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SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

APR 12 2013

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By [Signature], Deputy

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**

BY FAX

11 CARMEN HARRA, an individual,
12 Plaintiff,

13 v.

14 LEIGH LESHNER, an individual; FRED
15 FONTANA, an individual; R.J. LOUIS,
16 an individual; and DOES 1 to 20,
17 Inclusive,
18 Defendants.

CASE NO. BC 498 013

[Assigned For All Purposes To
Hon. Richard Fruin - Dept. 15]

Complaint Filed: December 21, 2012

CROSS-COMPLAINT FOR:

1. BREACH OF IMPLIED CONTRACT
2. BREACH OF ORAL CONTRACT
3. FRAUD
4. DECLARATORY RELIEF
5. BREACH OF WRITTEN CONTRACT
6. FRAUD

18 FRED FONTANA, an individual; R.J.
19 LOUIS, an individual,

20 Cross-Complainants,

21 v.

22 CARMEN HARRA, an individual;
23 CARMEN HARRA ENTERPRISES,
24 INC., a Florida corporation; OTMAR
25 SIBILO, an individual; GLOBAL
26 ENTERTAINMENT MOVIES, LLC, a
27 Florida limited liability company, and
28 ROES 1 through 100, inclusive,

Cross-Defendants.

28 ///

1 Cross-Complainants FRED FONTANA and R.J. LOUIS (hereinafter "Cross-
2 Complainants") hereby allege as follows:

3
4 **GENERAL ALLEGATIONS**

5 **THE PARTIES**

6 1. Cross-Complainant FRED FONTANA (hereinafter "Fontana") is, and at all times
7 herein mentioned was, an individual, residing in the State of California, County of Los Angeles.

8 2. Cross-Complainant R.J. LOUIS (hereinafter "Louis") is, and at all times herein
9 mentioned was, an individual, residing in the State of California, County of Los Angeles.

10 3. Cross-Complainants are informed and believe and, based upon such information
11 and belief, allege that Cross-Defendant CARMEN HARRA (hereinafter "Harra") is, and at all
12 times herein mentioned was, an individual, residing in the States of Florida and New York.

13 4. Cross-Complainants are informed and believe and, based upon such information
14 and belief, allege that Cross-Defendant CARMEN HARRA ENTERPRISES, INC. (hereinafter
15 "CHE") is a corporation, organized and existing under the laws of the State of Florida, and is,
16 and at all times mentioned was, licensed to do and doing business in the State of California,
17 County of Los Angeles.

18 5. Cross-Complainants are informed and believe and, based upon such information
19 and belief, allege that Cross-Defendant OTMAR SIBILO (hereinafter "Sibilo") is, and at all
20 times herein mentioned was, an individual, residing in Surinam, and is, and at all times herein
21 mentioned was, doing business in the State of California, County of Los Angeles. Cross-
22 Defendant Harra and Cross-Defendant Sibilo are partners.

23 6. Cross-Complainants are informed and believe and, based upon such information
24 and belief, allege that Cross-Defendant GLOBAL ENTERTAINMENT MOVIES, LLC
25 (hereinafter "GLOBAL") is a limited liability company, organized and existing under the laws of
26 the State of Florida, and is licensed to do, and has been doing, business in the State of California,
27 County of Los Angeles.

28 ///

1 7. Cross-Complainants are informed and believe and, based upon such information
2 and belief, allege that ROES 1 through 50 are, and at all times herein mentioned were,
3 corporations, partnerships, or other business entities, which were and are legally responsible and
4 liable for the acts, omissions, and events referred to in this Complaint.

5 8. Cross-Complainants are informed and believe and, based upon such information
6 and belief, allege that ROES 51 through 100 are, and at all times herein mentioned were,
7 individuals, who were and are legally responsible and liable for the acts, omissions, and events
8 referred to in this Complaint.

9 9. Cross-Complainants are ignorant of the true names and capacities of Cross-
10 Defendants sued herein as ROES 1 through 100, inclusive, and therefore sues said Cross-
11 Defendants under such fictitious names. Cross-Complainants will seek leave to amend this
12 Cross-Complaint to allege their true names and capacities when the same have been ascertained.

13 10. Cross-Complainants are informed and believe and, based on such information and
14 belief, allege that Cross-Defendants, and each of them, are, and at all times herein mentioned
15 were, the alter egos, agents, employees, partners, joint-venturers, co-conspirators, owners,
16 principals, and employers of the remaining Cross-Defendants, and each of them, and are, and at
17 all times herein mentioned were, acting within the course and scope of that agency, employment,
18 partnership, conspiracy, ownership, or joint-venture. Cross-Complainants are further informed
19 and believe and, based upon such information and belief, allege that the acts and conduct herein
20 alleged of each such Cross-Defendant were known to, authorized by, and/or ratified by the other
21 Cross-Defendants, and each of them.

22 BACKGROUND

23 *Plaintiff Fred Fontana*

24 11. Fontana is a successful writer and producer, with over 20 years of experience in
25 the entertainment industry. Over the course of his professional career, Fontana has amassed an
26 impressive list of credits and has spent many years producing, writing and developing feature
27 films and television series.
28

1 12. In the early 1990's, Fontana joined well-renowned Producer Jerry Weintraub's
2 producing team, and served as Associate Producer on Warner Bros.' large budget film, "Soldier"
3 (1998), starring Kurt Russell, and "Vegas Vacation" (1997), with Chevy Chase. Fontana's other
4 credits during this time include "The Specialist" (1994), starring Sylvester Stallone and Sharon
5 Stone, "The Next Karate Kid" (1994), starring Hilary Swank and Pat Morita, and "Pure
6 Country" (1992), starring George Strait and Lesley Ann Warren.

7 13. Fontana also produced the independent film, "Girl's Best Friend" (2000) for Flixer
8 Entertainment. The film, shot in Palm Springs, was one of the first movies filmed in the digital
9 format. Fontana also produced the independent comedy film, "Stone & Ed" (2008), which was
10 released by Maverick Entertainment Group.

11 14. Fontana recently wrote and produced the award-winning film, "Florida Road"
12 (2010). Fontana's script for the film was honored as Best Screenplay at the Treasure Coast
13 Festival in Florida and the film took top awards at the Durango Film Festival and the
14 International Family Film Festival.

15 15. Fontana also has had a very successful television career, writing on CBS's
16 successful television series "Diagnosis Murder," starring Dick Van Dyke, including the episode
17 "The Red Shoes," which he co-wrote with series star Victoria Rowell. Additionally, his
18 television production credits include work on such well known series as "Columbo," "Major
19 Dad," "Charles In Charge," "Murder She Wrote," "Simon & Simon," "Alfred Hitchcock
20 Presents," and two "Six Million Dollar Man" and "Bionic Woman" reunion movies.

21 16. Fontana is currently in pre-production on his next film, entitled "Best Seller,"
22 which he wrote and will produce in 2013. Fontana's other projects currently in development
23 include "Hammeris Storm," a terrorist thriller, and "Sands of Sudan," a story about the "Lost
24 Boys of Sudan" and their struggles for freedom, which is set to shoot in Kenya, Africa. Fontana
25 also is working with novelist A.R. Rand to bring her successful series of children's books, "Bats
26 In The Belfry," to the big screen. Fontana also is working on several television reality series,
27 including "Cheapskate," "Certifiable," and "Undateable," an option to which was purchased by
28 the GSN network.

1 **Plaintiff R.J. Louis**

2 17. Louis is a very successful producer with over 40 years of experience in the
3 entertainment industry. Louis has extensive experience producing both as a line and creative
4 producer, and with both low and high budget films, which has given him a valuable
5 understanding of all phases of film production. Over the course of his professional career, Louis
6 has amassed an extremely impressive list of credits, and has spent many years producing and
7 developing feature films and television series.

8 18. Louis studied cinema in college, where, during his first year, he negotiated, wrote,
9 produced, and directed a film that became the first student production to ever shoot on the back
10 lot of Warner Bros. Studios. Louis's film won top honors in college competitions, and Louis
11 was awarded the "Most Outstanding First Year Cinema Student" award. Moreover, Warner
12 Bros. was so impressed with his work that they introduced him to a major talent agent for future
13 representation.

14 19. Louis began his professional career as an apprentice at NBC television working on
15 "Let's Make A Deal," where he quickly rose through the production ranks, and produced several
16 TV pilots, series, and tele-films. Louis's work includes such memorable dramas as the Emmy-
17 nominated "The Kitty O'Neil Story," starring Colleen Dewhurst, "When Hell Was In Session,"
18 starring Hal Holbrook, and "The Steel Cowboy," starring James Brolin, Rip Torn, and Struther
19 Martin.

20 20. Louis also produced "Lone Star" and "The Renegades" for film producer
21 Lawrence Gordon. Thereafter, moving into feature films, Louis served as associate producer of
22 "The Idolmaker" for Taylor Hackford's directing debut. Louis then executive produced
23 "Hadley's Rebellion," which starred Griffin O'Neil, Charles Durning, and William Devane,
24 followed by the blockbuster franchise of "The Karate Kid," starring Ralph Macchio, Pat Morita,
25 and Elizabeth Shue, "The Karate Kid II," starring Ralph Macchio and Pat Morita, and "The Next
26 Karate Kid," starring Pat Morita and Hillary Swank.

27 21. Louis next produced "Mac and Me," a family film sponsored by McDonalds,
28 which sold a record 300,000 videos at a time when video was in its infancy. Louis remains the

1 only person to ever acquire the film rights to Ronald McDonald and the McDonald's empire.

2 22. Louis then executive produced "Pure Country," starring George Strait and Leslie
3 Ann Warren, and "Soldier," starring Kurt Russell. Louis also co-produced "The Specialist,"
4 starring Sylvester Stallone and Sharon Stone, and the comedy "Vegas Vacation," starring Chevy
5 Chase, Beverly D'Angelo, and Randy Quaid. Louis also co-produced the mega-blockbuster
6 "Ocean's Eleven," starring George Clooney, Brad Pitt, Julia Roberts, Andy Garcia, and Matt
7 Damon.

8 23. During the course of his extensive career, Louis has worked side-by-side with
9 such well known and prominent producers as Brian Grazer, Jerry Bruckheimer, Joel Silver, Jerry
10 Weintraub, Lawrence Gordon, Chuck Gordon, and the late Howard Koch and Don Simpson.
11 Louis recently has developed several feature film scripts that were based on optioned books, or
12 were influenced by current affairs. These projects cover a variety of subject matters, ranging
13 from high action and suspense to comedies and fascinating biographies with Oscar potential.

14
15 **Cross-Defendant Carmen Harra**

16 24. Harra purports to be a psychic, who promotes herself as an "intuitive counselor."
17 She purports to predict what she sees in people's futures and offers guidance thereon. Harra has
18 been featured in several publications, appeared on television programs, and is the author of six
19 books, including "Decoding Your Destiny."

20
21 **THE FACTS**

22 25. In or about November 2010, a friend of Harra contacted Louis and told him that
23 Harra wanted to make a film about her life story and was looking for an experienced producer,
24 because she had never produced a film before.

25 26. Shortly thereafter, Louis met with Harra, and agreed to help her produce her film,
26 ultimately entitled "Decoding Her Destiny: The Carmen Harra Story" (hereinafter the "Picture")
27 Louis worked with her for nearly a year with no compensation. During that time period, Harra
28 told Louis that she wanted to have Nancy Peske (hereinafter "Peske"), who was the author of

1 Harra's biography, write the screenplay for the Picture.

2 27. Although Peske is a competent book author, Louis expressed concerns to Harra
3 about having Peske draft the screenplay based on her lack of experience in doing so. Louis
4 advised Harra as to the many differences between writing a book and writing a screenplay,
5 including, but not limited to, crafting credible dialogue and a succinct story that can be told in
6 approximately 120 pages or less. Despite Louis's concerns, Harra decided to have Peske draft
7 the screenplay.

8 28. Following its completion, Louis reviewed the screenplay drafted by Peske, and
9 advised Harra that his initial concerns were validated, and that the screenplay, as drafted,
10 definitely would not work, was not good enough for submissions, and needed to be completely
11 rewritten. In that regard, Louis recommended Fontana with whom he had previously worked,
12 rewrite the screenplay.

13 29. In or about December 2011, Fontana was approached by Harra to rewrite the
14 screenplay for the Picture. Fontana agreed to write the script, with the understanding that he
15 would be paid an advance of \$13,000.00, that the rest would be paid out of the first monies that
16 were invested in the film, and that no portion of the script would be used by Cross-Defendants,
17 or any of them, for any purpose, unless and until Fontana was paid the full amount that he was
18 owed. It also was agreed that, given his extensive production experience, Fontana would be
19 employed on the Picture as a co-producer.

20 30. Harra thereafter gave a check to Fontana in the amount of \$10,000.00. When
21 Fontana attempted to negotiate the check, the bank returned the check, saying that there was a
22 "Stop Payment" on the check. After going into hysterics and claiming that it was all the bank's
23 fault, Harra offered to send another check; however at Fontana's request, she ultimately
24 deposited \$10,000.00 directly into Fontana's account.

25 31. Fontana thereafter began rewriting the screenplay. Although Fontana's work was
26 suspected to be a "rewrite," the new script (hereinafter "Fontana's Screenplay") was virtually a
27 creation from scratch.

28 ///

1 32. Shortly after Fontana completed a draft of Fontana's Screenplay, Fontana tried to
2 cash a check that Harra had given him two weeks earlier for the advance balance owed of
3 \$3,000.00. Fontana then wrote a check on those funds to Louis for the balance owed of Louis's
4 \$3,000.00 for development fees. However, once again, the bank returned Harra's check, based
5 on insufficient funds. Harra, once again, went into hysterics and blamed her bank. However,
6 she did not get the \$3,000.00 to Fontana until almost a month later.

7 33. Fontana's Screenplay was exceptional. Even Harra recognized it as such. In or
8 about February 2012, Harra sent to Fontana several extremely complimentary e-mails stating
9 things like: "[y]ou are a genius!" and "we LOVED the script and nearly cried reading it, we are
10 so grateful to you!" On April 4, 2012, after Fontana made some revisions to the script, Harra
11 said: "Thank you so much, this is perfect!" In fact, one of the actresses that Fontana approached
12 to star in the film (as part of his co-producer obligations), Marisol Nichols ("GCB," "The
13 Gates," "24," "Cold Case," "Blind Justice"), sent an e-mail to Fontana on April 13, 2012 in
14 response to reading Fontana's Screenplay, and said: "*Oh wow!!! We need to talk! Loved it.*"

15 34. On or about April 9, 2012, Louis and Harra entered into a "Memorandum of
16 Agreement," in connection with his initial production services on the Picture, which included
17 preparing a budget, shooting schedule, one line shooting schedule, production board, cast
18 breakdown, etc. The total cost for the preparation of the budget and related items was to be
19 \$10,000.00, which was paid to Louis as \$5,000.00 at the start of services, and \$5,000.00 upon
20 delivery of the first draft budget.

21 35. Harra had always represented to Louis that the Picture was fully financed.
22 However, as time went on, Louis learned that Harra had misrepresented this fact.

23 36. Initially, Harra instructed Louis to prepare a budget based on funding of \$16
24 Million for the Picture. Subsequently, Harra informed Louis that she had only secured \$9
25 Million in financing, and Louis, along with Fontana, prepared a new budget to reflect the lower
26 amount. This budget was based on \$5 Million to be provided by Sibilo, an investor in the film,
27 and \$4 Million purportedly to be provided by other investors that Harra claimed to have.

28 ///

1 37. Fontana's script writing fee and production fee were originally based on the
2 estimated budget of \$9 Million. This budget provided that Fontana would be paid \$180,000.00
3 for his script fee, and \$170,000.00 for his production services.

4 38. On or about April 21, 2012, Sibilo executed a "Letter of Intent" and a
5 "Memorandum of Agreement," whereby he formally agreed to invest \$5 Million in the Picture.

6 39. On or about June 4, 2012, Louis, Harra, and CHE entered into a second
7 "Memorandum of Agreement," for all customary services for Louis to provide as lead producer
8 on the Picture (hereinafter "Producer Agreement"). The Producer Agreement provided for Louis
9 to be paid a \$500,000.00 guaranteed Producer Fee, to be paid over the course of 29 consecutive
10 weeks, and a deferred producer fee of \$150,000.00, to be paid to Louis after the investors in the
11 Picture recoup their money for the cost of making the Picture. The Producer Agreement also set
12 forth that Louis would be paid a profit participation of 15% of 100% of the net profits from all
13 sources, directly or indirectly, related to the Picture.

14 40. The Producer Agreement was executed at meetings that took place on June 4, 2012
15 and June 5, 2012, which included Fontana, Louis, Harra, a representative for Sibilo, as well as
16 Defendant (attorney) Leigh Leshner, and Harra's daughter, Alexandra Harra, and other persons
17 working on the film. At the June 5, 2012 meeting, Louis was paid his initial payment for his
18 producer services of \$150,000.00.

19 41. At some point during the June 4 and June 5 meetings Sibilo's representative
20 provided Harra with \$1 Million to hold in trust until an LLC for the film was formed.

21 42. Fontana and Louis later learned that, prior to the June 4 meeting, Sibilo already
22 had provided Harra with \$100,000.00 as an advance on his investment in the film, making the
23 total amount of investment monies for the film that was provided to Harra by June 4, 2012, \$1.1
24 Million. Harra apparently was attempting to hide the fact that she had received the \$100,000.00
25 advance, as she failed to inform Louis of this fact when he was preparing the various budgets for
26 the Picture, which should and would have reflected her advance and lowered her budgeted fee
27 accordingly. Louis only learned of the fact of the advance paid to Harra from Sibilo's
28 representative, and not from Harra.

1 43. Notwithstanding Harra's many representations to the contrary, it was learned
2 shortly thereafter that Harra did not have \$4 Million from other investors, and only had the
3 financial commitment of \$5 Million from Sibilo.

4 44. Accordingly, at the request of Harra, the budget subsequently had to be rewritten
5 by Louis and Fontana two more times again, and was lowered first to \$5.8 Million, then again to
6 \$5 Million.

7 45. On or about June 15, 2012, Fontana's representative e-mailed Harra a copy of a
8 draft written agreement for Fontana's script writing services, which called for Fontana to be paid
9 \$120,000.00 immediately, with the balance due on the start of principal photography.

10 46. The draft agreement (and all subsequent drafts) was based on the revised \$5
11 Million budget, but set forth very clearly that: "[i]f the production budget increases, [Fontana's]
12 Script Fee shall increase with said increase to be negotiated in good faith."

13 47. Additionally, the initial draft agreement (and several subsequent drafts) included
14 provisions for Fontana to receive additional contingent compensation based on the net profits of
15 the film, as well as revenue bonuses based on the gross revenue of the film.

16 48. Notwithstanding that Harra had been provided \$1.1 Million towards the film from
17 Sibilo, and the understanding that Fontana would be paid his script fee out of the first monies
18 invested in the film, Harra refused to sign the written agreement or to pay Fontana any further
19 portion of his script fee, beyond the initial advance of \$13,000.00.

20 49. Initially, Harra stated she would not pay Fontana any further portion of his script
21 fee without first receiving written authorization from Sibilo. However, once she received
22 written authorization to pay Fontana from Sibilo's representative, Harra was still not satisfied,
23 and continued to refuse to pay Fontana.

24 50. On or about June 26, 2012, Fontana's representative e-mailed Harra a revised draft
25 agreement for Fontana's script writing services, and reminded Harra that Sibilo had authorized
26 the payment to Fontana for his script fee. However, Harra demanded written notice directly
27 from Sibilo confirming that his representative was actually authorized to act on Sibilo's behalf.

28 ///

1 51. On or about June 29, 2012, Harra was provided with written notice from Sibilo
2 confirming that his representative was authorized to act on his behalf. However, despite having
3 all of the written authorizations that she requested from Sibilo, Harra still refused to sign the
4 revised draft agreement for Fontana's script writing services, or to pay Fontana any further
5 portion of his agreed upon script fee.

6 52. Despite having \$1.1 Million of Sibilo's investment monies in her possession,
7 Harra's new stated reason for refusing to pay Fontana was that there was no funding for the
8 project, and that she did not know if she would have the funding to go forward with the project.
9 Notably, Harra did not dispute that Fontana was owed his script writing fee; she simply stated
10 that "[e]veryone will be paid if/when we have the necessary funding."

11 53. In addition to completely rewriting the screenplay, pursuant to his agreement to do
12 so, Fontana also performed a substantial amount of production work on the film, for which it
13 was agreed that he also would be compensated. Over the course of several months, among other
14 things, Fontana worked on several schedules and budgets with Louis, and contacted numerous
15 actors, agents, and managers regarding the project. Nevertheless, Fontana only has received
16 \$5,000.00 in connection with the first budget that he created, which was paid to him by Louis.

17 54. Additionally, throughout this time, Louis urged Harra to pay the monies owed to
18 Fontana so that they could move forward with the project, and even went so far as to negotiate
19 several different payment plans for Harra to pay Fontana that allowed her to pay Fontana a lower
20 initial amount. While Harra initially agreed to these lowered initial payments to Fontana, each
21 time she agreed to a payment plan, she would subsequently turn around and again refuse to make
22 any payment to Fontana.

23 55. On or about July 10, 2012, Louis e-mailed Harra, and informed her that he could
24 "not attempt to raise money for the show unless [he had] a script to submit to investors. Fred
25 [Fontana] has not been paid for his script. We do not have his approval to shop his script until
26 he has been paid. Fred's payment has been approved by [Cross-Defendant] Otmar [Sibilo] &
27 Gerard, as you know. You need to pay Fred so we can go forward with the project."

28 ///

1 56. Harra did not directly respond to Louis's July 10 e-mail. However, the next day,
2 Harra called and left a voice message for Louis, whereby she terminated his services as producer
3 of the Picture and, despite having executed the June 4 Producer Agreement, stated that she never
4 signed anything, threatened to slander Louis in the press, and said that she would see him in
5 court.

6 57. Beyond the initial payment of \$150,000.00, Harra has failed and refused to pay any
7 further portion of Louis's guaranteed production fee of \$500,000.00, that is owed to him
8 pursuant to the Production Agreement. Additionally, despite only having been contracted to
9 prepare a single budget for \$10,000.00, at Harra's request, Louis prepared an additional three
10 budgets for which he was never compensated.

11 58. Harra, on behalf of herself, CHE, and GLOBAL, represented to Fontana and his
12 representative that he would be paid for both his writing and his producing services. Gerard Lau
13 (hereinafter "Lau"), a representative of Sibilo, and GLOBAL, also represented to Fontana's
14 representative that Fontana would be paid for both his writing and his producing services.
15 Nevertheless, Cross-Defendants, and each of them, have failed and refused to pay any further
16 monies to Fontana.

17 59. Plaintiffs are informed and believe and, based upon such information and belief,
18 allege that Harra has been attending various film festivals, including, but not limited to, the
19 recent Toronto Film Festival, and shopping Fontana's Screenplay to potential investors,
20 producers, and other members of the entertainment industry, without any authorization therefor
21 from Fontana.

22
23 **FIRST CAUSE OF ACTION**

24 **(By Cross-Complainant Fontana For Breach of Oral Contract -**
25 **Against All Cross-Defendants)**

26 60. Cross-Complainants adopt, reallege, and by this reference incorporate, Paragraphs
27 1 through 59, inclusive, hereinabove.

28 ///

1 61. In or about 2011, Fontana and Cross-Defendants, and each of them, entered into an
2 oral agreement (hereinafter the "Agreement"), whereby Fontana agreed to perform services as a
3 screenwriter and a producer in connection with a feature motion picture project based upon the
4 life of Harra.

5 62. In exchange for the foregoing, Cross-Defendants, and each of them, were to pay to
6 Fontana the sum of \$350,000.00, plus certain contingent compensation and bonuses based upon
7 the gross revenue earned by the film.

8 63. Fontana has performed all of the covenants, conditions, and obligations that were
9 required on his part to be performed under the Agreement, except insofar as such performance
10 was waived, prevented, or excused by the acts or omissions of Cross-Defendants, or any of them.

11 64. The Agreement also contained an implied covenant of good faith and fair dealing.
12 This covenant required that each party to the Agreement act with fairness and good faith toward
13 the other, and that neither party take any action to prevent the other from reaping the benefits of
14 the relationship.

15 65. Cross-Defendants, and each of them, have breached the express and/or implied
16 terms of the aforementioned Agreement by, among other things:

- 17 (a) Failing and refusing to pay Fontana anything beyond an initial advance;
- 18 (b) Failing and refusing to execute a formal agreement in connection with the
19 foregoing, despite their repeated promises to do so;
- 20 (c) Using Fontana's Screenplay without his permission;
- 21 (d) Attempting to get further financing for the film based upon Fontana's
22 Screenplay;
- 23 (e) Attempting to secure actors to be attached to the film based upon Fontana's
24 Screenplay;
- 25 (f) Attending international film festivals, purporting to own the rights to
26 Fontana's Screenplay, and attempting to sell Fontana's Screenplay to others.

27 66. In addition, Fontana is informed and believe and, based upon such information and
28 belief, allege that Cross-Defendants, and each of them, have materially breached the express

1 terms of the Agreement, as well as the implied covenant of good faith and fair dealing, by other
2 acts or omissions. Fontana will seek leave of Court to amend this Cross-Complaint at such time
3 as Fontana discovers the other acts or omissions of Cross-Defendants, or any of them,
4 constituting such a breach.

5 67. As a direct and proximate result of the aforementioned breaches by Cross-
6 Defendants, and each of them, as alleged herein, Fontana has been damaged in an amount that
7 has yet to be ascertained, including consequential and incidental damages, which amount is at
8 least \$2 Million, together with interest thereon at the legal rate of ten percent (10%) per annum.
9 When Fontana ascertains the exact amount of said damages, he will seek leave of Court to
10 amend this Complaint to set forth said amount.

11
12 **SECOND CAUSE OF ACTION**

13 **(By Cross-Complainant Fontana For Breach Of Implied Contract –**
14 **Against All Cross-Defendants)**

15 68. Cross-Complainants adopt, reallege, and by this reference incorporate, Paragraphs
16 1 through 59, inclusive, hereinabove.

17 69. Fontana submitted Fontana's Screenplay and disclosed his ideas concerning the
18 production of a film based upon Fontana's Screenplay to Cross-Defendants, and each of them,
19 pursuant to an oral agreement, an implied term of which was that Fontana would disclose
20 Fontana's Screenplay and his ideas concerning the production of a film to Cross-Defendants, and
21 each of them, and Cross-Defendants, and each of them, would accept such disclosure on the
22 condition that, prior to any use being made of Fontana's Screenplay and Fontana's ideas, Cross-
23 Defendants, and each of them, would seek and obtain the permission therefor from Fontana.

24 70. In addition, a further implied term of such oral agreement was that, if any use of
25 Fontana's Screenplay and/or Fontana's ideas were made by Cross-Defendants, or any of them,
26 they would compensate Fontana for such use, both monetarily (including, but not limited to,
27 writing fees, producing fees, and profits) and with customary and required screen credits.

28 ///

1 71. Fontana submitted Fontana's Screenplay and disclosed his ideas to Cross-
2 Defendants, and each of them, subject to said custom, and subject to the implied contractual
3 obligation that Cross-Defendants, and each of them, would compensate Fontana, and would give
4 to Fontana the appropriate and customary credits regarding the creation of the film.

5 72. Cross-Defendants, and each of them, knew, or should have known, the conditions
6 upon which the submission and disclosure were being made before the submission and
7 disclosure were made. Cross-Defendants, and each of them, voluntarily accepted the submission
8 of Fontana's Screenplay and the disclosure of Fontana's ideas concerning the production of a
9 film on Fontana's terms, and thereby impliedly agreed to pay Fontana for any of their ideas that
10 they might use, and provide compensation and credit to Fontana in accordance with custom and
11 practice in the industry.

12 73. Fontana is informed and believes and, based upon such information and belief,
13 alleges that Cross-Defendants, and each of them, have breached their obligations under the
14 aforementioned implied agreement by using, appropriating, and copying Fontana's Screenplay
15 and his ideas without the permission of Fontana, and by failing to compensate Fontana for the
16 use of Fontana's Screenplay and ideas, as well as failing to afford any screen credits to Fontana,
17 thus constituting a further breach of the implied agreement.

18 74. Fontana is informed and believes and, based upon such information and belief,
19 alleges that Cross-Defendants, and each of them, have actually used Fontana's Screenplay and
20 his ideas in the Picture; that is, Cross-Defendants, and each of them, based said Picture
21 substantially on Fontana's Screenplay and the ideas that were submitted by Fontana, as alleged
22 hereinabove, rather than basing the Picture on Cross-Defendants' own ideas or ideas from other
23 sources.

24 75. Fontana has performed all of the covenants, conditions, and obligations that were
25 required on his part to be performed under the aforementioned implied, oral agreement, except
26 insofar as such performance was waived, prevented, or excused by the acts or omissions of
27 Cross-Defendants, or any of them.

28 ///

1 76. As a direct and proximate result of the aforementioned breaches by Cross-
2 Defendants, and each of them, as alleged herein, Fontana has been damaged in the amount which
3 has yet to be ascertained, including consequential and incidental damages, costs and interest,
4 which amount is in excess of Two Million Dollars (\$2,000,000.00), together with interest
5 thereon at the legal rate of ten percent (10%) per annum. When Fontana ascertains the exact
6 amount of said damages, he will seek leave of Court to amend this Complaint to set forth said
7 amount.

8
9 **THIRD CAUSE OF ACTION**

10 **(By Cross-Complainant Fontana For Fraud – Against All Cross-Defendants)**

11 77. Cross-Complainants adopt, reallege, and by this reference incorporate, Paragraphs
12 1 through 59, inclusive, and 61 through 66, inclusive, hereinabove.

13 78. In or about 2012, Cross-Defendants, and each of them, by and through their
14 authorized agents, including Harra and Lau, represented to Fontana that Cross-Defendants, and
15 each of them, would comply with the express terms of the aforementioned Agreement.

16 79. Cross-Defendants also represented that they had a total of \$9 Million in financing,
17 and that Fontana's compensation would be based upon a budget for the film of \$9 Million.

18 80. Said representations were made by Cross-Defendants, and each of them, in order
19 to induce Fontana to enter into the aforementioned Agreement, and to induce Fontana to write
20 Fontana's Screenplay and perform production services.

21 81. At the time that Cross-Defendants, and each of them, made such fraudulent
22 representations, Fontana believed those representations to be true, and was ignorant of Cross-
23 Defendants' secret intention not to perform under, and to deprive Fontana of the benefits of, the
24 Agreement. Fontana also was unaware that Cross-Defendants only had a commitment for \$5
25 Million.

26 82. Fontana, in the exercise of reasonable diligence, could not have discovered Cross-
27 Defendants' secret intentions as aforementioned.

28 ///

1 83. Fontana is informed and believes and, based upon such information and belief,
2 alleges that the true facts were that Cross-Defendants had no intention of performing the
3 promises, conditions, and obligations that were both expressed and implied in the Agreement,
4 and that they only had \$5 Million in financing.

5 84. In justifiable reliance on the aforementioned representations of said Cross-
6 Defendants, and each of them, Fontana entered into the Agreement, and otherwise performed all
7 of the obligations imposed upon him by the Agreement.

8 85. As a direct and proximate result of the aforementioned conduct by Cross-
9 Defendants, and each of them, as alleged herein, Fontana has been damaged in an amount that
10 has yet to be ascertained, including consequential and incidental damages, which amount is at
11 least \$5 Million, together with interest thereon at the legal rate of ten percent (10%) per annum.
12 When Fontana ascertains the exact amount of said damages, he will seek leave of Court to
13 amend this Complaint to set forth said amount.

14 86. The aforementioned acts, among others, of Cross-Defendants, and each of them, of
15 which an officer, director and/or managing agent had advance knowledge and/or ratified said
16 wrongful conduct, were done intentionally or with a conscious disregard of Fontana's rights, and
17 with the intent to vex, injure, or annoy Fontana, such as to constitute oppression, fraud, or
18 malice, thus entitling Fontana to exemplary and punitive damages in an amount appropriate to
19 punish or set an example of Cross-Defendants, and each of them, and to deter such conduct in
20 the future, which amount will be proved at trial.

21
22 **FOURTH CAUSE OF ACTION**

23 **(By Cross-Complainant Fontana For Declaratory Relief – Against All Cross-Defendants)**

24 87. Cross-Complainants adopt, reallege, and by this reference incorporate, Paragraphs
25 1 through 59, inclusive, 61 through 66, inclusive, 69 through 75, inclusive, and 78 through 84,
26 inclusive, hereinabove.

27 88. An actual controversy has arisen between Fontana and Cross-Defendants, and each
28 of them, in that Cross-Defendants contend, and Fontana denies, that Fontana has been paid in

1 full for his writing and producing services, that no further monies are due to him, and that Cross-
2 Defendants own all rights, title, and interest in and to Fontana's Screenplay, and otherwise have
3 the legal right to exploit the same.

4 89. Fontana desires a judicial determination that:

5 (a) Fontana own all rights, title, and interest in and to Fontana's Screenplay;
6 and

7 (b) Those rights were never sold, assigned, or otherwise transferred to Cross-
8 Defendants, or any of them;

9
10 **FIFTH CAUSE OF ACTION**

11 **(By Cross-Complainant Louis For Breach of Written Contract –**
12 **Against Cross-Defendants Harra and CHE)**

13 90. Cross-Complainants adopt, reallege, and by this reference incorporate, Paragraphs
14 1 through 59, inclusive, hereinabove.

15 91. On or about June 4, 2012, Louis and Harra and CHE entered into a
16 "Memorandum of Agreement" (hereinafter "Producer Agreement"), whereby Louis agreed to
17 provide all customary services as the lead producer on the Picture.

18 92. In exchange for the foregoing, Harra and CHE were to pay to Louis a \$500,000.00
19 guaranteed Producer Fee to be paid over the course of 29 consecutive weeks, plus certain
20 contingent compensation and bonuses based upon the gross revenue earned by the film.

21 93. Louis has performed all of the covenants, conditions, and obligations that were
22 required on his part to be performed under the Producer Agreement, except insofar as such
23 performance was waived, prevented, or excused by the acts or omissions of Harra and/or CHE.

24 94. The Producer Agreement also contained an implied covenant of good faith and fair
25 dealing. This covenant required that each party to the Agreement act with fairness and good
26 faith toward the other, and that neither party take any action to prevent the other from reaping
27 the benefits of the relationship.

28 ///

1 95. Harra and CHE have breached the express and/or implied terms of the
2 aforementioned Producer Agreement by, among other things:

3 (a) Failing and refusing to pay Louis the remainder of his guaranteed Producer
4 Fee beyond the first initial payment, and;

5 (b) Failing and refusing to pay Louis compensation for the three additional
6 budgets that he prepared at the request of Harra and CHE, in addition to the single initial budget
7 that he was paid \$10,000.00 to prepare;

8 96. In addition, Louis is informed and believes and, based upon such information and
9 belief, allege that Harra and CHE have materially breached the express terms of the Producers
10 Agreement, as well as the implied covenant of good faith and fair dealing, by other acts or
11 omissions. Louis will seek leave of Court to amend this Cross-Complaint at such time as Louis
12 discovers the other acts or omissions of Cross-Defendants, or any of them, constituting such a
13 breach.

14 97. As a direct and proximate result of the aforementioned breaches by Harra and
15 CHE, as alleged herein, Louis has been damaged in an amount that has yet to be ascertained,
16 including consequential and incidental damages, which amount is at least \$350,000.00, for the
17 remainder of his guaranteed Producer Fee, as well as \$30,000.00 for the three additional budgets
18 that he prepared at the request of Cross-Defendants, for a total of, at minimum, \$380,000.00,
19 together with interest thereon at the legal rate of ten percent (10%) per annum. When Louis
20 ascertains the exact amount of said damages, he will seek leave of Court to amend this
21 Complaint to set forth said amount.

22
23 **SIXTH CAUSE OF ACTION**

24 **(By Cross-Complainant Louis For Fraud – Against All Cross-Defendants)**

25 98. Cross-Complainants adopt, reallege, and by this reference incorporate, Paragraphs
26 1 through 59, inclusive, 91 through 96, hereinabove.

27 99. On or about June 4, 2012, Cross-Defendants, and each of them, through Harra and
28 CHE, represented to Louis that they would comply with the express terms of the aforementioned

1 Producer Agreement.

2 100. Cross-Defendants also represented, at that time, that they had a total of \$9 Million
3 in financing, and that Louis's compensation would be based upon a budget for the Picture of \$9
4 Million.

5 101. Said representations were made by Cross-Defendants, and each of them, in order
6 to induce Louis to enter into the aforementioned Producer Agreement, and to induce Louis to
7 perform production services.

8 102. At the time that Cross-Defendants made such fraudulent representations, Louis
9 believed those representations to be true, and was ignorant of Cross-Defendants' secret intention
10 not to perform under, and to deprive Louis of the benefits of, the Producer Agreement. Louis
11 also was unaware that Cross-Defendants only had a commitment for \$5 Million.

12 103. Louis in the exercise of reasonable diligence, could not have discovered Cross-
13 Defendants' secret intentions as aforementioned.

14 104. Louis is informed and believes and, based upon such information and belief,
15 alleges that the true facts were that Cross-Defendants had no intention of performing the
16 promises, conditions, and obligations that were both expressed and implied in the Producer
17 Agreement, and that they only had \$5 Million in financing.

18 105. In justifiable reliance on the aforementioned representations of said Cross-
19 Defendants, and each of them, Louis entered into the Producer Agreement, and otherwise
20 performed all of the obligations imposed upon him by the Producer Agreement.

21 106. As a direct and proximate result of the aforementioned conduct by Cross-
22 Defendants, and each of them, as alleged herein, Louis has been damaged in an amount that has
23 yet to be ascertained, including consequential and incidental damages, which amount is at least
24 \$5 Million, together with interest thereon at the legal rate of ten percent (10%) per annum.
25 When Louis ascertains the exact amount of said damages, he will seek leave of Court to amend
26 this Complaint to set forth said amount.

27 107. The aforementioned acts, among others, of Cross-Defendants, and each of them, of
28 which an officer, director and/or managing agent had advance knowledge and/or ratified said

1 wrongful conduct, were done intentionally or with a conscious disregard of Louis's rights, and
2 with the intent to vex, injure, or annoy Louis, such as to constitute oppression, fraud, or malice,
3 thus entitling Louis to exemplary and punitive damages in an amount appropriate to punish or set
4 an example of Cross-Defendants, and each of them, and to deter such conduct in the future,
5 which amount will be proved at trial.

6
7 WHEREFORE, Cross-Complainants pray for judgment against Cross-Defendants, and
8 each of them, as follows:

9
10 **AS TO THE FIRST CAUSE OF ACTION (By Fontana):**

11 1. For compensatory damages in an amount to be proved at trial, which damages are
12 in excess of \$2 Million, together with interest thereon at the maximum legal rate;

13
14 **AS TO THE SECOND CAUSE OF ACTION (By Fontana):**

15 2. For compensatory damages in an amount to be proved at trial, which damages are
16 in excess of \$2 Million, together with interest thereon at the maximum legal rate;

17
18 **AS TO THE THIRD CAUSE OF ACTION (By Fontana):**

19 3. For compensatory damages in an amount to be proved at trial, which damages are
20 in excess of \$5 Million, together with interest thereon at the maximum legal rate;

21 4. For exemplary and punitive damages in an amount sufficient to punish or set an
22 example of Cross-Defendants, and each of them, which amount will be proved at trial;

23
24 **AS TO THE FOURTH CAUSE OF ACTION (By Fontana):**

25 5. For a judicial determination that:
26 (a) Fontana owns all rights, title, and interest in and to Fontana's Screenplay;
27 (b) Those rights were never sold, assigned, or otherwise transferred to Cross-
28 Defendants, or any of them;

1 **AS TO THE FIFTH CAUSE OF ACTION (By Louis):**

2 6. For compensatory damages in an amount to be proved at trial, which damages are
3 in excess of \$380,000.00, together with interest thereon at the maximum legal rate;

4
5 **AS TO THE SIXTH CAUSE OF ACTION (By Louis):**

6 7. For compensatory damages in an amount to be proved at trial, which damages are
7 in excess of \$5 Million, together with interest thereon at the maximum legal rate;

8 ///

9 8. For exemplary and punitive damages in an amount sufficient to punish or set an
10 example of Harra and CHE, which amount will be proved at trial;


11
12 **AS TO ALL CAUSES OF ACTION:**

13 9. For costs of suit herein incurred; and

14 10. For such other and further relief as the Court deems just and proper.

15
16 Dated: April 12, 2013

McPHERSON RANE LLP
Edwin F. McPherson
Tracy B. Rane
Pierre B. Pine

17
18
19
20 By: 
21 EDWIN F. MCPHERSON
22 Attorneys for
23 Defendants/Cross-Complainants
24 FRED FONTANA and R.J. LOUIS
25
26
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18, and not a party to the within action. My address is 1801 Century Park East, 24th Floor, Los Angeles, California 90067.

On April 12, 2013, I served the foregoing document described as:

**CROSS-COMPLAINT FOR: BREACH OF IMPLIED CONTRACT
2. BREACH OF ORAL CONTRACT 3. FRAUD 4. DECLARATORY
RELIEF 5. BREACH OF WRITTEN CONTRACT 6. FRAUD**

on the interested parties in this action by placing a true and correct copy thereof enclosed in sealed envelopes addressed as follows:

See Attached List

XXX **BY MAIL**

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California, in the ordinary course of business. I am aware that, on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing.

 BY PERSONAL SERVICE

I delivered such envelope by hand to the offices of the addressee(s).

 BY FACSIMILE *

I faxed such document to the offices of the addressee(s).

 BY ELECTRONIC MAIL

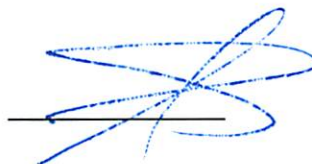
I caused such documents(s) to be transmitted by electronic mail directly to the person(s) being served and the name(s) and electronic mail address(es) of the person(s) served as set forth on the service list.

Executed on this April 12, 2013, at Los Angeles, California.

XXX (State) I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

 (Federal) I declare that I am employed in the office of a member of the Bar of this Court, at whose direction the service was made.

ANITA STEPHAN



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