**") (collectively, Todd and FF-Severn shall be referred to as the "**Severn Entities**"), parties of the first part and Darrell W. Landers ("**Darrell**") a Texas resident, Fun Flicks, Inc. ("**FFINCTX**"), a Texas corporation, and FunFlicks, LLC, a Texas Limited Liability Company ("**FF-Landers**") (collectively Darrell, FFINCTX, and FF-Landers shall be referred to herein as the "**Landers Entities**"), parties of the second part (with all parties individually referred to as "**Party**" and collectively referred to as "**the Parties**"),

**WHEREAS**, the Severn Entities entered into an Asset Sale and Purchase Agreement, dated December 31, 2012, (hereinafter, the "**APA**") with FF-Lander's predecessor entity, FFINCTX, pursuant to which FFINCTX purchased the assets of FF-Severn;

**WHEREAS**, the APA was financed by that certain promissory note made by FFINCTX in favor of FF-Severn (hereinafter, the "**Seller Take Back Financing Promissory Note**") dated December 31, 2012;

**WHEREAS**, repayment of the Seller Take Back Financing Promissory Note and performance of FF-Landers' obligations under the APA and associated agreements and instruments was secured by, inter alia, a continuing security interest in all of the assets of FFINCTX, pursuant to that certain Security Agreement, dated December 31, 2012, by and between FFINCTX and FF-Severn (hereinafter, the "**Security Agreement**") and agreements executed and/or filed substantially contemporaneously therewith;

**WHEREAS**, FunFlicks, Inc. reorganized into FF-Landers and FF-Landers became the successor in interest to, and assumed all of the obligations of, FFINCTX;

**WHEREAS**, FF-Landers defaulted in its payment obligations under the APA, the Seller Take Back Promissory Note and associated agreements and instruments;

**WHEREAS**, the Severn Entities provided the Landers Entities with notice of the default and notice that, if the default was not cured, assets would be disposed of in a private sale under Md. Code Ann., Comm. Law § 9-600 *et seq.* (the "**Default Notice**");

**WHEREAS**, the Severn Entities assert that they exercised their rights to dispose of assets under the Security Agreement and to move forward with selling certain assets by private sale (the "**Third Party Sale**") to a third-party, Fun Flicks Audiovisual, a California company (the "**Third Party Purchaser**");

**WHEREAS**, the Severn Entities provided notice of the sale to the Landers Entities (the "**Sale Notice**");



**WHEREAS**, after the Third-Party Sale, there remains a deficiency (the "**Deficiency**") of the amount due from FF-Landers to FF-Severn under the APA, the Seller Take Back Promissory Note and associated documents and instruments;

**WHEREAS**, the Landers Entities allege that their default is excusable because the Severn Entities misrepresented material facts in regards to the original sale of the assets in December 2012, and breached the warranties contained therein; however, the Severn Entities dispute that they misrepresented material facts and whether the Landers' Entities default is excusable;

**WHEREAS**, the Landers Entities further allege that the Third Party Sale was not conducted in compliance with the requirements for the disposition of assets after default under Md. Code Ann., Comm. Law § 9-600 *et seq.*, that the assets transferred under the Third Party Sale were not effectively transferred, and, therefore, the transfer of any assets and the Third-Party Sale were not legally effective;

**WHEREAS**, the Parties agree that there is a bona fide dispute as to the effective date of the transfer of the Collateral and Additional Trademark as defined herein, and a bona fide dispute as to the Landers Entities right to use the Trademark and Additional Trademark through and including the Effective Date of this Agreement; and

**WHEREAS**, the Parties have agreed that it is in their best interests to resolve fully and finally all disputes that have, may have, or could have arisen between them.

**NOW, THEREFORE**, in order to fully and finally resolve any and all existing or potential issues and disputes that do or could relate or arise out of their relationship to date, without any admission of liability or finding or admission that the rights of any Party were or have been in any way violated, for the purpose of amicably and finally ending all disputes between them, the Parties agree as follows:

1. **Recitals.** Each of the recitals above is true and correct, is incorporated herein by reference, and constitutes a material part of the Agreement.

2. **Definitions.** As used herein, these terms have the following meanings:

(a) "**Collateral**" shall mean the following as each subsection is hereinafter defined and as each existed under and at the time of the execution of the APA, the Security Agreement, and associated instruments: Trademarks, Copyrights, URLs, Associated Goodwill, Customers' Info, Google Analytics, and Contracts. Expressly excluded from the definition of "Collateral" are any: (1) assets that were transferred as part of the APA and listed in Allocation of Purchase Price exhibit<sup>1</sup> to the APA and the schedules thereto that are not specifically identified in this paragraph as part of the Collateral; and (2) accessions, alterations, additions, or modifications to the Collateral after the effective date of the APA; and (3) assets acquired by the Landers Entities after the effective date of the APA, including but not limited to goods, machinery, equipment,

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<sup>1</sup> This exhibit is listed in the List of Exhibits following the APA as Exhibit 2.2(k), but titled "Exhibit 2.2(h)."

property, accounts, chattel paper, proceeds of after-acquired assets, claims, deposit accounts, documents, contract rights, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, cash, and/or rights to payment of money.

(b) **"Trademarks"** shall mean the federally registered trademark "FUNFLICKS®", United States Registration Number: 3,138,905, Registration Date: September 5, 2006 and (b) the common law trademarks "Shoscreen", "FUNFLICKS Outdoor Movies", and "FUNFLICKS Outdoor Movie Events" and derivatives and combinations thereof as such existed under and at the time of the execution of the APA, the Security Agreement, and associated instruments;

(c) **"Copyrights"** shall mean copyrights and various records including original works of authorship, artwork, logos, marketing materials and web site design files used in connection with the Collateral as such existed under and at the time of the execution of the APA, the Security Agreement, and associated instruments;

(d) **"URLs"** shall mean the URLs of [www.funflicks.com](http://www.funflicks.com) and [www.shoscreen.com](http://www.shoscreen.com), as such existed under and at the time of the execution of the APA, the Security Agreement, and associated instruments;

(e) **"Associated Goodwill"** shall mean information and knowhow relating to the Collateral, information about vendors, suppliers, and business contacts and the right to sell products, licenses, and franchises of FunFlicks as such existed under and at the time of the execution of the APA, the Security Agreement, and associated instruments;

(f) **"Customers' Info"** shall mean information regarding the customers of FFINCTX including client list, phone numbers, emails, past invoices and Quickbooks accounting records, including the customers in the MD, DE, DC territories as such existed under and at the time of the execution of the APA, the Security Agreement, and associated instruments;

(g) **"Google Analytics Info"** shall mean access information to google analytics for the FunFlicks website as such existed under and at the time of the execution of the APA, the Security Agreement, and associated instruments;;

(h) **"Contracts"** shall mean the trademark licensing agreements between FFINCTX and third-parties, and any amendments or modifications thereto, as set forth in **Schedule A** attached hereto as such existed under and at the time of the execution of the APA, the Security Agreement, and associated instruments;

(i) **"Additional Trademark"** shall mean the trademark "FUNFLICKS OUTDOOR MOVIES" and the associated design, United States Registration Number: 5,122,699, Registration Date: January 17, 2017;

(j) The **"Additional URL"** shall mean the following URL: "[www.funflicksoutdoorsmovies.com](http://www.funflicksoutdoorsmovies.com)";



(k) “**Current Contracts**” shall mean the FunFlicks-related trademark licensing agreements, and any amendments thereto, in the Landers Entities’ possession and control as of the effective date of this Agreement, which are set forth in Schedule B hereto:

(l) “**Additional Materials**” shall mean certain other FunFlicks-related items as set forth in **Schedule B**; and

(m) “**Assigned Assets**” shall mean the Collateral, as well as the Additional Trademark, Additional URL, Current Contracts, and Additional Materials as each is herein defined.

(n) The “**IPower URLs**” shall mean the following URLs:

- [www.arizona-outdoormovies.com](http://www.arizona-outdoormovies.com)
- [www.arizonaoutdoormovies.com](http://www.arizonaoutdoormovies.com)
- [www.baltimoreoutdoormovies.com](http://www.baltimoreoutdoormovies.com)
- [www.freshairflicks.net](http://www.freshairflicks.net)
- [www.fun-flicks.com](http://www.fun-flicks.com)
- [www.funflicks.net](http://www.funflicks.net)
- [www.georgiaoutdoormovies.com](http://www.georgiaoutdoormovies.com)
- [www.marylandoutdoormovies.com](http://www.marylandoutdoormovies.com)
- [www.newjerseyoutdoormovies.com](http://www.newjerseyoutdoormovies.com)
- [www.newyorkoutdoormovies.com](http://www.newyorkoutdoormovies.com)
- [www.outdoormovies-arizona.com](http://www.outdoormovies-arizona.com)
- [www.outdoormovies-atlanta.com](http://www.outdoormovies-atlanta.com)
- [www.outdoormovies-baltimore.com](http://www.outdoormovies-baltimore.com)
- [www.outdoormovies-california.com](http://www.outdoormovies-california.com)
- [www.outdoormovies-florida.com](http://www.outdoormovies-florida.com)
- [www.outdoormovies-georgia.com](http://www.outdoormovies-georgia.com)
- [www.outdoormovies-maryland.com](http://www.outdoormovies-maryland.com)
- [www.outdoormovies-newjersey.com](http://www.outdoormovies-newjersey.com)
- [www.outdoormovies-northcarolina.com](http://www.outdoormovies-northcarolina.com)
- [www.outdoormovies-pennsylvania.com](http://www.outdoormovies-pennsylvania.com)
- [www.outdoormovies-raleigh.com](http://www.outdoormovies-raleigh.com)
- [www.outdoormovies-virginia.com](http://www.outdoormovies-virginia.com)
- [www.outdoormoviesarizona.com](http://www.outdoormoviesarizona.com)
- [www.outdoormoviesbaltimore.com](http://www.outdoormoviesbaltimore.com)
- [www.outdoormovieslasvegas.com](http://www.outdoormovieslasvegas.com)
- [www.outdoormoviesnewjersey.com](http://www.outdoormoviesnewjersey.com)
- [www.outdoormoviespheonix.com](http://www.outdoormoviespheonix.com)
- [www.outdoormoviessandiego.com](http://www.outdoormoviessandiego.com)
- [www.philadelphiaoutdoormovies.com](http://www.philadelphiaoutdoormovies.com)
- [www.virginiaoutdoormovies.com](http://www.virginiaoutdoormovies.com)

- [Additional IPower URLs subject to the Landers Entities' ability to gain access to the IPower account]

3. **Severn Entities Covenants, Representations and Warranties.** The Severn Entities, jointly and severally, hereby represent and warrant to the Landers Entities that, to the best of their knowledge, information and belief:

(a) the price obtained from the Third Party Sale was the highest and best offer obtained for the assets that the Severn Entities could sell after the Severn Entities advertised the sale of those assets publicly and privately;

(b) the Third Party Sale included the Collateral;

(c) the Third Party Sale did not include the Seller Take Back Promissory Note or Security Agreement;

(d) the Severn Entities are the sole holders of the Seller Take Back Promissory Note and Security Agreement, have not transferred, assigned, or otherwise conveyed the Seller Take Back Promissory Note or Security Agreement, or any of the rights, privileges, or responsibilities thereunder, and have the exclusive right to any amounts due thereunder and the exclusive power and authority to (i) cancel, forgive, forego, and release any amounts remaining due under the APA, the Seller Take Back Promissory Note, and associated agreements; (ii) to cancel the Security Agreement and Seller Take Back Promissory Note; and (iii) to provide a general release as set forth herein, including but not limited to a release related to all agreements between the Parties;

(e) the Severn Entities are not receiving more than \$1,550,000 for the sale and assignment of the Assigned Assets; provided, however, that Todd Severn may work for Third Party Purchaser for compensation commensurate with the scope and nature of the work he provides;

(f) The Severn Entities will immediately ask the Third Party Purchaser to reform or amend the Third Party Sale to make the transfer of the Assigned Assets and IPower URLs to the Third Party Purchaser subject to all covenants, warranties, limitations, and restrictions in this Agreement, and, to the extent the Third Party Purchaser refused to agree to such a reformation or amendment, the Severn Entities will provide the Landers Entities with written notice within twenty-four hours of reaching an impasse with the Third Party Purchaser on such amendment or reformation, after receipt of which the Landers Entities shall have seven (7) days to exercise a right to cancel this Agreement by providing written notice to the Severn Entities; and

(g) the Severn Entities will not voluntarily aid, abet, collude with, or conspire with, any individual or entity, including, without limitation, James Gaither, with respect to bringing or litigating any claim or cause against the Landers Entities based on any conduct or event that occurred prior to the Effective Date of this Agreement.



4. **The Landers Entities Covenants, Representations, and Warranties.** The Landers Entities, jointly and severally, hereby represent and warrant to the Severn Entities to the best of their knowledge, information, and belief that:

(a) with the respect to the Assigned Assets the Landers Entities own all right, title, and interest in the Assigned Assets subject to any right, title, and interest of the Severn Entities pursuant to the Security Agreement and subject to the terms of this Agreement;

(b) the Landers Entities have not transferred, assigned, encumbered, or hypothecated, and shall not transfer, assign, encumber, or hypothecate, any interests in the Assigned Assets;

(c) the Landers Entities have not, and will not, cause any material changes to the Assigned Assets which would negatively affect their value and use as business assets except for normal wear and tear incurred in the ordinary course of business;

(d) the Landers Entities have not received any notice of, or otherwise are not aware of any threatened or pending actions, claims, litigation, or administrative proceedings that would negatively affect the Severn-Entities right, title, and interest in the Assigned Assets;

(e) the Landers Entities will not voluntarily aid, abet, collude with, or conspire with, any individual or entity with respect to bringing or litigating any claim or cause against the Severn Entities based on any conduct or event that occurred prior to the Effective Date of this Agreement;

(f) with respect to any customer information or data in the possession of the licensees under the Contracts, the licensees (not including James Gaither, NatJay, LLC, or any associated individual or entity) can use such data;

(g) The Landers Entities further represent and warrant they have the power and authority to provide a general release as set forth herein, including but not limited to a release related to all agreements between the Parties.

5. **Assignments.** The Landers Entities jointly and severally hereby irrevocably and absolutely assign and transfer all of their right, interest, and title to the Assigned Assets to the FF-Severn. This Agreement shall be considered an instrument of transfer and assignment legally sufficient to document and evidence the present transfer and assignment. The Landers Entities agree to assemble in an orderly manner and transmit the following items set forth in Schedules A and B on a rolling basis and complete all transfers on or before March 24, 2018 to the Severn Entities: (1) any modifications or amendments to the contracts set forth in Schedule A; (2) copies of contracts set forth in Schedule B; (3) marketing programs including documents and advertisements related to National Night Out, School Fundraisers, and Auctions; (4) video files of commercials and videos posted on website, Facebook, YouTube, and social media; (5) professional pictures and images files used in the course of the Landers Entities' operation that contain the Trademark or Additional Trademark; and (6) educational and training manuals. The Landers Entities shall execute any and all documents presented by the Severn Entities that are legally necessary to confirm this transfer and assignment of the Assigned Assets. FF-Severn may promptly provide notice of this assignment and transfer to third parties in order to inform them of this assignment and transfer. The Landers Entities covenants, represent, and warrant



that, as of the assignment herein, any agreements that the Landers Entities have with any other individual or entity for use of the Trademarks or Additional Trademarks that are not assigned under this Agreement are terminated and of no further force or effect. Subject to the permissive temporary use outlined in Section 7, the Landers Entities covenant, represent, and warrant that they will not use or assist any other party in using any trademarks transferred under the APA or this Agreement in connection with an outdoor movie related business following the date of this Agreement except with permission of the individual or entity with the rights to license such trademark. Notwithstanding the foregoing assignments, covenants, representations, and warranties, nothing in this Section or Agreement shall prevent the Landers Entities from utilizing in any manner any of the goods, documents, information, materials, or other items transferred pursuant to this Agreement (with the exception of the URL and Additional URL) where the Landers Entities' use of such goods, documents, information, materials, or other items does not contain or reflect any words, phrases, or images of the Trademarks or Additional Trademark or any images of Todd Severn. For example, the Landers Entities may use images that are transferred to the Severn Entities so long as any references to FunFlicks and Todd Severn in those images is removed, covered, redacted, or otherwise obscured. By way of additional example, the Landers Entities may use documents that are transferred to the Severn Entities so long as all references to FunFlicks and Todd Severn are removed, covered, redacted, or otherwise obscured.

6. **Escrow and Assignment of IPower URLs.** With respect to the IPower URLs, the Landers Entities provide the same representations and warranties contained in Sections 4(a) through 4(c) of this Agreement. The Landers Entities shall deposit the IPower URLs in escrow and they shall be held in escrow by the Lander Entities at the Landers Entities' expense until such time as all ultimateoutdoormovies.com-derivative URLs (e.g., ultimateoutdoormoviescalifornia.com, ultimateoutdoormoviesflorida.com, etc.) that are in the possession, custody, or control of the Severn Entities, the Third-Party Purchaser, or their agents or licensees are assigned to the Landers Entities, at which time the Landers Entities shall release the IPower URLs from escrow and they shall be deemed immediately assigned to the Severn Entities and their successors or assigns.

7. **Use of the Trademark and Additional Trademark.** The parties agree that the Landers' Entities shall have thirty (30) days from the Effective Date of this Agreement to remove, eliminate, or cover the Trademark and Additional Trademark on any and all equipment (including but not limited to vehicles, trailers, and screens), buildings, goods, or other property. If during that thirty (30) day period, the Severn Entities identify any Trademark or Additional Trademark that needs to be removed, eliminated, or covered, the Severn Entities shall provide notice to the Landers Entities, and the Landers Entities shall address the issue within seven (7) days of its receipt of such notice.

8. **Mutual General Release.** Each of the Parties, through the undersigned, on behalf of themselves and their successors in interest, assigns, officers, shareholders, agents, employees, and partners, irrevocably and unconditionally releases and discharges each of the Parties of any and all contracts, agreements, promises, indebtedness, obligations, sums owed, liability, claims, and/or causes of action, including any claims for attorneys' fees, that they, he, or it may have, whether any of the foregoing are known or unknown, that in any way arise from or relate to the APA, the Seller Take Back Financing Note, the Security Agreement, and any



associated agreements and instruments, the Default Notice, the Sale Notice, the Third Party Sale, the Deficiency, or any decision, event, act, transaction, agreement, contract, or occurrence that took place or was executed prior to the date of this Agreement. The Parties understand that this mutual release contained in this Agreement includes all claims they have ever had or may now have against any other Party up to the date of this Agreement, including but not limited to, all claims arising out of or related the Parties' business, relationship and/or agreements, all claims for breach of express or implied contract, and all other federal, state, or local statutory and/or common law claims. The Parties agree that, other than this Agreement, any and all agreements and the covenants and exhibits therein (including but not limited to the Severn Entities' Agreement Not to Compete) between and among them are terminated and of no further force and effect. Any and all claims or potential claims or causes of action that either Party has, may have, or that may arise in the future from events occurring after the date of this Agreement are not meant to be covered by the mutual release of this Agreement. This is a general release for acts, agreements, events, and claims between the parties predating this Agreement. Nothing in this Section shall be deemed to release any claims that either party has or may have against the Third Party Purchaser.

9. **Breach of Settlement.** Notwithstanding anything to the contrary in this Agreement, the release provision set forth in Section 8 of this Agreement shall not constitute a release of any claims or causes of action pertaining to the enforcement of this Agreement arising out of or based on a breach of this Agreement.

10. **No Admission; No Prevailing Party.** The Parties agree that nothing in this Agreement is to be construed as an admission of wrongdoing or liability on the part of any Party and that each Party expressly denies any such wrongdoing or liability, and that this Agreement constitutes the compromise of a disputed claim.

11. **Knowing and Voluntary Agreement.** The Parties acknowledge that they have read this Agreement in its entirety and have been fully and fairly advised as to its terms by an attorney of their choosing. The Parties acknowledges that they have been given ample time to consider the decision to enter into this Agreement and are acting of their own free will. The Parties acknowledges that they fully and completely understand and accept the terms of this Agreement, particularly its effect as a general release.

12. **Enforcement of this Agreement.** In the event that either of the Parties brings any action or proceeding to enforce this Agreement or any provision thereof, such action shall be brought in the United States District Court for the District of Maryland in Baltimore, Maryland, and the prevailing party in such action or proceeding shall be entitled to recover reasonable attorneys' fees and costs.



13. **Miscellaneous.** The Parties acknowledge that this Agreement contains the entire agreement of the Parties and supersedes all prior understandings, writings, proposals, representations, or communications, oral or written, between or among the Parties. In executing this Agreement, no Party has relied upon or relied upon any representation or statement not set forth herein with regard to the subject matter, basis, or effect of this Agreement. The language of all parts of this Agreement shall, in all cases, be construed as a whole, according to its fair meaning, and not strictly for or against any Party. This Agreement shall not be modified except in writing signed by all of the Parties hereto. The terms of this Agreement shall be governed by and construed in accordance with the laws of the State of Maryland.

14. **Counterpart Originals.** This Agreement may be signed in multiple counterparts, all of which, taken together, shall form one instrument. A facsimile or email signature shall be treated the same as an original signature provided it is properly witnessed.

15. **No Third Party Beneficiaries.** No provision of this Agreement is intended to be for the benefit of or enforceable by any third-party, other than the heirs, trustees, executors, administrators, successors, and assigns of the respective Parties.

16. **Authority.** By executing this agreement below, the Parties represent that they have the legal authority to bind their respective entities that they represent, own and/or control, and to provide for the releases contained herein.

17. **Further Assurances and Corrective Instruments.** The Parties to this Agreement shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such instruments and documents as may be required to facilitate the carrying out of the intentions of the Parties to this Agreement.

18. **Parties Relationship.** This Agreement creates no relationship of joint venture, franchise, business opportunity, fiduciary duty, partnership, limited partnership, agency, or employer-employee between the Parties, and the Parties acknowledge that no other facts or relations exist that would create any such relationship between them. No Party has any right or authority to assume or to create any obligation or responsibility on behalf of any other Party except as may from time to time be provided by written instrument signed by the Parties. The relationship between and among the Parties has always been that of independent contracting parties.

19. **No Representation Regarding Tax Treatment.** No representation or warranty is being made by any Party to any other regarding the treatment of this transaction, including but not limited to the release of the Deficiency or the tax treatment accorded the transfers hereunder, for federal or state income taxation. The Parties have relied exclusively on their own legal, accounting, and other tax adviser regarding the treatment of this transaction for federal and state income taxes and on no representation, warranty, or assurance from any other Party or such other Party's legal, accounting, or other adviser.

**WITNESS WHEREOF.** this Agreement has been executed by the Parties hereto, under seal, in a manner and form sufficient to bind them, as of the day and year first above written.

WITNESS:

Name: Yvette Severn

Severn Entities

By: [Signature] (SEAL)

Name: Todd Severn

Title: Individually and in Authorized  
Representative Capacity on behalf of Fun  
Flicks, LLC, a Maryland Limited Liability  
Company.

Name: KENNETH SCHWAUSCH

Landers Entities

By: [Signature] (SEAL)

Name: Darrell Landers

Title: Individually and in Authorized  
Representative Capacity on behalf of  
FunFlicks, LLC, a Texas Limited Liability  
Company (and successor to FunFlicks, Inc.)  
and Fun Flicks, Inc. a Texas Corporation.

**SCHEDULE A:**  
**PRE-APA LICENSE AGREEMENTS AND ANY AMENDMENTS THERETO**

October 2009 Agreement between Arthur R. Astel and Mary M Astel and Fun Flicks, LLC.

July 2011 Agreement between John Banks and Robert Sellers and Fun Flicks, LLC

July 2011 Agreement between Opal Michelle Barrentine and Christopher Ray Barrentine and Fun Flicks, LLC

January 2011 Agreement between Brett Beatty and Fun Flicks, LLC

January 2013 Agreement between Timothy Bennett and Fun Flicks, LLC (Unsigned Contract in APA)

January 2011 Agreement between Family Friendly Entertainment and Planners (Jamie Booth)and Fun Flicks, LLC

December 2009 Agreement between Robert Bruce Bryant and Stephanie Bryant and Fun Flicks, LLC

January 2011 Agreement between Edward Schlesselman and Tom Caldwell and Fun Flicks, LLC

January 2012 Agreement between Tony Dreher and Sara Dreher and Fun Flicks, LLC

March 2012 Agreement between Matthew Robert Faulkner and Jamie Lynn Faulkner and Fun Flicks, LLC

January 2012 Agreement between Lawrence Gaboury and Mary Beth Gaboury and Fun Flicks, LLC

January 2013 Agreement between William Garvey and Amy Setzer and Fun Flicks, LLC (Unsigned in APA)

March 2011 Agreement between David Andrew Gruss and Fun Flicks, LLC

January 2012 Agreement between Stephen Harris and Rhonda Harris and Fun Flicks, LLC

October 2009 Agreement between Leslie Nolle-Hernandez and Fun Flicks, LLC



May 2012 Agreement between Charles Hunter and Amy Hunter and Fun Flicks, LLC

January 2012 Agreement between Paul Jackman and Fun Flicks, LLC

May 2010 Agreement between Sarah Johnson and Ronald Rich and Fun Flicks, LLC

August 2011 Agreement between Cynthia and John Knox and Fun Flicks, LLC

October 2010 Agreement between Susan Lorimer and Andy Lorimer and Fun Flicks, LLC

January 2010 Agreement between Lisa Collura Meli and Fun Flicks, LLC

January 2012 Agreement between Henry O'Neill and Susan O'Neill and Fun Flicks, LLC

June 2010 Agreement between Christina Petrone and Fun Flicks, LLC

January 2012 Agreement between Kathleen Pitz and Fun Flicks, LLC

May 2012 Agreement between Darin M Reichwein and Fun Flicks, LLC

June 2012 Agreement between Shawn Sanders and Fun Flicks, LLC

January 2012 Agreement between PNR Marketing Solutions LLC (Rebecca Shepard and Paul Olson) and Fun Flicks, LLC

October 2008 Agreement between David Sorey and Fun Flicks, LLC

July 2011 Agreement between Terry Banfield and Fun Flicks, LLC

**SCHEDULE B: CURRENT CONTRACTS AND ADDITIONAL MATERIALS**

Current Contracts:

January 2015 Agreement between Penny McCracken and FunFlicks, Inc., and alterations or amendments thereto

June 2013 Agreement between Cynthia and John Knox and FunFlicks, Inc., and alterations or amendments thereto

January 2013 Agreement between Art Astel and FunFlicks, Inc., and alterations or amendments thereto

March 2013 2015 Agreement between Steve and Tammy Mocco of Project Entertainment and FunFlicks, Inc., and alterations or amendments thereto

April 2014 Agreement between Timothy Bennett and FunFlicks, Inc., and alterations or amendments thereto

May 2014 Agreement between Charles Hunter and Amy Hunter and FunFlicks, Inc., and alterations or amendments thereto

2016 Agreement between Darin Reichwein and FunFlicks, Inc., and alterations or amendments thereto

July 2013 Agreement between Paul Jackman and FunFlicks, Inc., and alterations or amendments thereto

January 2015 Agreement between Tom Caldwell and FunFlicks, Inc., and alterations or amendments thereto

June 2013 Agreement between John Banks and Travis Vaughn and FunFlicks, Inc., and alterations or amendments thereto

July 2011 Agreement between Opal Michelle Barrentine and Christopher Ray Barrentine and Fun Flicks, LLC, and alterations or amendments thereto

March 2013 Agreement between Tony Dreher and FunFlicks, Inc., and alterations or amendments thereto

June 2013 Agreement between Matthew Robert Faulkner and Jamie Lynn Faulkner, and alterations or amendments thereto

February 2013 Agreement between William Garvey and Amy Stetzer and FunFlicks, Inc., and alterations or amendments thereto

May 2014 Agreement between Susan Lorimer and Andy Lorimer and FunFlicks, Inc., and alterations or amendments thereto

February 2013 Agreement between Shawn Sanders and FunFlicks, Inc., and alterations or amendments thereto

Additional Materials:

Marketing programs including documents and advertisements related to National Night Out School Fundraisers and Auctions.

Commercials and videos posted on website, Facebook, YouTube and social media.

Internet-related marketing that is not removable by cancelling a membership, subscription, or payment, provided that this shall not include password or administrative credentials relating to social media sites such as Facebook, Twitter, Google Plus, Pinterest, Instagram, or YouTube.

Inflatable Office designs of customer agreements and emails.

Professional pictures and Images files used in the course of the Landers Entities operation, that contain the Trademark.

Educational and training manuals.

**From:** FunFlicks <[all@funflicks.com](mailto:all@funflicks.com)>  
**Date:** June 14, 2018 at 5:11:50 PM CDT  
**To:** <[richard\\_hornacek@federatedmarketingllc.com](mailto:richard_hornacek@federatedmarketingllc.com)>, "[todd@funflicks.com](mailto:todd@funflicks.com)"  
<[todd@funflicks.com](mailto:todd@funflicks.com)>  
**Subject:** Fwd: Fwd: Mall Movie Nights

Hi Richard,

Great to hear from you. Your events were mentioned in the office months ago and was wondering if this might be a reality. Glad this has been such a success on your end!!

We are currently working on a package quote for all of your locations listed.

(FYI, Darrell is no longer here at FunFlicks® - will explain when we talk)

Please reach out to me directly - if you have easy access to zip codes for each location, that would help me tighten up the prices.

My goal is to have a package to you by end of day tomorrow.

Thanks!

Talk soon,

Todd

(818) 732-6872

[www.funflicks.com](http://www.funflicks.com)

[todd@funflicks.com](mailto:todd@funflicks.com)

----- Forwarded Message -----

**Subject:** Mall Movie Nights  
**Date:** Thu, 14 Jun 2018 02:41:43 +0000  
**From:** Richard Hornacek <[richard\\_hornacek@federatedmarketingllc.com](mailto:richard_hornacek@federatedmarketingllc.com)>  
**To:** Darrell Landers <[darrell@funflicks.com](mailto:darrell@funflicks.com)>

Darrell,



My apologies for taking so long to get back to you, I finally got concept approval from all of the local mall marketing directors to move forward with the movie nights that we discussed in Jan and I have a finalized list of locations for you below. I thought we were going to have 6-8 that were interested but ended up with 14 that loved the idea and another 2-3 that are still considering. We need updated pricing for this list since we've had so many changes since we started. We appreciate the 10% discount you provided when we discussed doing 6-8 events but wanted to know if you can do any better with the price now that we have 14 on board? Each mall director is working on their movie title and we would like for you to take care of licensing for us. I set a deadline of July 1 for each mall director to get me their movie name.

You mentioned that we could do this with one contract. Our national marketing team is paying for the events even though each mall is funding from their local budgets.

When can you let me know about availability and pricing for each of these? My objective is to get the pricing approved and then hold a planning call in July to coordinate details.

August 4<sup>th</sup> – 45' Epic Screen Drive-In

Biltmore Fashion Mall – Phoenix, AZ

Colorado Mills – Lakewood, CO

The Shoppes at Buckland Hills – Manchester, CT

Orlando Fashion Mall – Orlando, FL

August 11<sup>th</sup> – 33' Blockbuster Screen

Oakbrook Center – Oakbrook, IL

Glendale Town Center – Indianapolis, IN

Lakeside Shopping Center – Metairie, LA

Northlake Mall – Charlotte, NC

August 18<sup>th</sup> – 45' Epic Screen Drive-In (need generator service at The Summit)

Fashion Show Mall – Newport Beach, CA

Del Amo Fashion Center – Torrance, CA

The Summit – Birmingham, AL

Glendale Galleria – Glendale, AZ

Northpark Center – Dallas, TX

The Galleria – Houston, TX

I'm traveling to Boston the rest of this week and would like to present pricing to my team when I get back to Cincinnati on Monday.

Thank you,

Richard Hornacek

Sent from my iPhone

----- Forwarded message -----

From: [james@funflicks.com](mailto:james@funflicks.com) <[james@funflicks.com](mailto:james@funflicks.com)>

Date: Fri, Apr 27, 2018 at 12:01 PM

Subject: RE:Rental Agreement for Your 9/29/2017 FunFlicks Screen Rental

To: [president@](mailto:president@) [REDACTED]

Hey Megan,

You are in luck! We have one spot open for that date. I will prepare the quote for you shortly and send it over.

Thanks!

James

**Subject:**Re: Rental Agreement for Your 9/29/2017 FunFlicks Screen Rental

**Date:**Fri, 27 Apr 2018 07:47:13 -0400

**From:**Megan Watson <[president@funflicks.com](mailto:president@funflicks.com)>

**To:**FunFlicks Outdoor Movies <[events@funflicks.com](mailto:events@funflicks.com)>

Hi Kenneth !

Wanted to see if the same movie package would be available on May 18th

Thank you,

Megan

Sent from my iPhone

On Aug 25, 2017, at 4:45 PM, FunFlicks Outdoor Movies <[events@funflicks.com](mailto:events@funflicks.com)> wrote:

Hi Megan,

Thank you for your reservation request. In order to finalize your reservation, you will need to complete the following 2 steps:

1. Sign your Rental Agreement for Invoice #0%leadid# (you can do it online, no need to print and mail)

2. Make your deposit or payment in full

**\*\*Our insurance requires that your Rental Agreement be signed before we can dispatch our staff to your location, no exceptions.**

The total for your FunFlicks Rental, along with any options you may have requested is:

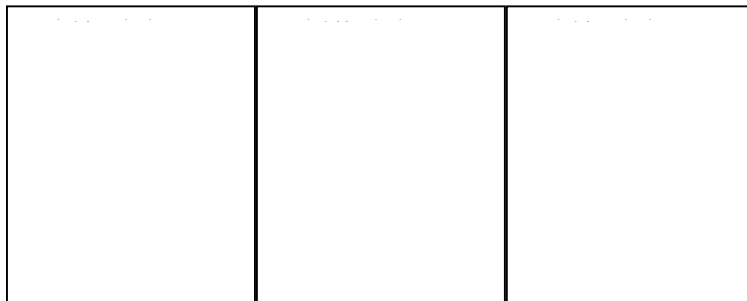
**Total Event Price:** \$775.35

**Deposit Due:** \$387.68

Click the image of the Rental Agreement below to view & sign your contract online:

**Screen Rental Date: Fri, Sep 29, 2017**

**Movie Start Time is: 7:30pm**



If you do not see the 3 images above, click [HERE](#) for Contract, click [HERE](#) for a copy of our W-9 or click [HERE](#) to request a COI.

1. **Review:** Look over your Contract and click to check all highlighted checkboxes

2. **Sign:** Click the "Sign Contract" text in upper left corner of page. You can also print & mail if needed

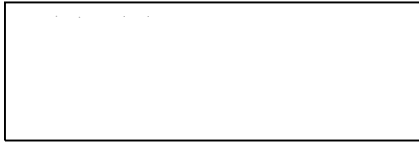
3. **Pay:** Make your payment online with a credit card (3% convenience fee applies), or mail your payment

Reservations made more than 2 weeks away from your rental date require a 50% deposit in order to hold your screen and date. Your final 50% balance will be due 14 days prior to your event rental date. If it is currently inside 14 days from your rental date, your balance in full is due at this time.

Please review the Event Day Responsibilities section of your contract so that you are aware of what you need to provide on the day of your rental.

If you have any questions or need to make any changes, please let us know. We are looking forward to working with you!

Sincerely,  
Kenneth Schwausch



*e* [events@funflicks.com](mailto:events@funflicks.com) / *w* [funflicks.com](http://funflicks.com) / *p* 877-735-4257



[Unsubscribe](#)

From: [president@\[REDACTED\]](mailto:president@[REDACTED])  
Date: Wed Aug 08 2018 18:14:44 GMT-0500 (CDT)  
Subject: Re: Your 9/28/2018 Screen Rental Contract: Sign Online  
To: [movies@ultimateoutdoorentertainment.com](mailto:movies@ultimateoutdoorentertainment.com), [laura@ultimateoutdoorentertainment.com](mailto:laura@ultimateoutdoorentertainment.com)

Laura,

Thank you so much for sending the quote for our events for this school year. I am so glad I called and you clarified that we were going to be working with the ORIGINAL company we contracted with when Kenneth booked our event in September of 2017. I now see where the disconnect occurred and Jame intercepted my email and he became my point of contact. We were mislead and I believed we were still working with the original company and instead someone (James) acting as though he was with Ultimate Outdoor Movies. Needless to say to say we were fooled and had a negative experience with James.

Thank you again and we look forward to working with you.

Best regards,

Megan [REDACTED]

[REDACTED] President

  
Crofton, MD 21114







**Secretary of State**  
**Articles of Organization**  
 Limited Liability Company (LLC)

LLC-1

201815010458

**FILED** Dyy  
 Secretary of State  
 State of California

MAY 22 2018 SMM

**IMPORTANT — Read Instructions before completing this form.****Filing Fee — \$70.00**

**Copy Fees —** First page \$1.00; each attachment page \$0.50;  
 Certification Fee - \$5.00

**Note:** LLCs may have to pay minimum \$800 tax to the California Franchise Tax Board each year. For more information, go to <https://www.ftb.ca.gov>.

lpc

**This Space For Office Use Only**

**1. Limited Liability Company Name** (See Instructions – Must contain an LLC ending such as LLC or L.L.C. "LLC" will be added, if not included.)

Ultimate Outdoor Movies, LLC

**2. Business Addresses**

a. Initial Street Address of Designated Office in California - Do not enter a P.O. Box	City (no abbreviations)	State	Zip Code
11000 Brimhall, Suite 56	Bakersfield	CA	93312
b. Initial Mailing Address of LLC, if different than item 2a	City (no abbreviations)	State	Zip Code

**3. Service of Process** (Must provide either Individual OR Corporation.)**INDIVIDUAL** – Complete Items 3a and 3b only. Must include agent's full name and California street address.

a. California Agent's First Name (if agent is not a corporation)	Middle Name	Last Name	Suffix
Charles		Hunter	
b. Street Address (if agent is not a corporation) - Do not enter a P.O. Box	City (no abbreviations)	State	Zip Code
11000 Brimhall, Suite 56	Bakersfield	CA	93312

**CORPORATION** – Complete Item 3c. Only include the name of the registered agent Corporation.

c. California Registered Corporate Agent's Name (if agent is a corporation) – Do not complete Item 3a or 3b

**4. Management** (Select only one box)

The LLC will be managed by:

☐ One Manager ☒ More than One Manager ☐ All LLC Member(s)

**5. Purpose Statement** (Do not alter Purpose Statement)

The purpose of the limited liability company is to engage in any lawful act or activity for which a limited liability company may be organized under the California Revised Uniform Limited Liability Company Act.

6. The Information contained herein, including in any attachments, is true and correct.

Organizer sign here

Charles Hunter

Print your name here

4156187



**Secretary of State**  
**Articles of Incorporation of a**  
**General Stock Corporation**

ARTS-GS

**IMPORTANT — Read Instructions before completing this form.****Filing Fee — \$100.00****Copy Fees —** First page \$1.00; each attachment page \$0.50;  
Certification Fee - \$5.00**Note:** Corporations may have to pay minimum \$800 tax to the California Franchise Tax Board each year. For more information, go to <https://www.ftb.ca.gov>.

**FILED** *CWH*  
 Secretary of State  
 State of California

**MAY 22 2018***ALX*

*RC* **This Space For Office Use Only**

**1. Corporate Name** (Go to [www.sos.ca.gov/business/be/name-availability](http://www.sos.ca.gov/business/be/name-availability) for general corporate name requirements and restrictions.)The name of the corporation is Ultimate Outdoor Movies, Inc.**2. Business Addresses** (Enter the complete business addresses.)

a. Initial Street Address of Corporation - Do not list a P.O. Box	City (no abbreviations)	State	Zip Code
11000 Brimhall, Suite 56	Bakersfield	CA	93312
b. Initial Mailing Address of Corporation, if different than Item 2a	City (no abbreviations)	State	Zip Code

**3. Service of Process** (Must provide either Individual OR Corporation.)**INDIVIDUAL** — Complete Items 3a and 3b only. Must include agent's full name and California street address.

a. California Agent's First Name (if agent is not a corporation)	Middle Name	Last Name	Suffix
Charles		Hunter	
b. Street Address (if agent is not a corporation) - Do not enter a P.O. Box	City (no abbreviations)	State	Zip Code
11000 Brimhall, Suite 56	Bakersfield	CA	93312

**CORPORATION** — Complete Item 3c. Only include the name of the registered agent Corporation.

c. California Registered Corporate Agent's Name (if agent is a corporation) — Do not complete Item 3a or 3b

**4. Shares** (Enter the number of shares the corporation is authorized to issue. Do not leave blank or enter zero (0).)

This corporation is authorized to issue only one class of shares of stock.

The total number of shares which this corporation is authorized to issue is 10,000.**5. Purpose Statement** (Do not alter the Purpose Statement.)

The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

**6. Read and Sign Below** (This form must be signed by each incorporator. See instructions for signature requirements.)

Signature

Charles Hunter

Type or Print Name

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
BALTIMORE DIVISION**

**ULTIMATE OUTDOOR  
MOVIES, LLC, et. al.**

\*

**PLAINTIFFS**

\*

**v.**

\* **CIVIL NO.: 1:18-cv-02315-RDB**

**FUNFLICKS, LLC et. al  
DEFENDANTS**

\*

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**DEFENDANTS' CONSENT  
PERMITTING PLAINTIFFS TO FILE  
PLAINTIFFS' FIRST AMENDED COMPLAINT  
PURSUANT TO FED. R. CIV. PROC. 15(a)(2)**

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Defendants, by their attorneys, hereby consent to Plaintiffs' filing of the First Amended Complaint in the above captioned proceeding pursuant to FED. R. CIV. PROC. 15(a)(2).

/s/ James Edward Fagan, III

James Edward Fagan, III  
James Gaither  
Offit Kurman, P.A.  
8171 Maple Lawn Blvd., Suite 200  
Maple Lawn, MD 20759  
(301) 575-0386 (phone)  
(301) 575-0335 (facsimile)  
jefagan@offitkurman.com

*Attorneys for Defendants, James Gaither  
and Natjay, LLC*

/s/ Holly Drumheller Butler

Holly Drumheller Butler (Bar No. 025006)  
Susan DuMont (Bar No. 020580)  
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hbutler@milesstockbridge.com  
sdumont@milesstockbridge.com

*Attorneys for Defendants FunFlicks  
Audiovisuals, Charles Hunter, and  
Matthew Dias*

/s/ Jodie E. Buchman

Jodie E. Buchman (Bar Number: 26004)

Avery Barton Strachan (Bar Number:  
27556)

Kerri L. Smith (Bar Number: 05452)

Silverman | Thompson | Slutkin | White  
LLC

201 North Charles Street, Suite 2600

Baltimore, Maryland 21201

Phone: (410) 385-2225

Facsimile: (410) 547-2432

jbuchman@mdattorney.com

astrachan@mdattorney.com

ksmith@mdattorney.com

*Counsel for Defendants FunFlicks, LLC  
and Todd Severn*

**CERTIFICATE OF**  
**SERVICE**

I HEREBY CERTIFY that on this 4<sup>TH</sup> DAY OF OCTOBER 2018, a copy of the foregoing CONSENT MOTION was served through the Court's CM/ECF system to all parties of record.

/s/Troy Swanson  
Troy C. Swanson

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
BALTIMORE DIVISION**

**ULTIMATE OUTDOOR  
MOVIES, LLC, et. al.**

\*

**PLAINTIFFS**

\*

**v.**

\* **CIVIL NO.: 1:18-cv-02315-RDB**

**FUNFLICKS, LLC et. al  
DEFENDANTS**

\*

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**AMENDED CERTIFICATE OF SERVICE**

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I certify that on this 2<sup>ND</sup> day of November 2018, I served a copy of (1) Plaintiffs' First Amended Complaint Civil Cover Sheet and Table of Contents; (2) Plaintiff's First Amended Complaint with accompanying exhibits; (3) a redline version comparing the Original Complaint to the First Amended Complaint; and (4) Defendants' Consent Permitting Plaintiffs to file the First Amended Complaint - through the CM/ECF System which will furnish electronic copies to all counsel.

/s/Troy Swanson

Troy C. Swanson

USDC MD Bar #05806

Cipriani & Werner, P.C.

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Greenbelt, Maryland 20770

Telephone 410-420-0700

Fax #410-420-0222

Email: tswanson@c-wlaw.com

Attorneys for Plaintiffs