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5 **UNITED STATES DISTRICT COURT**
6 **NORTHERN DISTRICT OF CALIFORNIA**

7 JOELLE SIGNORELLI,
8 Plaintiff,

Case No.: 3:18-cv-02914

9 vs.

COMPLAINT

10 NORTH COAST BREWING CO., INC., A
CALIFORNIA CORPORATION, AND DOES 1-10,
11 Defendants.

12 Plaintiff, Joelle Signorelli (“Joelle” or “Plaintiff”), by and through the undersigned counsel, brings this
13 Complaint against Defendant North Coast Brewing Co., Inc. (“North Coast Brewing” or “Defendant”) and Does 1-
14 10 (together, with “Defendant,” as “Defendants”) for damages, restitution, declaratory and injunctive relief, and in
15 support thereof states as follows:

16 **JURISDICTION AND VENUE**

- 17 1. This is an action arising under the Federal Copyright Act, 17 U.S.C. sec. 101, et seq., and California Civil
18 Code sec. 980 et seq., and California common law.
- 19 2. This Court has federal question subject matter jurisdiction pursuant to 28 U.S.C. secs. 1331 and 1338.
- 20 3. This Court has supplemental jurisdiction of the California Civil Code claims pursuant to 28 U.S.C. sec.
21 1367(a).
- 22 4. North Coast Brewing is subject to personal jurisdiction throughout California.
- 23 5. Venue is proper in this District under 28 U.S.C. sec. 1391(b) and (c) because the events giving rise to the
24 claims occurred in this District, North Coast Brewing engaged in infringement in this District, and North
25 Coast Brewing is subject to personal jurisdiction in this district.
- 26 6. There is a related case pending in this district, Thelonious Sphere Monk, Jr., v. North Coast Brewing Co.,
27 Inc., No. 17-cv-05015.

THE PLAINTIFF

1
2 7. Plaintiff, Joelle Signorelli, is the widow of Eduardo Smissen (“Eduardo”). They were married from
3 December 16, 2004 until Eduardo’s death on February 27, 2015.

4 8. As Eduardo’s spouse, Joelle had a 50% interest in their marriage’s community property, including any
5 intellectual property such as copyright that was developed by Eduardo during their marriage. Upon
6 Eduardo’s death, Joelle inherited 100% of Eduardo’s 50% interest in that community property.

THE DEFENDANTS

7
8 9. Defendant North Coast Brewing is a California corporation with its principal place of business in California
9 and can be served with process through its registered agent Mark E. Ruedrich, 455 North Main Street, Fort
10 Bragg, CA 95437.

11 10. North Coast Brewing is a craft brewery that makes and sells beer and ale, and other related merchandise to
12 promote its brand.

13 11. One prominent beer made and sold by North Coast Brewing is Brother Thelonious Belgian Style Abbey
14 Ale.

EDUARDO’S WORK FOR NORTH COAST BREWING CO.

15
16 12. On or about October 13, 2005, Eduardo was asked by Doug Moody of North Coast Brewing (“Doug”) if he
17 would be interested in designing a bottle label featuring Jazz Artist Thelonious Monk for a beer that was
18 being developed by North Coast Brewing to be named after Thelonious Monk, presently known as
19 “Brother Thelonious belgian style abbey ale” (“Brother Thelonious Abbey Ale”).

20 13. On or about October 15, 2005, Eduardo emailed a proposal to Doug: that proposal consisted of three parts:
21 (1) \$350 for the initial sketches of Thelonious Monk, to be done in coordination with the designer Theresa
22 Whitehill of Colored Horse (“Theresa”), (2) \$1,150 for the final artwork and licensing of the image for the
23 beer label, and (3) \$1,500 for the original painting if desired.

24 14. Shortly thereafter, Doug emailed Theresa saying that he had received Eduardo’s proposal and was “ready
25 to proceed.” He asked Theresa “may I assume you agree?”

26 15. Shortly thereafter, Theresa said “Absolutely! That’s terrific.”

27 16. Doug did not respond in writing to Eduardo’s offer.
28

1 17. Eduardo's work was completed and presented to North Coast Brewing by the end of 2005. By
2 approximately that date, Eduardo's beer label was being affixed by North Coast Brewing to bottles of
3 Brother Thelonious Abbey Ale.

4 **DISPUTE OVER PAYMENT FOR MERCHANDISING AND LABELS**

5 18. By 2006 or 2007, Joelle and Eduardo had learned that North Coast Brewing had been using Eduardo's
6 artwork more broadly than agreed upon as a beer label – most specifically on various merchandising items
7 and to promote its product by way of Jazz music recordings and festivals. Eduardo's beer label had become
8 a crucial part of North Coast Brewing's corporate identity. This use of Eduardo's work was not part of the
9 parties' anticipation in late 2005 – nor could the success of the label and its subsequent adoption as a form
10 of corporate identity have been predicted.

11 19. By 2006 or 2007, Joelle and Eduardo had learned from Doug that Eduardo's design for the beer label had
12 been singularly instrumental in growing North Coast Brewing from a small local brewery into an
13 international presence. This too involved use of Eduardo's design that far exceeded any agreed upon use.

14 20. In using Eduardo's design in ways that differed from or exceeded any use anticipated by the parties, North
15 Coast Brewing has benefitted financially and has deprived Joelle of financial value that is rightfully hers.
16 This use has been intentional, knowing, and has substantially interfered with rights originally held
17 exclusively by Eduardo and now held by Joelle.

18 21. By 2006 or 2007, Joelle and Eduardo had learned that North Coast Brewing had been giving the
19 Thelonious Monk Institute of Jazz ("the Jazz Institute") \$1.00 for every case of Brother Thelonious Abbey
20 Ale that North Coast Brewing had sold. Joelle asked Doug that North Coast Brewing make a financial
21 arrangement with Eduardo that was fairer. Doug said it was "too late."

22 22. In the time period of approximately 2010-12, Doug hired Eduardo to design some merchandising related to
23 Thelonious Monk.

24 23. Eduardo died in 2015. At the memorial ceremony, Doug approached Joelle, acknowledged that the
25 financial arrangements that North Coast Brewing had had with Eduardo for his work was unfair and offered
26 to "make this right." He mentioned the possibility of setting up a college scholarship for Joelle's two
27 children and Eduardo's granddaughter, that he had talked to the two other principals of North Coast
28 Brewing and that they all were in agreement, but that because North Coast Brewing was now a public

1 company he needed Board approval. He mentioned the idea of a fundraiser at the North Coast Brewing
2 restaurant where the proceeds would go to Joelle.

3 24. Shortly thereafter, Doug met with Joelle and explained that the Board had said “no” to any compensation.
4 In the same conversation, Doug continued to express his interest in providing additional money to Joelle by
5 way of fair compensation. In August 2016 and again in June 2017, Joelle received \$2,000 from North Coast
6 Brewing by way of the Elk Community Center. Whether these amounts were to remain constant or stop at
7 some point, was never explained by Doug. These have been the only two payments that Joelle has received.

8 25. On or about December 28, 2017, Joelle determined that she needed to take more specific action to preserve
9 her rights to a fair payment. She obtained copyright registration for Eduardo’s design (1-6148206291). A
10 copy of this is attached as Exhibit 1.

11 **NOTICE OF THIS DISPUTE**

12 26. On May __, Joelle notified North Coast Brewing that any consent previously given to North Coast Brewing
13 by Eduardo for use of his design on the beer label was immediately terminated and revoked, and that North
14 Coast Brewing could no longer use the design without entering into a merchandising agreement with her. A
15 true and correct copy of Joelle’s notice to North Coast Brewing is attached hereto as Exhibit 2.

16 27. Despite this notice, since May __, North Coast Brewing has continued to use Eduardo’s design both on
17 beer labels and on merchandising without the permission of Joelle and without compensating her, causing
18 significant damage to her.

19 28. Plaintiff has engaged the undersigned attorneys concerning this dispute and has agreed to pay them a
20 reasonable fee.

21 **FIRST CLAIM FOR RELIEF**

22 **(COPYRIGHT INFRINGEMENT UNDER 17 U.S.C. sec. 101)**

23 29. Plaintiff incorporates by reference and hereby re-alleges the allegations of paragraphs 1-28 of this Complaint
24 as if fully set forth herein.

25 30. Eduardo had the exclusive right to reproduce his copyrighted work in copies and to prepare derivative
26 works and to distribute copies by sale or other transfer, rental lease or lending.

27 31. His rights included the exclusive right to reproduce a copyrighted pictorial work on all kinds of articles,
28 whether useful or otherwise.

1 32. Initial ownership of the copyrighted work rested solely in Eduardo. His rights have been transferred by
2 will/intestate succession to Joelle.

3 33. There has never been a transfer of copyright ownership of any of Eduardo's copyrighted work because
4 there has never been a writing signed by Eduardo.

5 34. To the extent that any copyright ownership was transferred by Eduardo to North Coast Brewing, that was
6 by license exclusive to beer labeling and all other ownership remained with Eduardo and is now with
7 Joelle.

8 35. To the extent that any copyright ownership for a beer label was transferred by Eduardo to North Coast
9 Brewing, North Coast Brewing has used this work far more than the parties anticipated.

10 36. To the extent that any ownership exclusive to beer licensing was transferred by Eduardo to North Coast
11 Brewing, that license has ceased to belong to North Coast Brewing and has been equitably revoked due to
12 the abuse by North Coast Brewing of that limited license agreement and transferred back to Eduardo (and
13 thereafter to Joelle).

14 **SECOND CLAIM FOR RELIEF**

15 **(COPYRIGHT INFRINGEMENT UNDER CALIFORNIA CIVIL CODE SEC. 980)**

16 37. Plaintiff incorporates by reference and hereby re-alleges the allegations of paragraphs 1-36 of this Complaint
17 as if fully set forth herein.

18 **THIRD CLAIM FOR RELIEF**

19 **(CONVERSION UNDER CALIFORNIA COMMON LAW)**

20 38. Plaintiff incorporates by reference and hereby re-alleges the allegations of paragraphs 1-36 of this Complaint
21 as if fully set forth herein.

22 **FOURTH CLAIM FOR RELIEF**

23 **(UNJUST ENRICHMENT/RESTITUTION UNDER CALIFORNIA COMMON LAW)**

24 39. Plaintiff incorporates by reference and hereby re-alleges the allegations of paragraphs 1-36 of this Complaint
25 as if fully set forth herein.

FIFTH CLAIM FOR RELIEF

(BREACH OF CONTRACT, EXPRESS AND IMPLIED, INCLUDING IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING UNDER CALIFORNIA CIVIL CODE sec. 1619 et seq., and COMMON LAW)

40. Plaintiff incorporates by reference and hereby re-alleges the allegations of paragraphs 1-36 of this Complaint as if fully set forth herein.

PRAYER FOR RELIEF

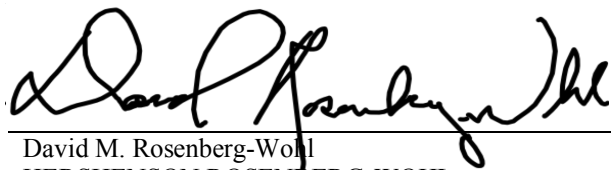
41. WHEREFORE, Plaintiff prays for judgment against North Coast Brewing and all Defendants that:

- a. Defendants be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. sec 101, California Civil Code 980, and California common law, as well as be declared in violation of each of these laws.
- b. Defendants be ordered to pay Joelle's actual, consequential, incidental and special damages, as well as the Defendants' profits attributable to and wrongfully retained due to the violations alleged; and Defendants be ordered to pay Plaintiff damages for injury to Plaintiff's capital assets including the business goodwill and copyrighted material;
- c. Defendants be ordered to pay Joelle's attorneys' fees and costs to the extent available under the statutes sued hereunder;
- d. Plaintiff be awarded punitive damages; and
- e. Plaintiff be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff respectfully request a jury trial on all issues triable thereby.

Dated this 17th day of May, 2018.



David M. Rosenberg-Wohl
HERSHENSON ROSENBERG-WOHL
A PROFESSIONAL CORPORATION

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS. Joelle Signorelli

DEFENDANTS North Coast Brewing Co., Inc.

(b) County of Residence of First Listed Plaintiff Mendocino (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Mendocino (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

(c) Attorneys (Firm Name, Address, and Telephone Number) David M. Rosenberg-Wohl, Hershenson Rosenberg-Wohl, A Professional Corporation, 315 Montgomery St., 8th Fl., SF, CA 94104; (415) 829-4330

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, HABEAS CORPUS, OTHER, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation-Transfer
8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 17 USC 101 et seq. Brief description of cause: copyright violation

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ JURY DEMAND: X Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE Haywood S. Gilliam, Jr. DOCKET NUMBER 4:17-cv-05015-HSG

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) X SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE 05/17/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ David Rosenberg-Wohl

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
- c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.