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not assigned to Judge

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JESSICA ALBA

FILED
Los Angeles Superior Court

OCT 11 2011

John A. Clarke, Executive Officer/Clerk
By Dorothy Swain, Deputy
DOROTHY SWAIN

Handwritten: A6000, 902/10

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT

BC471136

JESSICA ALBA, an individual,)
)
Plaintiff,)
)
v.)
)
THE CADEN COMPANIES, INC., d/b/a)
BELLY BANDIT, a California)
corporation; and DOES 1 - 10, inclusive,)
)
Defendants.)

CASE NO.)
)
COMPLAINT FOR:)
)
(1) VIOLATION OF CIVIL CODE §)
3344;)
(2) VIOLATION OF THE COMMON)
LAW RIGHT OF PUBLICITY;)
(3) UNFAIR BUSINESS PRACTICES)
[CAL. BUS. & PROF. CODE)
§ 17200];)
(4) VIOLATION OF THE LANHAM)
ACT [15 U.S.C. § 1125(a)];)
(5) UNJUST ENRICHMENT;)
(6) CONSTRUCTIVE TRUST;)
(7) ACCOUNTING; AND)
(8) PRELIMINARY AND)
PERMANENT INJUNCTION)

DEMAND FOR JURY TRIAL

Plaintiff JESSICA ALBA ("Alba" and/or "Plaintiff) alleges as follows:

THE NATURE OF THIS ACTION

1. Defendant The Caden Companies, Inc. d/b/a Belly Bandit ("CCI" and/or "Defendant") has knowingly and intentionally misappropriated and used the well known and internationally recognized name, image, likeness and photograph of Alba to market and sell Defendant's Belly Bandit post-pregnancy clothing and accessories, among other products.

FILED/CLERK: BC471136 LEA/DEF#: 03
RECEIVED: 10/11/11 12:22 PM
DATE PAID: 10/11/11
PAYMENT: \$395.00
CHECK #: 395.00
CASH: 395.00
CARD: 395.00

ORIGINAL

1 Through the unauthorized commercial use of the name, image, likeness and photograph of
2 Alba, on both the packaging of the Defendant's products and on a website promoting
3 Defendant's products, Defendant has intentionally deceived the public into believing that Alba
4 endorses and sponsors Defendant's products, and that Alba is otherwise affiliated with
5 Defendant's business or products. The fact is that Alba does not endorse or sponsor
6 Defendant's products, nor is Alba in any way affiliated with Defendant's business or products.
7 Alba has not authorized Defendant to use her name, image, likeness or photograph to market,
8 advertise or sell the Defendant's products, and Defendant's commercial use of Alba's name,
9 image, likeness and photograph to market, advertise and sell Defendant's products constitutes a
10 brazen and intentional misappropriation of Alba's valuable publicity rights.

11 2. Alba has invested considerable time, money and energy in the development of
12 her fame, prominence and prestige in the public eye, and in the success of those limited
13 products which she has endorsed by the license to commercially use her name, image, likeness
14 and/or photograph. Defendant has sought to illegally capitalize on Alba's hard work,
15 reputation and world-wide celebrity and recognition by misappropriating and commercially
16 using Alba's name, image, likeness and photograph for its own benefit and financial gain.

17 **THE PARTIES**

18 3. Alba is, and at all times relevant hereto was, a resident of the County of Los
19 Angeles, State of California, whose principal place of business is located in the County of Los
20 Angeles, State of California.

21 4. Plaintiff is informed and believes and based thereon alleges that Defendant The
22 Caden Companies, Inc. d/b/a Belly Bandit is, and at all times relevant hereto was, a California
23 corporation engaged in commercial activities carried out in the State of California and doing
24 business in the County of Los Angeles, State of California. Plaintiff alleges on information
25 and belief that Defendant has been and is engaged in the business of, among other things, the
26 sale of post-pregnancy clothing and accessories in the State of California and throughout the
27 world, including through the website <http://www.bellybandit.com>.

28 5. Plaintiff is presently unaware of the true names and capacities of the defendants

1 sued herein as Does 1 through 10, inclusive, and therefore sues said defendants by such
2 fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities of
3 such fictitiously named defendants when their names and capacities have been ascertained.
4 Plaintiff is informed and believes and based thereon alleges that each of the fictitiously named
5 defendants is responsible in some manner for the occurrences, acts and omissions alleged
6 herein and that Plaintiff's damages were proximately caused by their conduct. Hereinafter, all
7 defendants (including the Doe defendants) will sometimes be referred to collectively as
8 "Defendants."

9 6. Plaintiff is informed and believes and based thereon alleges that at all material
10 times Defendants, and each of them, were the agents, employees, partners, joint venturers,
11 co-conspirators, owners, principals, and employers of the remaining Defendants, and each of
12 them, and are, and at all times herein mentioned were, acting within the course and scope of
13 that agency, employment, partnership, conspiracy, ownership or joint venture. Plaintiff
14 further alleges on the basis of information and belief that Defendants, and each of them,
15 authorized, directed and/or ratified the wrongful acts alleged herein, and each of them, and
16 consequently all of said Defendants are jointly and severally liable to Plaintiff.

17 DEFENDANT'S WRONGFUL CONDUCT

18 7. Alba is a popular, well-known and internationally recognized actress who has
19 starred in numerous major motion pictures and whose image has appeared in hundreds of
20 publications which have been viewed by millions in the United States and throughout the
21 world. Through her hard work and the use of her talents in the field of entertainment, Alba's
22 name, image, likeness and photograph are recognized instantly by the public, have become
23 invested with substantial goodwill in the eyes of the public, and have substantial commercial
24 value. Alba exercises careful consideration prior to permitting any commercial use of her
25 name, image, likeness and photograph for any purpose in order to ensure that she is associated
26 with products, entertainment, services and/or companies in which she personally believes, and
27 to ensure that the value of her persona is not diminished either by association with products,
28 entertainment, services and/or companies which she does not personally desire to support

1 and/or by over-saturation of her image. Alba will not endorse or promote a product unless she
2 carefully selects and approves of the product and unless the compensation received by Alba is
3 commensurate with both the value of the exploitation of her persona, and is sufficient to
4 compensate her for any potential diminution in value resulting from commercial use of her
5 persona.

6 8. Fully aware of Alba's star power and worldwide fame and recognition,
7 Defendant has during the preceding year continuously commercially used, exploited and
8 publicly distributed, posted, disseminated and otherwise made available to the public marketing
9 and promotional materials using and incorporating Alba's name, image, likeness and
10 photograph - without her consent and without any agreement whatsoever through which
11 Defendant acquired any right to use or benefit from Alba's valuable publicity rights - to
12 promote, market and sell Defendant's products throughout California, the United States and
13 the world. For example, the packaging Defendant uses to market and advertise its Belly
14 Bandit post-pregnancy stomach wrap product prominently features an unauthorized
15 endorsement that the Belly Bandit is "Jessica Alba's #2 Secret for a Fast Post Pregnancy
16 Slimdown!" Defendant also operates a website at web address <http://www.bellybandit.com>
17 (the "Website") on which, during the preceding year, Defendant prominently featured and
18 posted a photograph of Alba, and listed her name under the "Celebrity Testimonials" section
19 of the Website. In addition, the home page of the Website advertises that Alba is included in
20 the "Celebrity Testimonials."

21 9. The aforesaid commercial misappropriation and use of Alba's name, image,
22 likeness and photograph is fraudulent and intended to deceive and confuse the public into
23 believing that Alba endorses, promotes or sponsors Defendant's products. Alba has never
24 authorized Defendant to use, post, display or publish her name or any photograph, statement,
25 or communication on Defendant's Website or on the packaging of its products. Defendant has
26 published, distributed and disseminated the above-referenced photograph of Alba, and the
27 above-described unauthorized endorsement attributed to Alba, in a manner prominently
28 featured on the packaging of its products and on Defendant's Website. In so doing, Defendant

1 sought to associate its business and products with the reputation, goodwill, fame and glamour
2 of Alba.

3 10. On or about September 13, 2011, counsel for Plaintiff served Defendant with a
4 written demand that Defendant immediately (a) cease and desist from any and all further
5 commercial use of Alba's name, image, likeness, photograph and purported endorsement in
6 any manner and for any purpose, (b) remove Alba's name, image, likeness, photograph and
7 purported endorsement from the Website, (c) recall all products which include packaging using
8 or incorporating Alba's name, image, likeness, photograph and/or purported endorsement, and
9 (d) provide an accounting of all revenues generated by wrongful use of Alba's name, image,
10 likeness, photograph and/or purported endorsement since the date of Defendant's first
11 commercial use of Alba's publicity rights as alleged herein. To date, Defendant has failed and
12 refused to comply with the aforesaid demands, intentionally increasing the damages suffered by
13 Plaintiff.

14 **FIRST CAUSE OF ACTION**

15 **(For Violation of California Civil Code Section 3344 Against All Defendants)**

16 11. Plaintiff repeats, realleges, adopts and incorporates each and every allegation
17 contained in Paragraphs 1 through 10, inclusive, as though fully set forth herein.

18 12. Through her hard work and use of her talents in the field of entertainment,
19 Alba's name, image, likeness and photograph are immediately recognizable by the public, and
20 have become invested with substantial goodwill in the eyes of the public. Accordingly, Alba's
21 right of publicity has substantial commercial value which she has not agreed to license or
22 transfer to Defendant, in whole or in part, for any purpose whatsoever.

23 13. Alba has carefully developed and cultivated her image and persona, resulting in
24 her worldwide recognition and the goodwill associated therewith. Defendant has, without
25 right, title or authorization, misappropriated and commercially used Alba's valuable publicity
26 rights in and to her name, image, likeness and photograph, and the manifest success and
27 popularity of Alba, by illegally using them for commercial purposes, including the marketing,
28 advertising, packaging and selling of Defendant's products.

1 14. The conduct of Defendant as alleged herein constitutes a violation of Section
2 3344 of the Civil Code due to the knowing and unauthorized use by Defendant of the name,
3 image, likeness and photograph of Alba for commercial use without authority or consent.

4 15. As a direct and proximate result of Defendant's wrongful acts, Alba has suffered
5 substantial financial loss because she was not compensated for the value of Defendant's use of
6 her name, image, likeness, and photograph. As a further direct and proximate result of
7 Defendant's conduct alleged herein, Alba has suffered from the dilution of the value of her
8 publicity rights, to her detriment and general damage. As a further direct and proximate result
9 of Defendant's conduct alleged herein, Alba has suffered and continues to suffer damages in an
10 amount to be proven at trial, but which is believed to be in excess of One Million Dollars
11 (\$1,000,000). When Alba has ascertained the full amount of damages, she will seek leave of
12 Court to amend this Complaint accordingly.

13 16. By reason of the aforesaid wrongful acts of Defendant, in addition to the relief
14 set forth hereinabove, Alba is entitled to an accounting of all gross revenues and profits
15 received, directly and indirectly, by Defendant as a result of the unauthorized use of Alba's
16 name, image, likeness and photograph and to an award of all such sums. By reason of
17 Defendant's wrongful acts as alleged hereinabove, Defendant is an involuntary trustee holding
18 all such sums in its possession under a constructive trust for the benefit of Alba, and with a
19 duty to transfer all such sums to Alba forthwith.

20 17. As a further direct and proximate result of the aforesaid wrongful acts of
21 Defendant, Alba has incurred and will continue to incur substantial attorneys' fees and costs.
22 Alba is entitled to an award of her attorneys' fees and costs incurred in connection with this
23 action pursuant to Section 3344(a) of the California Civil Code.

24 18. Alba is informed and believes and based thereon alleges that Defendant, in
25 doing the things alleged herein, acted willfully, maliciously, oppressively and despicably, and
26 with full knowledge of the adverse effect of its actions on Alba and with willful and deliberate
27 disregard for the consequences to Alba. By reason thereof, Alba is entitled to recover punitive
28 and exemplary damages from Defendant in an amount sufficient to punish Defendant for its

1 wrongful conduct, set an example and deter similar conduct.

2 19. There is a real threat that Defendant will continue to violate Alba's right of
3 publicity, in that Alba has been unable to curtail Defendant's knowing misappropriation
4 through extra-judicial communications and demands. Unless and until enjoined and restrained
5 by order of this Court, Defendant's continued use of Alba's name, image, likeness and
6 photograph will cause Alba great and irreparable injury because Alba will suffer lost profits
7 and dilution of the value of her identity. Alba also has no adequate remedy at law for the
8 injuries being suffered because a judgment for money damages will not suffice to prevent
9 Defendant's continued misappropriation of her name, image, likeness and photograph.

10 **SECOND CAUSE OF ACTION**

11 **(For Violation of Common Law Right of Publicity Against All Defendants)**

12 20. Plaintiff repeats, realleges, adopts and incorporates each and every allegation
13 contained in paragraphs 1 through 10 and 12 through 19, inclusive, as though set forth herein.

14 21. Through her hard work and use of her talent in the field of entertainment,
15 Alba's name, image, likeness and photograph have become, and are, very valuable throughout
16 the United States and worldwide and were at all relevant times herein, and are, invested with
17 substantial goodwill in the eyes of the public. Accordingly, Alba's valuable rights of publicity
18 have substantial commercial value which she has not agreed to license or transfer, in whole or
19 in part, to Defendant for any purpose whatsoever.

20 22. Defendant has, without any right, title or authorization misappropriated Alba's
21 valuable publicity rights in and to her name, image, likeness and photograph by using her
22 name, image, likeness and photograph for the aforesaid commercial purposes, including
23 without limitation marketing, advertising and selling Defendant's line of Belly Bandit post-
24 pregnancy clothing and accessories, among other things.

25 23. Said misappropriation was for Defendant's pecuniary and commercial
26 advantage, in that Alba's name, image, likeness and photograph were exploited with the
27 intention of creating and enhancing Defendant's public image and pecuniary gain and profit
28 resulting from the advertisement, promotion and sale of Defendant's products through the

1 commercial exploitation and use of Alba's name, image, likeness and photograph.

2 24. Alba is informed and believes and based thereon alleges that Defendant's
3 advertising, promotion and sale of goods misappropriating Alba's valuable publicity rights, as
4 set forth hereinabove, has resulted in dilution of the value of the aforesaid publicity rights,
5 thereby diminishing the value of the aforesaid publicity rights to the detriment and damage of
6 Alba. Defendant's wrongful acts, as alleged herein, constitute a violation and
7 misappropriation of Alba's right of publicity because Defendant misappropriated Alba's name,
8 image, likeness and photograph for the commercial purpose of promoting Defendant's
9 products.

10 25. As a direct and proximate result of the wrongful acts alleged herein, Alba has
11 suffered and continues to suffer damages in an amount to be proven at trial, but which is
12 believed to be in excess of One Million Dollars (\$1,000,000). When Alba has ascertained the
13 full amount of damages, she will seek leave of Court to amend this Complaint accordingly.

14 26. Alba is informed and believes and based thereon alleges that Defendant, in
15 doing the things alleged herein, acted willfully, maliciously, oppressively and despicably, and
16 with full knowledge of the adverse effect of its actions on Alba, and with deliberate disregard
17 for the consequences to Alba. By reason thereof, Alba is entitled to recover punitive and
18 exemplary damages from Defendant in an amount sufficient to punish Defendant for its
19 wrongful conduct, set an example and deter similar conduct.

20 27. There is a real threat that Defendant will continue to violate Alba's right of
21 publicity, in that Alba has been unable to curtail Defendant's knowing misappropriation
22 through extra-judicial communications and demands. Unless and until enjoined and restrained
23 by order of this Court, Defendant's continued use of Alba's name, image, likeness and
24 photograph will cause Alba great and irreparable injury because Alba will suffer lost profits
25 and dilution of the value of her identity. Alba also has no adequate remedy at law for the
26 injuries being suffered because a judgment for money damages will not suffice to prevent
27 Defendant's continued misappropriation of her name, image, likeness and photograph.

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1 **THIRD CAUSE OF ACTION**

2 **(For Unfair Competition and Unfair Business Practices, Bus. & Prof.**

3 **Code § 17200 Against All Defendants)**

4 28. Plaintiff repeats, realleges, adopts and incorporates each and every allegation
5 contained in paragraphs 1 through 10, 12 through 19 and 21 through 27, inclusive, as though
6 set forth herein.

7 29. Alba is informed and believes and based thereon alleges that Defendant, by its
8 acts and omissions alleged herein, has engaged in unlawful, unfair and fraudulent business
9 practices as defined in Business and Professions Code Section 17200, and has utilized the
10 unlawful and tortious means alleged herein to unjustly enrich itself by, among other things,
11 misappropriating, using and exploiting, without right, title or authority, the valuable publicity
12 rights owned solely and exclusively by Alba.

13 30. The conduct of Defendant alleged herein violates Business and Professions Code
14 section 17200 in the following respects: (a) Defendant's acts of misappropriation, as alleged
15 herein, violate the common law right of publicity and, consequently, constitute an unlawful
16 business act or practice within the meaning of the section; and (b) Defendant's unfair,
17 misleading and deceptive use of Alba's name, image, likeness and photograph as alleged herein
18 has created confusion in the public's mind, creating the false appearance of Alba's
19 endorsement of Defendant's business and products.

20 31. The unlawful, unfair and fraudulent business practices alleged herein present a
21 continuing threat to members of the public in that Defendant, if unpunished, is likely to
22 continue to misappropriate the name, image, likeness and photograph of acclaimed celebrities
23 for commercial profit and thus continue its practice of unlawful, unfair and fraudulent business
24 practices.

25 32. As a direct and proximate result of the acts alleged herein, Defendant received
26 the benefit of the use of Alba's name, image, likeness and photograph, and continues to exploit
27 Alba's name, image, likeness and photograph, which right is exclusively held by Alba.

28 33. As a direct and proximate result of the wrongful acts alleged herein, Alba has

1 suffered and continues to suffer damages in an amount to be proven at trial, but which is
2 believed to be in excess of One Million Dollars (\$1,000,000). When Alba has ascertained the
3 full amount of damages, she will seek leave of Court to amend this Complaint accordingly.

4 **FOURTH CAUSE OF ACTION**

5 **(For False Designation of Origin/False Impression of Association,**
6 **15 U.S.C. § 1125(a) Against All Defendants)**

7 34. Plaintiff repeats, realleges, adopts and incorporates each and every allegation
8 contained in paragraphs 1 through 10, 12 through 19, 21 through 27 and 29 through 33,
9 inclusive, as though set forth herein.

10 35. Defendant has knowingly commercially misappropriated and used the name,
11 image, likeness and photograph of Alba to falsely advertise or represent that Defendant's
12 Website, business and products are associated, approved, endorsed by or otherwise connected
13 with Alba. Alba has on limited occasions licensed the use of her publicity rights to advertise,
14 promote and market third party's goods and services. By virtue of advertising and sales,
15 together with consumer goods endorsed by and affiliated with Alba, Alba's name, image and
16 likeness have become and are valuable assets identified with and symbolizing Alba.

17 36. Defendant's commercial and public use and exploitation of Alba's name, image,
18 likeness and photograph for the promotion, advertisement, and marketing of Defendant's
19 Website, business and products is a false designation of origin and a false or misleading
20 representation of fact which is likely to cause confusion, mistake, and deceive the public as to
21 an affiliation, connection or association between Defendant and Alba, and is likely to cause
22 confusion, mistake or deception as to the origin, sponsorship or approval by Alba of
23 Defendant's Website, business and products.

24 37. Alba is informed and believes and based thereon alleges that Defendant intended
25 to, and did, confuse and mislead the public, and did represent and create the false impression
26 that Defendant's Website, business and products are endorsed, authorized, originated,
27 sponsored, approved, or licensed by Alba, or otherwise affiliated with Alba.

28 38. In fact, there is no affiliation, endorsement or other relationship of any kind

1 between Alba and Defendant. Alba has not authorized, licensed or given permission to
2 Defendant to use her name, image, likeness or photograph in any commercial or other manner
3 whatsoever. Defendant has therefore created and will continue to create a false impression
4 concerning an association and affiliation between Alba and Defendant, a false designation of
5 the origin of Defendant's Website, business and products, and confusion as to a connection
6 between Alba and Defendant and Alba's purported endorsement and approval of Defendant's
7 products.

8 39. As a direct and proximate result of the aforementioned acts, Alba has suffered
9 and continues to suffer damages in an amount to be proven at trial, but which is believed to be
10 in excess of One Million Dollars (\$1,000,000). When Alba has ascertained the full amount of
11 damages, she will seek leave of Court to amend this Complaint accordingly.

12 40. Pursuant to 15 U.S.C. § 1116(a), Alba is entitled to an order enjoining
13 Defendant from using Alba's name, image, likeness and photograph on or in connection with
14 Defendant's Website, business and products.

15 41. Pursuant to 15 U.S.C. § 1117(a), Alba is entitled to an order requiring
16 Defendant to account to Alba for any and all profits derived by Defendant from the aforesaid
17 wrongful conduct, and to an order awarding all damages sustained by Alba and caused by
18 Defendant's conduct. Moreover, Defendant's acts make this an exceptional case under 15
19 U.S.C. § 1117(a), and Alba is therefore entitled to recover her attorneys' fees and the costs of
20 this action.

21 42. Alba is informed and believes and based thereon alleges that Defendant's
22 conduct was intentional and without foundation in law. Pursuant to 15 U.S.C. § 1117(a), Alba
23 is entitled to an award of treble damages against Defendant.

24 **FIFTH CAUSE OF ACTION**

25 **(For Unjust Enrichment Against All Defendants)**

26 43. Plaintiff repeats, realleges, adopts and incorporates each and every allegation
27 contained in paragraphs 1 through 10, 12 through 19, 21 through 27, 29 through 33 and 35
28 through 42, inclusive, as though set forth herein.

1 **SEVENTH CAUSE OF ACTION**

2 **(For an Accounting Against All Defendants)**

3 50. Plaintiff repeats, realleges, adopts and incorporates each and every allegation
4 contained in paragraphs 1 through 10, 12 through 19, 21 through 27, 29 through 33, 35
5 through 42, 44 through 45 and 47 through 49, inclusive, as though set forth herein.

6 51. As alleged hereinabove, Defendant is obligated to accurately and fully account
7 to Alba for all gross revenues derived from Defendant's exploitation of Alba's valuable
8 publicity rights in and to her name, image, likeness and photograph. Alba is informed and
9 believes and based thereon alleges that Defendant has received profits and/or other valuable
10 consideration and benefits as a result of its unauthorized use of Alba's name, image, likeness
11 and photograph to market its Website, business and products.

12 52. As the rightful owner in and to her publicity rights, Alba is entitled to an
13 accounting of any and all monies derived from Defendant's use of Alba's publicity rights.

14 53. Alba is entitled to that portion of Defendant's profits attributable to the
15 unauthorized use and misappropriation of Alba's name, image, likeness and photograph. The
16 amount of these profits is presently unknown and cannot be ascertained without an accounting.
17 The accounting will show any profits now due and owing to Alba based on Defendant's
18 tortious conduct.

19 **EIGHTH CAUSE OF ACTION**

20 **(For Injunctive Relief Against All Defendants)**

21 54. Plaintiff repeats, realleges, adopts and incorporates each and every allegation
22 contained in paragraphs 1 through 10, 12 through 19, 21 through 27, 29 through 33, 35
23 through 42, 44 through 45, 47 through 49 and 51 through 53, inclusive, as though set forth
24 herein.

25 55. Alba is informed and believes and based thereon alleges that as a result of the
26 conduct of Defendant as described herein, Alba has suffered and will continue to suffer great
27 and irreparable harm and damage. Alba is informed and believes and based thereon alleges
28 that as a result of the conduct of Defendant as described herein, Alba has sustained and will

1 continue to sustain actual damages that may be difficult to ascertain with certainty.

2 56. Alba is informed and believes and based thereon alleges that she has no adequate
3 remedy at law for the injuries she has suffered and will continue to suffer unless the wrongful
4 conduct of Defendant is restrained and enjoined, because it is and will continue to be
5 impossible for Alba to determine the precise amount of damage, and because no amount of
6 money can restore the potential harm to Alba caused by Defendant as a result of the conduct
7 alleged herein.

8 57. Alba is informed and believes and based thereon alleges that there is a serious
9 risk that she will suffer irreparable harm absent the injunctive relief sought herein, in that the
10 wrongs that have been and will continue to be performed by Defendant are of a continuing
11 character and will expose Alba to continuing injury. Alba is further informed and believes and
12 on that basis alleges that there is a serious risk that she will suffer irreparable harm absent the
13 injunctive relief sought herein, in that the wrongs that have been and will continue to be
14 performed by Defendant will give rise to a multiplicity of judicial proceedings absent the
15 injunctive relief sought herein.

16 58. Accordingly, Alba seeks the issuance of a preliminary injunction enjoining
17 Defendant, and its agents, employees, licensees and retail sellers from using Alba's name,
18 image, likeness and photograph in connection with the marketing and sale of any of
19 Defendant's products, including without limitation post-pregnancy clothing and accessories,
20 among other things. Upon a final hearing, Alba will seek an Order permanently enjoining
21 Defendant, and its agents and employees, from same.

22 WHEREFORE, Alba prays for judgment against Defendant as follows:

23 **AS TO THE FIRST CAUSE OF ACTION**

24 1. General and special damages in an amount not less than One Million Dollars
25 (\$1,000,000) in accordance with proof at trial;

26 2. For an award of the gross revenues received by Defendant as a result of the
27 unauthorized use of Alba's name, image, likeness and photograph;

28 3. Exemplary and punitive damages in an amount according to proof at the time of

1 Defendant.

2 **AS TO THE SEVENTH CAUSE OF ACTION**

3 15. A full and complete accounting from Defendant concerning all monies or other
4 things of value received by Defendant, directly and/or indirectly, in connection with its
5 wrongful commercial use and exploitation of Alba's publicity rights or other rights without
6 Alba's consent, and for a constructive trust on all such sums for the benefit of Alba.

7 **AS TO THE EIGHTH CAUSE OF ACTION**

8 16. For an order granting preliminary injunctive relief enjoining Defendant, and its
9 agents, employees, licensees, and retail sellers from the use, copying, sale, advertising, display
10 and distribution of any website, product, packaging, advertisement or other good or service
11 using, incorporating, displaying or misappropriating Alba's valuable publicity rights, and,
12 upon a final hearing, an order permanently enjoining Defendant, and its agents, employees,
13 licensees, and retail sellers and employees, from the same.

14 **AS TO ALL CAUSES OF ACTION**

15 17. For all costs of suit incurred herein;

16 18. For attorneys' fees as may be provided by law;

17 19. For interest as may be provided by law; and

18 20. For such other and further relief as the Court may deem to be just and proper.

19

20 DATE: October __, 2011

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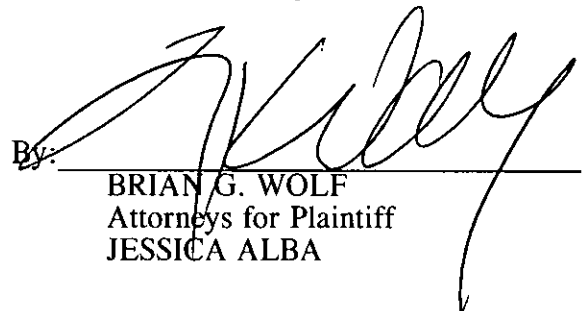
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LAVELY & SINGER
PROFESSIONAL CORPORATION
BRIAN G. WOLF
MICHAEL V. MANCINI

By: 
BRIAN G. WOLF
Attorneys for Plaintiff
JESSICA ALBA

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DEMAND FOR JURY TRIAL

Plaintiff JESSICA ALBA hereby demands a trial by jury in the above-captioned action.

DATE: October __, 2011

LAVELY & SINGER
PROFESSIONAL CORPORATION
BRIAN G. WOLF
MICHAEL V. MANCINI

By: 

BRIAN G. WOLF
Attorneys for Plaintiff
JESSICA ALBA

30255528

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
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ATTORNEY FOR (Name): Plaintiff JESSICA ALBA
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
STREET ADDRESS: 111 NORTH HILL STREET
MAILING ADDRESS: (Same)
CITY AND ZIP CODE: LOS ANGELES, CALIFORNIA 90012
BRANCH NAME: CENTRAL DISTRICT

CASE NAME: JESSICA ALBA v. THE CADEN COMPANIES, INC., et al.,

FOR COURT USE ONLY
FILED
Los Angeles Superior Court
OCT 11 2011
John A. Clecko, Executive Officer/Clerk
By *[Signature]*, Deputy
DOROTHY SWAIN

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000)
 Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter **Joinder**
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: **BC471136**
JUDGE:
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|--|--|---|
| Auto Tort
<input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
<input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PI/PD/WD (23)
Non-PI/PD/WD (Other) Tort
<input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PI/PD/WD tort (35)
Employment
<input type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | Contract
<input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3.740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37)
Real Property
<input type="checkbox"/> Eminent domain/Inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26)
Unlawful Detainer
<input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38)
Judicial Review
<input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)
<input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
Enforcement of Judgment
<input type="checkbox"/> Enforcement of judgment (20)
Miscellaneous Civil Complaint
<input type="checkbox"/> RICO (27)
<input checked="" type="checkbox"/> Other complaint (not specified above) (42)
Miscellaneous Civil Petition
<input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|--|--|---|

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): Eight (8)
 5. This case is is not a class action suit.
 6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)
 Date: October 11, 2011
 BRIAN G. WOLF (BAR NO. 78166)
 (TYPE OR PRINT NAME) *[Signature]*
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

ORIGINAL

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Table with 2 columns: Case Type and Examples. Rows include categories like Auto Tort, Contract, Real Property, Unlawful Detainer, Judicial Review, and Miscellaneous Civil Complaint, each with a list of specific legal scenarios and their corresponding case numbers.

**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? YES CLASS ACTION? YES LIMITED CASE? YES TIME ESTIMATED FOR TRIALS-7 HOURS/ DAYS

Item II. Indicate the correct district and courthouse location (4 steps – If you checked “Limited Case”, skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column **A**, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column **B** below which best describes the nature of this case.

Step 3: In Column **C**, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- | | |
|--|--|
| 1. Class actions must be filed in the Stanley Mosk Courthouse, central district. | 6. Location of property or permanently garaged vehicle. |
| 2. May be filed in central (other county, or no bodily injury/property damage). | 7. Location where petitioner resides. |
| 3. Location where cause of action arose. | 8. Location wherein defendant/respondent functions wholly. |
| 4. Location where bodily injury, death or damage occurred. | 9. Location where one or more of the parties reside. |
| 5. Location where performance required or defendant resides. | 10. Location of Labor Commissioner Office |

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage	2.
	<input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2.
Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1., 4.
	<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 4.
Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1., 4.
	<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1., 4.
	<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress	1., 3.
	<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 4.

ORIGINAL
Auto Tort
Other Personal Injury/Property
Damage/Wrongful Death Tort

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Non-Personal Injury/ Property Damage/ Wrongful Death Tort	Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 3.
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.
	Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
	Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Employment	Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
	Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Contract	Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
	Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
	Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
	Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Real Property	Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
	Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
	Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
Unlawful Detainer	Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
	Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
	Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2., 6.
	Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.

SHORT TITLE: JESSICA ALBA v. THE CADEN COMPANIES, INC., et al.,

CASE NUMBER

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.
Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1., 2., 3.
Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input checked="" type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

SHORT TITLE: JESSICA ALBA v. THE CADEN COMPANIES, INC.,
et al.,

CASE NUMBER

Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., **Step 3** on Page 1, as the proper reason for filing in the court location you selected.

REASON: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case. <input type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.			ADDRESS: 9601 Wilshire Boulevard, Suite 500		
CITY: Beverly Hills	STATE: Ca	ZIP CODE: 90210			

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., § 392 et seq., and Local Rule 2.0, subs. (b), (c) and (d)].

Dated: October 11, 2011


(SIGNATURE OF ATTORNEY/FILING PARTY)
Michael V. Mancini

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/11).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.