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LAURENCE MURK,

Plaintiff,

v.

BetMGM, LLC. d/b/a BetMGM, MARINA
DISTRICT DEVELOPMENT COMPANY,
LLC d/b/a BORGATA HOTEL CASINO
AND SPA, GVC HOLDINGS, PLC., N/K/A
ENTAIN PLC, bwin.party (USA), Inc.
("BWIN USA"), the bwin.party
entertainment (NJ) LLC ("BWIN NJ")

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, CIVIL PART
ATLANTIC COUNTY

DOCKET NO. ATL-L-3154-22

Civil Action

FOURTH AMENDED COMPLAINT

Plaintiff, Laurence Murk, having an address at 899 Olentangy Road, Franklin Lakes, New Jersey, 07417, by way of complaint against the Defendants hereby says:

PARTIES TO THE ACTION

1. Plaintiff is a citizen of New Jersey, and at all relevant times resided at the above address.

2. Plaintiff is severely physically disabled and paralyzed from the waist down. He can operate computers by voice and partially by one arm. He regularly participates in online gaming as a recreation his disability allows him.

3. Defendant Bet MGM, LLC (“Bet MGM”), having a place of business at Harborside Plaza 3, 210 Hudson Street, Suite 602, Jersey City, New Jersey, 07311, directly or through related entities, is a provider of internet gaming in New Jersey which is offered to the public in New Jersey.

4. Defendant Marina District Development Company, LLC d/b/a Borgata Hotel Casino and Spa (“Borgata”), having a place of business at 1 Borgata Way, Atlantic City, New Jersey, 08401, is a licensed New Jersey casino and an internet gaming permit holder.

5. Bet MGM is the owner of Borgata and controls Borgata.

6. Defendant NJ Party Casino (“Partycasino”), having a place of business at Harborside Plaza 3, 210 Hudson Street, Suite 602, Jersey City, New Jersey, 07311, is a provider of internet gaming sites or services in New Jersey. Bet MGM owns half of Partycasino and control Partycasino.

7. Defendant GVC Holdings, PLC, with a place of business at 210 Hudson Street, Suite 602, Jersey City, New Jersey 07311, owns Partycasino and is partially owned and totally controlled by MGM. GVC operates online gaming in New Jersey jointly and in conjunction with MGM.

7a. Defendants bwin.party USA, Inc. and bwin.party entertainment (NJ) LLC (“bwin defendants”) are affiliates of or related to the other Defendants noted herein.

7b. Upon information and belief, bwin defendants operate and provide services related to internet gaming in New Jersey in conjunction with the other Defendants and through the websites www.NJ.partycasino.com and other websites pursuant to and under the authority of Defendant Borgata's Internet Gaming Permit.

8. All Defendants are controlled and wholly or partially owned by MGM Resorts International, a publicly traded entity and one of the largest gambling owner/operators in the world, or affiliated or related to each other through ownership or contract.

9. At all times herein, Defendants acted jointly and in concert with each other.

FACTS

10. Borgata holds a permit or authorization from New Jersey gaming authorities to offer internet gaming to persons geographically located in New Jersey directly or through agreements and permissions with Bet MGM and Partycasino (commonly known as "skins").

11. Defendants all routinely offer promotions to incentivize internet gaming to persons located in New Jersey through or in conjunction with each other.

12. In or around April 2021, Defendants initiated a jointly shared and jointly sponsored promotion ("Promotion") that offered the New Jersey public an opportunity to participate in an internet competition (the "Competition"), to commence on May 1, 2021, and run for one month.

13. The Rules of the Competition ("Rules") were widely published, advertised and promoted by Defendants under the bold heading "**HOW TO PARTICIPATE**", as the "2 Million Dollar Super Series," and advertised to the public and to Defendants' existing patrons. See Exhibit A.

14. The Rules were set out in commercial advertisement promotions presented by all three Defendants' sponsors including through the internet and by way of authorized third-party republication of the Promotion and Competition by entities that cover and report on such promotions and of which Defendants were aware.

15. The Rules required that persons who opted into the Promotion and expended money to purchase opportunities to play the mandated virtual slot machine games – which Defendants specifically designated as “Featured Slot Machine Games” (“FSMs”) – each week during a specific time period of May 1, 2021 through May 31, 2021 (the “Competition Period”), could win prizes based on the sum of money electronically purchased and placed into and played on the FSMs during the Competition Period. Id.

16. Plaintiff entered the Competition by registering through the Party Casino website/application, not the BetMGM portal.

17. To be eligible to win prizes, all contestants in the Competition were required to purchase opportunities at one dollar per opportunity to play the designated FSMs, which changed each week, during the designated Competition Period.

18. The purchased virtual opportunities were “Merchandise” under the N.J. Consumer Fraud Act that when purchased constituted potential entries in the Competition.

19. Under the Rules, to be eligible all contestants were required to exchange the Merchandise in return for play on the FSMs during each specific week of the Competition Period.

20. For each one dollar (\$1.00) of purchased Merchandise/opportunity paid to Defendants and then wagered on the correct online FSM each week during the designated period, the contestant would gain one (1) "Leader Board" point.

21. An electronic Leader Board ("Leader Board"), visible via computer to all contestants, continuously published the competitors' fictitious names and their ranking based on the number of points they had purchased and wagered, without regard to whether the actual secondary slot machine wager at the FSMs won or lost.

22. The sum of money played in the FSMs (Merchandise/opportunities) during the Competition was referred to or designated as "points," with one point for each \$1.00 opportunity wagered by a contestant on the FSM during each week of the Competition.

23. Under the advertisements and Rules for the Promotion/Competition published by the Defendants, the winners of the Competition were determined solely on the basis of the Merchandise/opportunities purchased and then wagered by a contestant on the designated FSMs during the Competition Period; i.e., the cumulative number of Merchandise/opportunities/dollars electronically purchased and then deposited into the correct weekly FSMs collectively during the Competition Period.

24. Under the Rules and associated advertisements, there was no element of chance involved in determining the winners of the Competition or the award of prizes.

25. Under the Rules and advertisements, the amount of Merchandise/opportunities purchased during the Competition Period and electronically placed in the correct FSM each week during the Competition Period, cumulatively reflected on a Leader Board, was the sole determinative factor in the award of prizes.

26. Under the Rules and advertisements, a competitor's actual win or loss from playing the required FSMs during the Competition Period was totally irrelevant to, and played no part in, determining the winner of the Competition and the resulting award of prizes.

27. Specifically, the advertisements and Rules provided that only persons who opted into the Competition, purchased and placed the highest sums (Merchandise/opportunities) in the correct FSMs during each week of Competition Period would win the Top Prize.

28. The Top Prize was designated in dollars: "\$500,000" of "Casino Bonus" points that could later be wagered at any of the co-sponsors' virtual slot machines, plus one hundred "Free Spins" on co-sponsor's electronic slot machines for every day in the month of June ("Free Spins" and collectively, the "Top Prizes").

29. The conditions for eligibility strictly required that all prospective competitors must (a) "opt in" to the 2 Million Dollar Super Series Leaderboard Promotion on one of Defendants' gaming websites; (b) "play the current week's featured games to earn Leaderboard Points;" (c) wager during the contest; (d) "wager must be placed during the period the games are featured."

30. The Promotion's "**HOW TO PARTICIPATE**" Rules reiterated that "Wagers must be placed on each week's featured games during the promotional period in order to accrue points."

31. According to the advertisements and Rules, contestants could only be eligible to win prizes if they followed the Eligibility Rules.

32. The Casino \$500,000 Bonus points and Free Spins would only have to be wagered at Defendants' electronic slot machines one time; this was designated in the Rules as "a 1x wagering requirement." See Exhibit A.

33. At the bottom of the Rules in small print appeared: "Please make sure to read our full Terms and Conditions before participating in the promotion here (URL to be hyperlinked)."

34. Plaintiff did not read the small print and did not "hyperlink."

35. Plaintiff reviewed the co-sponsored advertisements and published Rules and elected to accept the offer and enter the Competition.

36. Plaintiff relied upon the conditions of eligibility required for the Competition.

37. At no time did Plaintiff believe or understand that the Rules of the Competition could be altered, changed, modified or waived; had he known defendants could change the rules at will, he never would have entered the Competition.

38. Plaintiff did not see or read the Terms and Conditions allegedly located at the URL or hyperlink if same was actually published.

39. The alleged hyperlink does not alter, change, modify or waive any of the Rules, but rather, reinforces the mandated Competition requirements.

40. At all times, Plaintiff participated in the Competition pursuant to the published Rules.

41. At the time he entered the Competition, Plaintiff employed a strategy that would result in his winning the top \$500,000 Casino Bonus Prize and the Free Spins ("Top Prizes").

42. This strategy included placing and then risking significant sums on the FSMs pursuant to the Rules so as to become and remain the person with the highest amount of Merchandise sums/opportunities placed in the virtual games and the leader on the Leaderboard.

43. Once in first place, Plaintiff could and did “block” any other competitors who attempted to “pass” or get ahead of him on the Leaderboard by buying and placing more Merchandise sums/opportunities in the FSMs.

44. Plaintiff possessed or controlled the resources necessary to win the Top Prizes.

45. After placing approximately \$350,000 at risk through purchasing and wagering those opportunities on the FSMs during the Competition Period, Plaintiff was the first-place leader on the Leaderboard and in the Competition.

46. On or about May 11, 2021, the eleventh day of the 31-day Competition, and without notice or posting, the name “mjbroker11969” (“Broker”) suddenly appeared in first place on the Leaderboard with over 800,000 points credited to him during the Competition period, falsely purporting to represent over \$800,000 of sums allegedly placed in the designated FSMs at the required times and Plaintiff was suddenly moved into second place.

47. No prior notice of the change in Broker/Plaintiff’s positions or his insertion on the Leaderboard was given.

48. The Rules were never changed.

49. No changes to the advertisements for the Promotion or the Rules were ever posted.

50. No modification or alteration or waiver of the Rules was noticed, presented, posted, published or accepted by Plaintiff.

51. On or about May 11, 2021, Plaintiff contacted a representative and agent of Defendants, "VIP Account Manager," Ryan Weiner, questioning why Broker had appeared on the Leaderboard.

52. The VIP Account Manager knowingly and falsely, with the intention to deceive Plaintiff, alleged that Defendants were unaware of the reason for Broker's sudden appearance at first place on the Leaderboard.

53. Defendants' VIP Representative, further intending to deceive Plaintiff, knowingly and falsely stated that (a) he could not divulge information on Broker's account; (b) that Broker's play had been and would again be reviewed and correctly reported; (c) that the Leaderboard points were correctly added to Broker; (d) he promised to review Plaintiff's concerns; (e) implied that Broker had simply failed to "opt in" but otherwise had met all eligibility requirements; and (f) promised "fairness" and "help" to win the Top Prizes.

54. Defendants' VIP Representative, further intending to deceive Plaintiff and to induce and generate further payments from Plaintiff, knowingly and falsely stated that Plaintiff was in a "great position to win this leader board."

55. Plaintiff attempted to "pass" Broker by purchasing additional gaming opportunities, but Broker employed Plaintiff's blocking strategy and otherwise prevented him from passing.

56. Thereafter, Plaintiff ceased competing or reduced his level of participation for a time, as he could no longer win the Top Prizes.

57. Subsequently, Plaintiff re-engaged in the Competition at a reduced level.

58. Although not required to do so, Plaintiff mitigated damages.

59. Plaintiff complained to the New Jersey Division of Gaming Enforcement (“DGE”) about the insertion of Broker on the Leaderboard.

58a. Defendant then actively engaged in a scheme to deceive the DGE as to the facts and conclusions related to the Brokers insertion.

58b. Bet MGM’s Interactive Gaming Compliance Analyst (“Analyst”) admitted to the DGE that Broker was ineligible to participate in the Competition as he (1) did not play the required specified FSMs; and (2) did not play the FSMs at the required specified time. he advised the Bet MGM “VIP Team” to manually adjust Broker’s Leader Board position to award him approximately 800,000 points” on the Leader Board (“Gift”).

58c. The Analyst admitted that Broker was not entitled to the Bonus Points and that rather, the gift of Points was a “one-time courtesy” to a VIP customer.

58d. Bet MGM’s Analyst falsely advised the DGE that the Gift would not have impacted the winner of the first-place prize.

58e. The DGE took the position that the Competition (as opposed to the actual win/loss on the FSMs) was not a casino gambling game, and therefore, any claims would lie not with it, but in the New Jersey Courts. (Exhibit B).

58f. The DGE held no hearing, made no findings of fact or conclusions of law and advised that any redress for Plaintiff must come before the courts.

58g. The DGE essentially refused to help Plaintiff until the Competition was over.

60. The Analyst also admitted the Bet MGM “VIP Team” manually adjusted Broker’s Leaderboard position by awarding him approximately 800,000 points on the Leaderboard as a courtesy.

61. Throughout the designated Competition, Plaintiff wagered approximately \$1.5 million dollars at the FSMs.

62. At some point in the month of May, Broker without notice unexpectedly reduced his level of participation for unknown reasons.

63. Ultimately, Plaintiff came in fourth place in the Competition; but-for defendants’ illegal, unfair and unconscionable actions, Plaintiff would have won the top prize.

64. As fourth-place winner, Plaintiff was awarded a \$50,000 casino bonus.

65. Plaintiff was unlawfully, unfairly and unconscionably deprived of the Top Prizes and in violation of the CFA.

66. The actions of waiving the Rules for Broker were unfair, improper, illegal and unconscionable and generated by a bad motive to aid a VIP customer and knowingly harm others, including Plaintiff.

67. Had Broker not been illegally inserted onto the Leader Board, Plaintiff would have won the Top Prizes.

68. The illegal insertion of Broker caused Plaintiff to lose the Top Prizes and the cost of the purchased opportunities.

69. The award was illegal, improper, not permitted under the Rules, unconscionable and unfair as it was admitted that Broker did not initially participate in the Competition and was not eligible to receive the Points.

COUNT I
(Breach of Contract)

70. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 68 as if fully set forth herein.

71. Plaintiff accepted the offer of the Competition as presented in advertisements, met all eligibility rules, paid consideration and substantially performed under the Rules and the advertisement, thus forming a contract.

72. Under the advertisements and Rules, Defendants offered the Top Prizes to persons eligible under the advertisements and Rules and who complied with all of the rules and placed first on the Leaderboard at the end of the Competition.

73. Plaintiff accepted this offer and played the designated FSMs during the Competition period putting significant sums at risk with the goal to obtain and defend first place on the Leaderboard and win the Top Prize, which attempt was unfairly unconscionably and illegally, and without notice or consideration, taken from him by Defendants in material breach of the contract.

74. At all times Plaintiff participated in the Competition pursuant to the Promotion, advertisements and the Rules.

75. After the offer and acceptance, Defendants without notice or posting unilaterally waived the Rules for one person, "Broker", and materially and anticipatorily breached the contract by unilaterally removing Plaintiff from first place and inserting "Broker".

76. No notice or posting of any Rule changes allowing for the waiver were posted.

77. Defendants' acts and omissions materially breaching the contract resulted in depriving Plaintiff of Top Prizes promised by Defendants.

78. Defendants, acting in concert, materially and unfairly breached the contract without justification by their unilateral actions and omissions.

79. The breach was intentional and knowing.

80. The breach was done to favor Broker, as a VIP patron, over all other competitors.

81. The breach was done to benefit Defendants with the knowledge and intent that it would harm Plaintiff.

82. The breach was done in disregard for the advertisements and Rules.

83. The breach was unconscionable and unfair.

84. Mr. Murk suffered ascertainable losses and damages as a direct result of Defendants' breaches, actions and omissions.

85. Defendants, acting in concert, anticipatorily repudiated their promises and performance by their unilateral actions, breaches and omissions.

WHEREFORE, the Plaintiff seeks the following relief against all Defendants jointly and severally:

- a. Compensatory Damages in the amount of \$600,000;
- b. Specific Performance of their promise with the award of the Top Prizes;
- c. Consequential and Special Damages, including expenses related to the Competition;
- d. Punitive Damages;

- e. Attorneys' fees, expenses, collection costs, and costs of this suit; and
- f. Such other relief as the Court may find just and equitable.

COUNT II
(Good Faith and Fair Dealing)

85. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 84 as if fully stated herein.

86. As a matter of law, each contract in New Jersey contains covenants of Good Faith and Fair Dealing.

87. The covenants among other things include prohibitions against either party materially destroying the basis of the bargain or otherwise acting.

88. The covenants among other things include prohibitions against the acts and omissions of Defendants set forth herein.

89. The covenants among other things require good faith, honesty in fact and fair dealing in the performance of a contract.

90. Breaches of the covenants are compensated in part by damages or specific performance.

91. Plaintiff abided by all of the provisions of the contract and the Rules and entered the Competition to win the Top Prize.

92. By unilaterally waiving or "modifying" the Rules and contract provisions for Broker, with bad motive/intent and without prior notice or posting, Defendants illegally and materially breached, prevented and prohibited Plaintiff from enjoying the reasonable expectations and the bargained for fruits and benefits of the contract and materially breached the Covenants of Good Faith and Fair Dealing.

93. The waiver/"modification" of the Rules for Broker negated the promises contained in the "advertisements and the Rules" and the negation of promises was based solely on defendants' desire to generate more money to itself by favoring and pleasing a VIP patron, i.e., bad motive/intent.

WHEREFORE, Plaintiff seeks the following relief against all Defendants jointly and severally:

- a. Compensatory Damages in the amount of \$600,000;
- b. Specific Performance of their promise with the award of the Top Prizes;
- c. Consequential and Special Damages, including expenses related to the Competition;
- d. Punitive Damages;
- e. Attorneys' fees, expenses, collection costs, and costs of this suit; and
- f. Such other relief as the Court may find just and equitable.

COUNT III
(Consumer Fraud Act)

94. Plaintiff repeats and realleges the allegations contained Paragraphs 1 through 93 as if fully stated herein.

95. The New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA") and regulations thereunder prohibit the actions, omissions and behavior of Defendants as recited herein.

96. N.J.S.A. 56:8-2.2 provides that the advertisement of merchandise as part of a plan or scheme not to sell the item advertised is an unfair practice. That statute further provides that it is an "unlawful practice" to advertise merchandise (in this case, the

Promotional Contest and Top Prizes) with a plan or scheme to not actually sell the precise merchandise as advertised.

97. In addition to N.J.S.A. 56:8-2.2, the regulations adopted by the Division of Community Affairs (“DCA”) specifically prohibit the false advertising present in this matter.

98. DCA Regulation N.J.A.C 13:45A.-9.2, “GENERAL ADVERTISING” provides that it is an unlawful practice for an advertiser to fail to specifically designate within an advertisement any special or limiting factors relating to conditions or availability. Id. at (a)(2). (emphasis added).

99. DCA Regulation N.J.A.C 13:45A.-9.2, “GENERAL ADVERTISING” provides that it is an unlawful practice to use any type size location, graphic description, or color in an advertisement that may result in obscuring any material fact. Id. at (a)(5). (emphasis added).

100. DCA Regulation N.J.A.C 13:45A.-9.2, “GENERAL ADVERTISING” provides that it is an unlawful practice to make or advertise false or misleading in representations of fact, regarding the nature of an offering. Id. at (a)(9). (emphasis added).

101. DCA Regulation N.J.A.C. 13:45A-9.2 “General Advertising” makes the failure of an advertiser to substantiate any claim regarding the availability of the advertised merchandise or the nature of the offering such as the false claims in the Promotional Contest regarding the Top Prize to the eligible top points accumulator. Id. at (a)(10).

102. DCA Regulation N.J.A.C. 13:45A-9.2 “General Advertising” prohibits directly, indirectly or suggestively the comparisons of the actual value of the merchandise

versus the cost to supply same. In Motion practice and in its Answer, BetMGM asserts that the advertised \$500,000 plus has no ascertainable value, is speculative, and is incapable of calculation.

103. The opportunities purchased and exchanged by Plaintiff as a requirement to participate in the Competition constitute Merchandise under the CFA.

104. Defendants' acts and omissions constitute unconscionable commercial practices under the CFA, deception, fraud, false pretenses, false promises, misrepresentations and knowing concealment, suppression and omission of material facts with the intent that Plaintiff and others rely upon such concealments, suppression and omissions.

105. Defendants' advertisements and Rules for the Competition were knowingly and intentionally false and misleading as they failed to advise that the Rules could and would be unilaterally waived or "modified" by Defendants for a favored customer at any time or for any reason.

106. Defendants' acts and omissions constitute an unlawful "bait and switch" scheme.

107. Defendants intentionally and unfairly waived, omitted or failed to enforce the Rules with regard to one person knowing that the actions/omissions as set out herein were contrary to the Rules and would materially harm the Plaintiff.

108. Defendants knew and intended that their actions and omissions as set out herein would harm Plaintiff.

109. Defendants' intentional and knowing acts and omissions occurred after Plaintiff had committed substantial sums to purchase Merchandise opportunities and to participate in the Competition pursuant to and in reliance upon the Rules.

110. Typically slot machines are calibrated to return a minimum of 83% of patron's wagers over a statistically significant period of time. N.J.S.A. 5:12-100(e). In Atlantic City, slot machines are calibrated for a much greater "win," meaning a return of approximately 93-97% to the player.

111. Plaintiff was aware and had knowledge of this fact as he was able to view publicly available postings by Defendants or other third-parties.

112. Defendants' improper, illegal, unfair and unconscionable acts and omissions violative of the CFA include, but are not limited to those set forth herein and to:

- a. publishing false advertisements regarding the Competition and the Rules;
- b. knowingly omitting, changing or failing to maintain the offer in the same manner and supply as advertised;
- c. knowingly waiving and improperly altering the application of the Rules in violation of same;
- d. waiving and ignoring the Rules for one ineligible person without notice;
- e. removing Plaintiff from first place and inserting an ineligible person ("Broker") in first place in the Competition;
- f. knowingly failing to comply with the terms of the Prizes/Bonus offers;
- g. knowingly failing to maintain the advertised Merchandise;
- h. knowingly failing to advise or notify contestants of the plan to waive the Rules when convenient;
- i. failing to post the waiver/modification;

- j. inducing Plaintiff to continue to participate in the Competition through acts and omissions;
- k. falsely submitting information to the DGE to cover up their actual acts and omissions and to further deceive Plaintiff.

113. Defendants' practices, acts and omissions were illegal, unconscionable and unlawful in violation of the CFA and the regulations adopted pursuant to the CFA.

114. Plaintiff Murk suffered ascertainable losses including the following:

- a. Loss of the promised Top Prizes of \$500,000 Bonus Points redeemable at Defendants' slot machines at \$1.00 each and at one time play;
- b. Loss of Top Prizes of 100 Free Spins (opportunities to win) for each day in June;
- c. Loss of time, effort and use of funds.

115. Plaintiff's losses are ascertainable, including:

- a. The Featured Slot Machines and free spin machines have under State regulation, established payout tables that statistically determine the win/loss of wages on slot machines;
- b. Such tables would have resulted in statistically provable wins; See N.J.S.A. 5:12 100(e);
- c. Plaintiff lost the use of funds invested in purchasing and expending the Merchandise/opportunities to be an eligible contestant;
- d. Plaintiff lost the value of the Top Prizes;
- e. Plaintiff suffered other losses including the expenses of maintaining participation in the Competition.

116. Following the illegal and unconscionable "waiver"/"modification" of the Rules, Defendants engaged in false, misleading and deceptive behavior to further defraud Plaintiff, lull him into inaction and induce him to continue in the Promotional

Competition, including making numerous false or misleading statements intending that he rely on same.

117. The acts and omissions of Defendants otherwise violated the CFA.

WHEREFORE, Plaintiff seeks the following relief against all Defendants jointly and severally:

- a. Compensatory Damages in the amount of \$600,000;
- b. [Specific Performance of their promise with the award of the Top Prizes;]
- c. Consequential and Special Damages, including expenses related to the Competition;
- d. Triple/treble Damages;
- e. Punitive Damages;
- f. Statutory Damages;
- g. Attorneys' fees and expenses, collection costs and costs of this suit; and
- h. Such other relief as the Court may find just and equitable.

COUNT IV

(Unjust Enrichment/Quantum Meruit/Quasi-Contract)

118. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 110 as if fully stated herein.

119. Defendants received an unfair benefit from Plaintiff in the form of, among other things, his participation in the Promotion/Competition.

120. Plaintiff's participation was reasonably premised upon the offer, promises and representations of Defendants as set forth herein and with the expectations that Defendants would honor the promises, representations and rules of the Promotion/Contest.

121. Had Defendants disclosed their secret intention to "modify" their promises, representations and rules to their benefit and to deprive

Plaintiff of the Top Prizes, Plaintiff would not have participated in the Promotion/Contest and would have never expended funds in doing so.

122. Permitting Defendants to retain the fruits of their false, deceptive and illegal actions and omissions, including, but not limited to the award of the Top Prize to Plaintiff would enrich Defendants beyond their rights and would be unfair and unjust.

WHEREFORE, Plaintiff seeks the following relief against all Defendants jointly and severally:

- a. Compensatory damages in the amount of \$600,000;
- b. Specific performance;
- c. Consequential and Special damages, including expenses related to the competition;
- d. Punitive damages;
- e. Statutory damages;
- f. Attorney's fees and expenses, collection costs and costs of this suit; and
- g. Such other relief that the Court finds just and equitable.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues which are so triable.

NOTICE OF TRIAL COUNSEL

Take notice that Jordan L. Barbone, Esquire, is hereby designated as trial counsel in the within litigation.

JACOBS & BARBONE, P.A.

By: Jordan L. Barbone
Jordan L. Barbone, Esquire

DONNELLY LAW, LLC

By: John M. Donnelly
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