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8 Attorneys for Plaintiff The Keepers Production, LLC

9 UNITED STATES DISTRICT COURT
10
11 CENTRAL DISTRICT OF CALIFORNIA
12
13 WESTERN DIVISION

14 **THE KEEPERS PRODUCTION, LLC**,
15 a Kentucky limited liability company;

16 Plaintiff,

17 v.

18 **TWENTIETH CENTURY FOX FILM**
19 **CORPORATION**, a Delaware
20 corporation; **MARV FILMS**, a British
21 company, form unknown; **CLOUDY**
22 **PRODUCTIONS LIMITED**, a British
23 company, form unknown; **TSG**
24 **ENTERTAINMENT FINANCE, LLC**, a
25 Delaware limited liability company;
26 **TWENTIETH CENTURY FOX HOME**
27 **ENTERTAINMENT, LLC**, a Delaware
28 limited liability company; **MATTHEW**
VAUGHN, an individual; **JANE**
GOLDMAN, an individual; and DOES 1
to 10, inclusive,

Defendants.

CASE NO.: 2:18-cv-01145

COMPLAINT FOR DAMAGES
FOR:

1. COPYRIGHT
INFRINGEMENT

DEMAND FOR JURY TRIAL

PLAINTIFF in the above-captioned action hereby alleges as follows:

JURISDICTION AND VENUE

1. This action arises under the Copyright Laws of the United States (Title

1 17, U.S.C. §101 et seq.) and the common law of the State of California.

2 2. This court has exclusive jurisdiction over this action under 28 U.S.C.
3 §§ 1331 and 1338 in that this action involves claims arising under the Copyright
4 Laws of the United States. To the extent that this action is based on related state
5 claims, the Court has supplemental jurisdiction thereto under 28 U.S.C. § 1367.
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8 3. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400
9 in that Defendants transact business in the county of Los Angeles, State of
10 California.
11

12 **PARTIES**

13 4. At all times mentioned herein, Plaintiff THE KEEPERS
14 PRODUCTION, LLC (“Plaintiff”) is a Kentucky limited liability company. R.
15 Spencer Balentine (“Balentine”) is the owner/operator of Plaintiff and the sole
16 author of a wholly original screenplay entitled *The Keepers* (the “Screenplay”).
17

18 5. At all times mentioned herein, Defendant TWENTIETH CENTURY
19 FOX FILM CORPORATION (“20th Century Fox”) is a Delaware corporation
20 doing business in Los Angeles, California.
21

22 6. At all times mentioned herein, upon information and belief, Defendant
23 MARV FILMS (“Marv”) is a British production company, form unknown, doing
24 business in Los Angeles, California.
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26 7. At all times mentioned herein, upon information and belief, Defendant
27 CLOUDY PRODUCTIONS (“Cloudy”) is a British production company, form
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1 unknown, doing business in Los Angeles, California.

2 8. At all times mentioned herein, Defendant TSG ENTERTAINMENT
3 FINANCE LLC (“TSG”) is a Delaware limited liability company doing business in
4 Los Angeles, California.
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6 9. At all times mentioned herein, Defendant TWENTIETH CENTURY
7 FOX HOME ENTERTAINMENT LLC (“Fox Home Entertainment”) is a
8 Delaware limited liability company doing business in Los Angeles, California.
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10 10. Upon information and belief, at all times mentioned herein, Defendant
11 MATTHEW VAUGHN (“Vaughn”) is an individual doing business in Los
12 Angeles, California.
13

14 11. Upon information and belief, at all times mentioned herein, Defendant
15 JANE GOLDMAN (“Goldman”) is an individual doing business in Los Angeles,
16 California.
17

18 12. Defendants 20th Century Fox, Marv, Cloudy, TSG, Fox Home
19 Entertainment, Vaughn and Goldman shall be collectively referred to as
20 “Defendants”.
21

22 13. Plaintiff is unaware of the true names and capacities of the Defendants
23 sued herein as DOES 1 through 10, inclusive, and for that reason, sues such
24 Defendants under such fictitious names. Plaintiff is informed and believes and on
25 that basis alleges that such fictitiously named Defendants are responsible in some
26 manner for the occurrences herein alleged, and that Plaintiff’s damages as herein
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1 alleged were proximately caused by the conduct of said Defendants. Plaintiff will
2 seek to amend the complaint when the names and capacities of such fictitiously
3 named Defendants are ascertained. As alleged herein, “Defendants” shall mean all
4 named Defendants and all fictitiously named Defendants.
5

6 14. Plaintiff is informed and believes and on that basis alleges that
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8 Defendants at all times relative to this action, were the agents, servants, partners,
9 joint venturers and employees of each of the other Defendants and in doing the acts
10 alleged herein were acting with the knowledge and consent of each of the other
11 Defendants in this action. Alternatively, at all times mentioned herein, each of the
12 Defendants conspired with each other to commit the wrongful acts complained of
13 herein. Although not all of the Defendants committed all of the acts of the
14 conspiracy or were members of the conspiracy at all times during its existence,
15 each Defendant knowingly performed one or more acts in direct furtherance of the
16 objectives of the conspiracy. Therefore, each Defendant is liable for the acts of all
17 of the other conspirators.
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21 **THE PROTECTED WORK**

22 15. Plaintiff repeats, alleges and incorporates by reference paragraphs 1
23 through 15 as through fully set forth herein.
24

25 16. In or about 2003, R. Spencer Balentine (“Balentine”) authored the
26 wholly original screenplay entitled *The Keepers* (the “Screenplay”). Thereafter, on
27 or about July 21, 2003, Balentine registered the Screenplay with the Writers Guild
28

1 of America West (“WGA”).

2 17. Thereafter, on October 31, 2017, Balentine formed Plaintiff, a limited
3 liability company, as its sole owner/operator. Balentine transferred ownership of
4 the Screenplay copyright to Plaintiff via written transfer agreement, effective as of
5 October 31, 2017.
6

7
8 18. On January 16, 2018, Plaintiff The Keepers Production, LLC
9 (“Plaintiff”) and Balentine registered the Screenplay with the U.S. Copyright
10 Office (Registration No. PAu 3-876-575). A true and correct copy of the Certificate
11 of Registration is attached hereto as Exhibit A.
12

13 19. In or about 2004, Balentine entered the Screenplay into a writing
14 competition called the EXPO 4 screenwriting contest (the “Competition”). Dabel
15 Brothers Productions (“Dabel Bros.”), a publishing company that publishes comic
16 books and graphic novels, offered an award consisting of the creation of a comic
17 book based on a screenplay submission. To qualify for consideration by Dabel
18 Bros., a screenplay must place in the top 10. Plaintiff’s Screenplay ultimately
19 placed in the top 10 in the Competition. As a result, Dabel Bros. had access to the
20 Screenplay.
21
22

23
24 20. In November of 2005, Balentine directly sent Dabel Bros. another
25 copy of the Screenplay, which had been revised slightly from the 2004 draft. The
26 2005 draft of the Screenplay is the draft registered with the U.S. Copyright Office.
27

28 21. Upon information and belief, in 2006, Dabel Bros. and Marvel entered

1 into a publishing and distribution agreement, which was terminated in or about
2 August of 2007 (according to a purported press release from Marvel). A true and
3 correct copy of an online article entitled “Marvel and Dabel Brothers- Sayonara”
4 (August 14, 2007), [http://www.comicsbeat.com/marvel-and-dabel-brothers-](http://www.comicsbeat.com/marvel-and-dabel-brothers-sayonara/)
5 [sayonara/](http://www.comicsbeat.com/marvel-and-dabel-brothers-sayonara/) (retrieved January 11, 2018) is attached hereto as Exhibit B. The
6 agreement was intended for “Marvel to market, print and distribute several limited
7 and ongoing series, in addition to some other dynamic new properties.” (See
8 Exhibit B). Upon information and belief, during this time period, Marvel gained
9 access to the Screenplay.

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13 22. Upon information and belief, a writer named Brian Vaughan worked
14 with Dabel Bros. during the 2004 - 2005 time period and had direct access to the
15 Screenplay. Brian Vaughan wrote several issues of Marvel’s *X-Men* comic book
16 series.

17
18 23. Defendant Matthew Vaughn (“Vaughn”) and Defendant Jane Goldman
19 (“Goldman”) are the credited authors of the *Kingsman: Secret Service* screenplay
20 that ultimately became the *Kingsman: Secret Service* film (the “Film”). Vaughn
21 also directed the Film, and has previously written and/or directed two films based
22 on Marvel’s *X-Men* comic book series: *X-Men: First Class* (2011) and *X-Men:*
23 *Days of Future Past* (2014). Vaughn also wrote and directed *Kick-Ass* (2010),
24 another action film based on a comic book published by Marvel. Goldman is also
25 credited as a writer on *X-Men: First Class*, *X-Men: Days of Future Past* and *Kick-*
26
27
28

1 *Ass.*

2 24. The Film is purported to be based on a comic book series originally
3 entitled *The Secret Service*, first published in 2012 by Icon Comics (a division of
4 Marvel) and written by Mark Millar. Mark Millar also wrote multiple *X-Men* comic
5 books published by Marvel as early as 2000, and an extensive list of other comic
6 book works published by Marvel and Icon. However, several key aspects of the
7 Film do not appear in *The Secret Service* comic that do appear in the Screenplay;
8 for example, in the comic, there is no reference to Knights of the Round Table, no
9 small dog companion to the protagonist, no use of holograms, and the general
10 theme of the comic is about public service rather than an individual overcoming
11 humble origins to achieve greatness.
12

13 25. Upon information and belief, Vaughn and/or Goldman gained access
14 to Plaintiff's Screenplay either through Brian Vaughan or through Marvel, and
15 Vaughn and/or Goldman utilized Plaintiff's original ideas to create *Kingsman:
16 Secret Service*.
17

18 26. The Film was produced by Defendants 20th Century Fox, Marv,
19 Cloudy and TSG, and distributed theatrically by 20th Century Fox in the U.S. The
20 DVD and BluRay were distributed by Defendant Fox Home Entertainment in the
21 U.S.
22

23 27. On or about February 12, 2015, the Film was released theatrically in
24 the United States.
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1 **DEFENDANTS’ INFRINGEMENT OF PLAINTIFF’S SCREENPLAY**

2 28. The Film contained the same, unusual core copyrightable expression
3
4 as the Screenplay.

5 29. The similarities between the Film and the Screenplay are so striking
6
7 that it is a virtual impossibility that the former could have been created
8
9 independently from the latter, including *inter alia*, the following:

9 **A. Characters**

10 1) The Protagonists: Doyen Gray (*The Keepers*) and Eggsy Unwin
11
12 (*Kingsman: Secret Service*)

- 13 a. Both characters are down-on-their-luck men in their early 20s,
14
15 lower class, rough around the edges, street-wise and smart.
- 16 b. Both characters have athletic early backgrounds; Eggsy is a
17
18 former gymnast, Doyen is described as an unkept athlete.
- 19 c. Both characters are shown to be protective of small children;
20
21 Eggsy cares for his toddler sister, Doyen saves a toddler girl on a
22
23 tricycle.
- 24 d. Both characters have small dog companions.
- 25 e. Both characters have exceptional driving prowess.
- 26 f. Both characters have paternal familial connections to
27
28 membership in a secret spy organization.
- g. Both characters notably lack the privileged background of the

1 other members of the secret organization. Upon the protagonist's
2 arrival to the secret organization, he feels that he does not belong in
3 both the Screenplay and the Film.
4

5 h. Both characters study in order to become more educated, more
6 articulate and better dressed in order to assimilate within the secret spy
7 organization.
8

9 i. Both characters ask questions, talk back and speak up when
10 expected to be quiet.
11

12 j. Both characters' biological fathers are gone; both have a non-
13 biologically related father figure: the stepfather (Film) and the
14 adoptive father (Screenplay).
15

16 k. Both characters have a special drink: Doyen drinks Kentucky
17 bourbon; Eggsy drinks single malt whiskey.
18

19 l. Both characters have a romantic connection to an "upper class"
20 woman.
21

22 2) The Mentors: Nigel (*The Keepers*) vs. Harry (*Kingsman: Secret Service*)

23 a. Both characters are British.

24 b. Both characters appear very formal and well-dressed.

25 c. Both characters appear humorless.

26 d. Both characters are fierce fighters.

27 e. Both characters act as mentors and quasi-paternal figures to the
28

1 younger main characters, and are impressed by the younger main
2 characters' determination.

3
4 f. Both characters advocate for the protagonist within the secret
5 organization, and convince others that the protagonist is worthy.

6
7 g. Both characters treasure history, protocol and tradition, but
8 recognize that snobbery will keep out worthy candidates.

9
10 b. Both characters are motivated to help the protagonist to have a
11 chance at an outstanding life.

12
13 c. Both characters help the protagonist to improve himself and
14 become a gentleman.

15 3) The Antagonists: William March Apollyon (*The Keepers*) vs. Richmond
16 Valentine (*Kingsman: Secret Service*)

17
18 a. Both characters are the primary antagonists and are American
19 billionaire men in their 50's.

20
21 b. Both characters detest physiological attributes (germs in the
22 Screenplay; blood in the Film).

23
24 c. Both characters are subject to panic attacks.

25
26 d. Both characters express disdain for humanity: Apollyon calls the
27 human race filthy; Valentine equates humanity to a virus poisoning the
28 world.

e. Both characters work with dark-haired female assistants in their

1 20's who kill people.

2 4) The Antagonists' Assistants: Amanda (*The Keepers*) vs. Gazelle
3
4 (*Kingsman: Secret Service*)

- 5 a. Both characters are dark-haired, athletic women in their 20's.
6
7 b. Both characters are soulless killing machines.
8
9 c. Both characters have superhuman abilities. In the Film, the
10 assistant has mechanical blades as prosthetic lower legs (used to slice
11 through doors and cut through bodies) and apparent superhuman
12 agility (e.g., leaping and flipping). In the Screenplay, the assistant is
13 likewise a "humabot" with superhuman abilities (e.g., leaping,
14 running, strength), who uses deadly nanobots to slice through doors
15 and cut through bodies.
16
17 d. Both characters rarely speak.
18
19 e. Both characters attempt to kill the protagonist.

20 **B. Theme**

21 1.) In both the Screenplay and the Film, the underlying theme is that one can
22 be a great person no matter how humble his origins. Actions speak louder
23 than words. Both themes are anti-snobbery; elitist "snobs" are proven wrong.
24 Both protagonists initially appear "lower class" and unlikely to fit into the
25 secret organization, but ultimately rise to the occasion.
26
27

28 **C. Plot**

1 1.) The Screenplay and the Film have substantially similar plots:

2 a. A young, male protagonist confronts his destiny as a chosen
3 candidate for membership in an elite secret organization, and must rise
4 to his true calling of saving the world.

5
6 b. The secret organization is similar to the Knights of the Round
7 Table, comprised of people of various nationalities, with headquarters
8 in England and serves to protect the world.

9
10 c. Early in the Film and the Screenplay, the leader of the secret
11 organization waits at the headquarters in England for the mentor
12 character. The mentor is running late. They discuss the death of a
13 member of the organization, and the leader takes the news in stride and
14 presses the mentor to locate a new candidate (the protagonist)
15 immediately. Candidates for membership are nominated by existing
16 members.

17
18 d. Prior to becoming a candidate for the secret organization, the
19 protagonist meets his mentor at a bar. There is a gang attack aimed at
20 the protagonist that takes place in the bar and subsequent fight. In both
21 bar attack scenes, the attackers make homophobic jokes.

22
23 e. Following an encounter with the gang in a bar, the protagonist
24 uses a vehicle (a motorcycle in the Screenplay, a car in the Film) to
25 display his driving prowess and antagonize the gang.
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f. Prior to becoming a candidate for the secret organization, the protagonist gets into a fight with a non-biologically related father figure: the stepfather (Film) and the adoptive father (Screenplay).

g. The mentor escorts the protagonist to the secret organization’s headquarters in England.

h. At the secret organization’s headquarters, the protagonist must undergo testing to become a member. Both protagonists feel like lab rats being subjected to dangerous testing.

i. The protagonist does not have the privileged background of the other members of the secret organization. The protagonist’s mentor advocates on his behalf to persuade others in the organization that the protagonist is worthy.

j. The mentor presents a token to the protagonist (a golden key in Screenplay and a golden medal in the Film).

k. After undergoing testing, the protagonist learns from his mentor about past secret missions performed by the organization involving significant historical figures (in the Film, the mentor’s office displayed front pages of newspapers; in the Screenplay, a secret chamber displayed various items).

l. Early in the Film and Screenplay, in her first appearance in each, the antagonist’s assistant slices people into parts quickly and cleanly

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(in the Film, the assistant uses prosthetic sword legs; in the Screenplay, the assistant uses “nanobots”); body pieces drop to the floor without changing facial expression or dropping what they’re holding.

m. The antagonist targets and kidnaps heads of state and dignitaries (the President of the United States is revealed to be included in each) in order to control them. In the Film, the dignitaries are implanted with devices in their necks; in the Screenplay, they are scanned into life-like robots that look identical to the dignitary, with a power source implant in the neck.

n. The secret organization utilizes a hologram tool to “meet” with members not present (glasses in the Film, a compass holder in the Screenplay). A mirror transforms into a screen that shows the past (Film) or that communicates a message to the protagonist (Screenplay).

o. The protagonist, dressed in formal attire to blend in, crashes an elite, highly secure party thrown by the antagonist.

p. A group of people’s heads “explode” (in the Film, the neck implant explodes; in the Screenplay, the heads are severed so quickly they pop into the air.)

q. In the end, the protagonist cooperates with a female character (Roxy in the Film; Amanda in the Screenplay) to successfully save the

1 day. Each protagonist is now a member of the secret organization.

2 **D. Setting**

3
4 1.) The Screenplay and the Film share substantially similar settings.

5 a. Both stories take place partially in England and partially in the
6 state of Kentucky.

7
8 b. There is a look of long tradition in the headquarters of the secret
9 organization in both. Both secret organization headquarters are in
10 England and are aristocratic/wealthy settings with visuals of beautiful,
11 elaborate floors.

12
13 c. Both are set in the present day and contain flashbacks.

14 **E. Mood and Pace**

15
16 1.) The Screenplay and the Film are substantially similar in mood and pace.

17 a. Both the Screenplay and the Film are big action-adventure,
18 comic-book style spy stories. Both are highly graphic with lots of
19 violent action. Both are aimed at consumers of comic books and/or
20 teenagers and young adults.

21
22 b. Both contain sophomoric humor. Both are lightly comedic, wry,
23 spoofy interpretations of the spy genre.

24
25 c. Both accelerate in pace; intense action accelerates throughout
26 and is heightened at the end.

27
28 **F. Dialogue**

1 1.) The Screenplay and the Film share key lines of dialogue.

2 a. In the Screenplay, the leader of the secret organization states,
3 “Time is of the essence”, while urging the Keepers along. In the Film,
4 the leader of the secret organization states, “Time is of the essence”,
5 while urging the Kingsmen along.

6
7
8 b. In the Screenplay, the leader of the secret organization states,
9 “Remember, time is not your friend” to the protagonist. In the Film,
10 the leader of the secret organization states, “Remember, time is not
11 your friend” to the protagonist.

12
13 c. The line “Believe in yourself, then do” appears in the
14 Screenplay. In the Film, the protagonist encourages another character
15 in the same manner. These are non-exhaustive similarities in dialogue.
16

17 **G. Sequence of Events**

18 1.) The sequence of events in both the Film and the Screenplay follow a
19 linear trajectory with flashbacks, consistent with the Plot set forth
20 hereinabove.
21

22 30. The shooting script for *Kingman: Secret Service* (the “Shooting
23 Script”) also includes many additional similarities to the Screenplay, which,
24 although ultimately left out of the Film, further prove that it is a statistical
25 impossibility that the Film could have been created independently from the
26 Screenplay. These similarities include, but are not limited to the following:
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28

1 1.) In the Shooting Script and in the Screenplay, characters use convincing
2 latex masks to appear as different people.

3
4 2.) In the Shooting Script and in the Screenplay, a hologram of the leader of
5 the secret organization appears to explain a mission involving breaking into a
6 vault through a maze of lasers.

7
8 **FIRST CLAIM FOR RELIEF**

9 **(Violation of the Federal Copyright Act, 17 U.S.C. § 101 et seq - Against All**
10 **Defendants)**

11
12 31. Plaintiff repeats, alleges and incorporates by reference paragraphs 1 to
13 26 as though fully set forth herein.

14
15 32. On or about February 12, 2015, the Film was released theatrically in
16 the United States.

17
18 33. As alleged hereinabove, the named Defendants have infringed upon
19 Plaintiff's copyright by copying wholly original elements from Plaintiff's
20 Screenplay, *The Keepers*, without any permission, in the Film and Shooting Script
21 for *Kingsman: Secret Service*.

22
23 34. Upon information and belief, Defendants have thereafter intentionally
24 broadcast, distributed, published, and otherwise exploited the Screenplay without
25 authorization, in violation of Plaintiff's rights.

26
27 35. Upon information and belief, Defendants have intentionally violated
28 the Federal Copyright Act, Title 17 U.S.C. § 101 et seq., entitling Plaintiff to all

1 damages and remedies provided by the Act.

2 36. Upon information and belief, Defendants continue to infringe upon
3 Plaintiff's copyrights, causing Plaintiff irreparable injury and damage. Said
4 infringement entitles Plaintiff to actual and statutory damages, injunctive and other
5 relief provided by the Copyright Act.
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9 WHEREFORE Plaintiff prays,

10 ON THE FIRST CLAIM FOR RELIEF

11
12 1. For a preliminary and permanent injunction enjoining Defendants from
13 infringing the copyrights of Plaintiff in any manner.

14 2. For actual damages and profits in excess of \$5,000,000 according to
15 proof.
16

17 3. That Defendants be required to pay to Plaintiff such damages as
18 Plaintiff has sustained in consequence of Defendants' infringements of Plaintiff's
19 copyright and to account for:
20

21 (a) All gains, profits, and advantages derived by Defendants by their
22 infringement of Plaintiff's copyright or such damages as the court shall deem
23 proper within the provisions of the copyright statute, but no less than
24 \$5,000,000;
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26 (b) That Defendants deliver up to be impounded during the pendency of
27 this action all copies of said infringing work as in its possession or under its
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control and deliver up for destruction all infringing copies and all plates, molds, or other matter used to make infringing copies.

- 4. For statutory damages, costs, and attorney fees.
- 5. For an accounting.

ON ALL CLAIMS FOR RELIEF

- 6. For costs of suit and interest.
- 7. For such relief as is just and proper.

Dated: February 8, 2018

Respectfully,
LOWE | LEFAN

By: 

Steven T. Lowe
Attorneys for Plaintiff

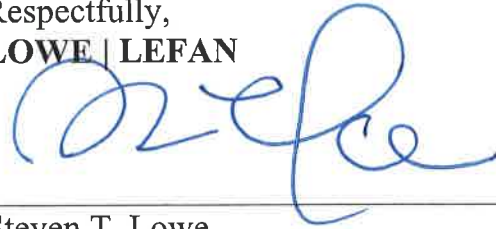
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DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: February 8, 2018

Respectfully,
LOWE | LEFAN



By: _____

Steven T. Lowe
Attorneys for Plaintiff