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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

NOV 21 2012

John A. Clarke, Executive Officer/Clerk

BY J. Chambers Deputy
Jillayia Chambers

Attorneys for PLAINTIFF, Bob Banner Associates, Incorporated

D20 Kenn C Brazile

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

10 BOB BANNER ASSOCIATES, INC., a
11 California Corporation

CASE NO.:

BC496115

COMPLAINT FOR:

Plaintiff,

vs.

13 THE
14 HOLLYWOOD
15 WHACKO, INC., a California
16 Corporation; CAROL BURNETT, an
individual; DOES 1 through 100, inclusive,

1. ACCOUNTING
2. BREACH OF FIDUCIARY DUTY
3. CONVERSION
4. UNFAIR BUSINESS PRACTICES [Cal. Bus. & Prof. Code § 17200 et seq.]

Defendants.

JURY TRIAL DEMANDED

CIT/CASE: BC496115
 LEA/DEF#:
 RECEIPT #: CCH539179075
 DATE PAID: 11/21/12 03:16 PM
 PAYMENT: \$435.00
 RECEIVED: 310
 CHECK: \$435.00
 DASH: \$0.00
 CHANGE: \$0.00
 CARD: \$0.00

COMPLAINT

1 Plaintiff BOB BANNER ASSOCIATES, INC. ("BBA" or "Plaintiff"), hereby alleges as follows:

2 **NATURE OF THE ACTION**

3 1. Plaintiff BBA and Defendant WHACKO, INC. ("Whacko") are co-owners of the
4 copyrights in the iconic variety/sketch comedy television show *The Carol Burnett Show* (the
5 "Show"). Notwithstanding the parties' co-ownership of the Show and the works which were
6 derived from the Show, such as *Mama's House* and reunion specials, Whacko has failed to
7 provide BBA an accounting of the profits it has earned from its use and exploitation of the Show.
8 By way of this action, and other claims alleged herein, BBA seeks to recover unpaid earnings
9 realized and held by Whacko and its predecessors-in-interest, and hold Whacko and defendant
10 CAROL BURNETT ("Burnett") (Burnett and Whacko are herein referred to collectively as
11 "Defendants") jointly and severally accountable for their breaches of the fiduciary duty owed to
12 BBA.

13 **JURISDICTION**

14 2. This Court has personal jurisdiction over the parties to this action as Plaintiff and Whacko
15 are California corporations with their principal places of business headquartered in Los Angeles
16 County. Burnett is a domiciliary of Los Angeles County.

17 3. This Court has subject matter jurisdiction over the claims pled herein because Plaintiff's
18 claims arise from equitable doctrines relating to unjust enrichment and general principles of law
19 governing the duties of tenants-in-common, partnerships and/or joint ventures. In addition,
20 Plaintiff alleges violation of California state law. *See Bus. & Prof. Code* § 17200 et seq.

21 **VENUE**

22 4. Venue is proper in this district because a substantial part or all of the event(s) or
23 omission(s) and the injury to Plaintiff giving rise to the claims occurred in Los Angeles County.

24 **PARTIES**

25 5. Plaintiff BBA is a California corporation with its principal place of business and/or its
26 headquarters in Los Angeles County.

27 6. Defendant Whacko is a California corporation with its principal place of business and/or
28 its headquarters in Los Angeles County.

1 7. Defendant Burnett, an individual, is, and at all times relevant hereto was, a domiciliary of
2 Los Angeles County.

3 8. The true names or capacities of the Defendants sued herein under the fictitious names
4 DOES 1 through 100, inclusive, are unknown to Plaintiff, who therefore sues such Defendants by
5 such fictitious names. Plaintiff shall amend this Complaint to allege their true names and
6 capacities when the same have been ascertained.

7 9. Plaintiff is informed and believes and thereon alleges that each of the said Defendants is in
8 some manner intentionally, negligently, or otherwise responsible for the acts, occurrences and
9 transactions alleged herein.

10 10. Plaintiff is informed and believes and thereon alleges that in performing the unlawful acts
11 alleged herein, each Defendant was the agent, employee, and representative of each of the
12 remaining Defendants, and in doing the unlawful things alleged, was acting within the course,
13 purpose, scope and authority of such agency, employment or representation. In particular, and
14 without limitation, on information and belief, Defendant Whacko was at all relevant times acting
15 as the agent of Defendant Burnett, and Whacko's conduct as described herein was performed at
16 the direction of and/or with the participation, knowledge and/or ratification of Burnett.

17 **FACTS**

18 11. In or about 1967, Mr. Bob Banner ("Banner") and Ms. Burnett entered into a partnership
19 or joint-venture for the purpose of creating the Show (the "Partnership"). The Partnership, which
20 was between Banner's company, BBA, and Burnett's companies, Burngood, Inc. ("Burngood")
21 and/or Punkin Productions, Inc. ("Punkin"), continued uninterrupted until in or about 1972.¹

22 12. The purpose and product of the Partnership was the Show – a celebrated and iconic
23 television comedy show that continues to garner a strong demand for distribution and syndication.

24 13. The copyright notice provided in the closing credit of the first episode of the Show
25 identifies BBA and Burngood as co-copyright owners. BBA is informed, believes and thereupon

26
27 ¹ On information and belief, in or about 1976, Burngood merged with Whacko, and Whacko
28 succeeded to all of Burngood's rights and properties, including its copyrights to the Show. The
following year, in or about 1977, Punkin merged with Whacko, and Whacko succeeded to all of
Punkin's rights and properties, including its copyrights to the Show.

1 alleges that every episode of the Show from 1967 to 1972 contained a valid copyright notice,
2 which identified BBA as a co-owner of the copyrights to the Show.

3 14. Approximately one and a half years following the airing of the Show, in or about March
4 1969, Burngood registered the first copyright registration for the Show solely in Burngood's
5 name. BBA was not identified anywhere in the registration.

6 15. Thereafter Burngood, and later Punkin and Whacko, continued to register episodes of the
7 Show for copyright protection under their names solely, and without including BBA.

8 16. At no time did Burngood, Punkin and/or Whacko inform BBA that copyright registrations
9 for the Show were submitted, and that BBA was not included as a co-owner of the copyrights to
10 the Show in said registrations. Likewise, BBA, which reposed trust in its partner, joint venturer
11 and/or tenant-in-common, was not aware that Burngood, Punkin and/or Whacko had illicitly
12 registered the copyright in the Show solely under their respective names.

13 17. Sometime after Season Five, in or about 1972, Banner ceased his involvement with the
14 Show, which continued for an additional six (6) seasons until September 1979. At the end of its
15 run, the Show consisted of eleven (11) seasons and 278 episodes.

16 18. Sometime after Season Eleven, Whacko edited various episodes of the Show into half-
17 hour installments, entitled "Carol Burnett and Friends" (the "Edited Versions"). In addition,
18 Burnett has appeared on several reunion shows based on the Show (the "Reunion Shows").

19 19. It should be noted that the Show has been distributed in various forms and formats in the
20 United States by Whacko on television (syndication and cable licenses) and via home video
21 licenses to Columbia House, Guthy-Renker, and Time Life.

22 20. The Show also gave rise to a spin-off sitcom entitled *Mama's House* (the "Spin-Off").
23 The Spin-Off originated from a sketch that appeared on the Show entitled *The Family*. The Spin-
24 Off consisted of six (6) seasons of approximately one hundred thirty (130) episodes. BBA is
25 informed, believes and thereupon alleges that it continues to air today and has been released on
26 home video.

27 21. Notwithstanding Whacko's continued exploitation and profit from the use of the Show,
28 and of the Edited Versions, the Reunion Shows, the Spin-Off and any other derivative works

1 based on the foregoing (collectively the "Derivative Works"), Whacko failed to provide BBA an
2 accounting of the profits earned, and BBA has received no share of the profits earned.

3 22. Throughout this period, and continuing to the present day, Whacko has never clearly and
4 expressly repudiated BBA's co-ownership to the copyrights in the Show. Indeed, BBA is
5 informed, believes and thereupon alleges, that in or about late 2011 or early 2012, Burnett and/or
6 Whacko instructed Time Life, a third-party distributor that was seeking home video distribution
7 rights to the Show, to contact BBA for the purpose of securing said rights. Thus, by way of its
8 acts and omissions, Whacko has led BBA to believe that it is holding BBA's share of the profits
9 earned in trust.

10 23. In or about February 2012, BBA's licensee Legendary Entertainment Alliance ("LEA")
11 was approached by Time Life. Time Life informed LEA that Burnett had informed Time Life
12 that BBA's consent was necessary for the purpose of securing distribution rights for the first five
13 seasons of the Show.

14 24. During LEA's discussions with Time Life, Time Life requested that BBA provide it with
15 master copies ("Masters") of the first five seasons of the Show to include in a home video edition.
16 In its attempt to locate the Masters, BBA discovered that the Masters were given to an agent or
17 employee of Burnett on Burnett's behalf, and that BBA was not informed nor given copies of the
18 Masters. BBA is informed, believes and thereupon alleges that the Masters are currently in the
19 possession, custody, and/or control of Whacko and/or Burnett.

20 25. The Masters are necessary for the purpose of securing future distribution and syndication
21 of the Show, as the Masters are the only means from which the Show can be duplicated. Thus,
22 without a copy of the Masters, BBA cannot make use of its rights to exploit and profit from the
23 Show.

24 26. BBA is informed, believes and thereupon alleges that after LEA, on behalf of BBA, was
25 unable to provide Time Life with the requested Masters, Time Life negotiated directly with
26 Burnett and secured the Masters from Whacko and/or Burnett.

27 27. In or about June 2012, Time Life announced its upcoming home video release of the
28 Show, which included sketches from the first five seasons of the Show. BBA is informed,

COMPLAINT

1 believes and thereupon alleges that Time Life paid Burnett and/or Whacko a fee for the
2 distribution rights to the Show.

3 28. BBA did not receive any compensation from Time Life for the home video distribution of
4 the show. Indeed, BBA has not received an accounting from Burnett or Whacko for the profits
5 earned from granting Time Life distribution rights to the Show.

6 **Defendants Burnett and Whacko are Alter Egos**

7 29. Plaintiff is informed and believes and hereon alleges that at all times mentioned herein
8 there existed a unity of interest in ownership between Defendant Burnett, on the one hand, and
9 Defendant Whacko, on the other hand, such that the individuality and separateness between them
10 ceased and that Defendant Whacko was the alter ego of Defendant Burnett, in that, among other
11 things, Burnett controlled, dominated, managed and operated Whacko as her alter ego; Burnett
12 was and is the controlling shareholder and/or beneficial owner of Whacko as well as its President;
13 Whacko was and is a mere shell, instrumentality, and conduit through which Burnett carried on
14 her personal business in the corporate name; that the credit of one was and is used for the credit of
15 the other; that the obligations of one are paid by the other; that corporate formalities have been
16 disregarded; that the monies of Burnett and Whacko have been commingled and intermingled,
17 including monies received from the use and exploitation of the Show and the Derivative Works;
18 that Burnett has controlled and used Whacko as well as other entities affiliated with and
19 controlled by Burnett to divert revenues received from the use and exploitation of the Show and
20 the Derivative Works in order to avoid paying the debts and obligations owed to Burnett's and
21 Whacko's creditors, including those owed to Plaintiff as co-owner of copyrights to the Show; and
22 that the individuality of Whacko is a sham and fiction, and should be disregarded pursuant to the
23 doctrine of piercing the corporate veil.

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COMPLAINT

1 **FIRST CAUSE OF ACTION**

2 **ACCOUNTING**

3 **Against all Defendants**

4 30. BBA hereby incorporates by reference paragraphs 1 to 29 as though fully set forth herein.

5 31. The copyright notice affixed to the closing credits of the first episode of the Show
6 explicitly identifies BBA and Burngood as the valid copyright owners of the Show. BBA is
7 informed and believes that each and every episode thereafter until 1971 contained a valid
8 copyright notice identifying BBA and Burngood (or Punkin or Whacko) as co-owners of the
9 copyrights to the Show.

10 32. As co-owners of the copyrights in the Show, BBA and Whacko (and Burnett as its alter
11 ego) are tenants-in-common and held by a duty to account to one another for profits earned from
12 the use and exploitation of the Show

13 33. To date, Whacko and/or its alter ego Burnett have made continued use and exploitation of
14 the Show, including, but not limited to, earnings realized from home video distribution and
15 television syndication of the Show, and Derivative Works.

16 34. Whacko and its alter ego Burnett have failed to provide BBA an accounting of its
17 earnings, and have failed to distribute any funds to BBA from the profits it has earned.

18 35. Notwithstanding Whacko and Burnett's failure to account to BBA, Whacko and Burnett
19 have never made a clear and express repudiation of BBA's co-ownership to the copyrights to the
20 Show. Indeed, BBA is informed, believes and thereupon alleges, that Burnett and/or Whacko
21 instructed Time Life to contact BBA for the purpose of securing home video distribution rights to
22 certain seasons of the Show. Thus, by way of its acts and omissions, Whacko and Burnett have
23 led BBA to believe that they are holding BBA's share of the profits earned in trust.

24 36. Accordingly, BBA hereby demands an accounting of the profits earned by Whacko and/or
25 Burnett for the Time Life home video distribution deal.

26 37. Furthermore, BBA requests an accounting of the profits Whacko and/or Burnett earned
27 from the continuous use and exploitation of the Show, including, but not limited to, profits from
28 distribution and syndication and other exploitation of the Show on television and home video

COMPLAINT

1 (e.g., Columbia House and Guthy Renker) and any other media

2 38. BBA also requests an accounting of the profits Whacko and/or Burnett earned from works
3 that originated from the Show, including, the Derivative Works.

4 **SECOND CAUSE OF ACTION**

5 **BREACH OF FIDUCIARY DUTY**

6 **Against all Defendants**

7 39. BBA hereby incorporates by reference paragraphs 1 to 38 as though fully set forth herein.

8 40. In or about 1967, Banner and Burnett, by way of their respective business entities, BBA
9 and Burngood (and/or Punkin), entered into a Partnership and/or joint venture for the purpose of
10 creating and producing the Show. Banner and Burnett, by way of their respective business
11 entities, BBA and Burngood (and/or Punkin), bore the losses and benefits of creating and
12 producing the Show. The Partnership and/or joint venture continued until 1971.

13 41. As a partner and/or joint venturer, Burnett and her business entity, Burngood (and/or
14 Punkin) – and thereby Whacko, which succeeded to all the rights, duties and obligations of
15 Burngood and Punkin – owe a fiduciary duty to act with the utmost good faith and in the best
16 interest of BBA, as well as a fiduciary duty of undivided loyalty to BBA. Whacko also owes a
17 fiduciary duty to BBA as a tenant-in-common to the property interests in the copyrights.

18 42. In its use and exploitation of the Show, Burnett and Whacko acted on behalf of BBA, as
19 its partner and/or joint venturer and/or tenant-in-common. Burnett and Whacko, however,
20 knowingly acted against BBA's interests, and thereby breached their fiduciary duty, by among
21 other things, (1) withholding copies of the Partnership property (i.e. the Masters), (2) failing to
22 inform BBA of its use and exploitation of the Partnership property (i.e. the Show), (3) failing to
23 provide BBA an accounting of the earnings realized from the use and exploitation of the
24 Partnership property, (4) continuing to hold money belonging to BBA in trust instead of releasing
25 the funds to BBA, and (5) knowingly excluding BBA from registration of the jointly held
26 copyrights to the Show.

27 43. At no time did BBA impliedly or expressly consent to Burnett and Whacko's conduct.

28 44. BBA was harmed as a result of Burnett and Whacko's conduct, and Burnett and Whacko's

COMPLAINT

1 conduct was a substantial factor in causing BBA's harm.

2 45. Burnett and Whacko's conduct, as alleged herein, was willful, malicious, oppressive,
3 fraudulent, and/or with a knowing disregard for BBA's rights. Accordingly, BBA is entitled to
4 punitive damages.

5 **THIRD CAUSE OF ACTION**

6 **CONVERSION**

7 **Against all Defendants**

8 46. BBA hereby incorporates by reference paragraphs 1 to 45 as though fully set forth herein.

9 47. As the creator, producer and co-owner of the copyrights to the Show, BBA owns a
10 property right in and to the Masters of the Show.

11 48. Sometime after February 2012, BBA discovered that the Masters were taken by an agent
12 or employee of Burnett on Burnett's behalf, and that BBA did not have copies of the Masters.

13 BBA is informed, believes and thereupon alleges that the Masters are currently in the custody,
14 control or possession of Whacko and/or Burnett.

15 49. BBA did not consent to Defendants taking sole possession of the Masters.

16 50. By failing to provide BBA copies of the Masters, Defendants intentionally and
17 substantially interfered with and are preventing BBA from having access to the Masters, and
18 exercising its property rights to use and exploit the Masters.

19 51. The Masters are necessary for the purpose of securing future distribution and syndication
20 of the Show, as the Masters are the only means from which the Show can be duplicated. Without
21 a copy of the Masters, BBA cannot make use of its rights to exploit and profit from the Show.

22 52. As a result, BBA has been harmed and continues to be harmed by Defendants' possession,
23 custody and/or control of the Masters. Defendants' conduct was a substantial factor in causing
24 BBA's harm.

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COMPLAINT

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FOURTH CAUSE OF ACTION
UNFAIR BUSINESS PRACTICES
[Cal. Bus. & Prof. Code § 17200 et seq.]

Against all Defendants

53. BBA hereby incorporate by reference paragraphs 1 to 52 as though fully set forth herein.

54. Defendants' failure to account to BBA in violation of *Cal. Corp. Code* § 16404(b)(1), and/or conversion of Plaintiff's property, as all other acts alleged herein, constitutes an unlawful, unfair or fraudulent act or practice under *Cal. Bus. & Prof. Code* § 17200 et seq.

55. BBA is entitled to injunctive relief pursuant to *Cal. Bus. & Prof. Code* § 17203 to enjoin Defendants from continuing their unlawful, unfair or fraudulent practice.

56. BBA is also entitled to restitution pursuant to *Cal. Bus. & Prof. Code* § 17203 of its portion of the profits Defendants have realized and retained, and unlawfully withheld.

57. Defendants' unlawful, unfair or fraudulent act or practice have injured and will continue to injure BBA in amounts according to proof. Unless they are restrained from so doing, Defendants will continue to engage in the unlawful, unfair or fraudulent business practices alleged herein and will continue to cause irreparable injury to BBA, who has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, and requests relief as follows:

As to the First Cause of Action

- 1. For a declaration of BBA's right to accounting;
- 2. For an accounting of profits earned by Defendants from the Time Life home video distribution deal;
- 3. For an accounting of profits earned by Defendants from the use and exploitation of the Show, including, but not limited to, profits from distribution and other exploitation of the Show on television, home video (e.g., Time Life, Columbia House and Guthy Renker) and all other media; and

1 4. For an accounting of profits earned by Defendants from works that originated from the
2 Show, including, the Derivative Works.

3 As to the Second Cause of Action

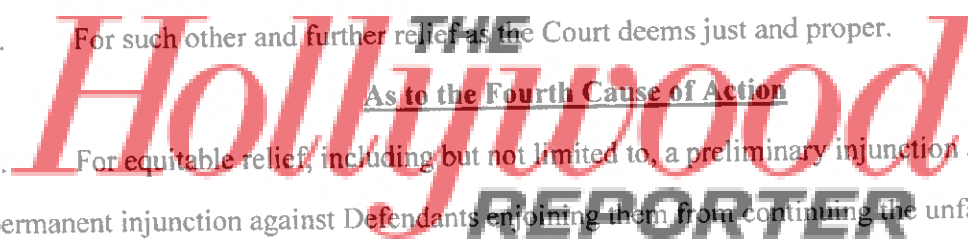
- 4 1. For an award of damages in accordance with Civil Code section 3333;
5 2. For pre-judgment interest as allowed by law;
6 3. For punitive damages; and
7 4. For such other and further relief as the Court deems just and proper.

8 As to the Third Cause of Action

- 9 1. For an award of actual damages in an amount sufficient to compensate BBA for any impairment
10 of the property or loss of its use;
11 2. For pre-judgment interest as allowed by law;
12 3. For specific recovery of the property; and
13 4. For such other and further relief as the Court deems just and proper.

14 As to the Fourth Cause of Action

- 15 1. For equitable relief, including but not limited to, a preliminary injunction and/or
16 permanent injunction against Defendants enjoining them from continuing the unfair and/or
17 fraudulent business practices and/or unfair and/or fraudulent trade practices described herein;
18 establishing reasonable monitoring procedures to ensure that Defendants do not engage in unfair
19 and/or fraudulent business practices and/or unfair and/or fraudulent trade practices in the future;
20 and other appropriate injunctive relief;
21 2. For restitution and disgorgement of profits and/or other revenue from Defendants'
22 wrongful, unfair and deceptive conduct;
23 3. For pre-judgment interest as allowed by law;
24 4. For all appropriate statutory damages and attorney's fees under California law
25 (CCP §1021.5); and
26 5. For such other and further relief as the Court deems just and proper.
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28 ///




DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury on all issues to which it is entitled to have tried by jury.

Dated: November 21, 2012

SCHWARCZ, RIMBERG, BOYD & RADER LLP

By: _____


DAVID SCHWARCZ
DARCY R. HARRIS
SHERLI SHAMTOUB
Attorney for Plaintiff

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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
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ATTORNEY FOR (Name): Plaintiff Bob Banner Associates, Inc.

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

NOV 21 2012

John A. Clarke, Executive Officer/Clerk
BY [Signature] Deputy
Ishaylia Chambers

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
STREET ADDRESS: 111 North Hill Street
MAILING ADDRESS:
CITY AND ZIP CODE: Los Angeles, CA 90012
BRANCH NAME: Central District - Stanley Mosk Courthouse

CASE NAME:
Bob Banner Associates, Inc. v. Whacko, Inc. et. al

CASE NUMBER: BC496115

CIVIL CASE COVER SHEET		Complex Case Designation	
<input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	<input type="checkbox"/> Counter	<input type="checkbox"/> Joinder
		Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

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 checked="" 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)
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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): 4
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: November 20, 2012
DAVID SCHWARCZ

[Signature]
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

(TYPE OR PRINT NAME)

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.

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

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (not asbestos or toxic/environmental) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (not medical or legal)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (not unlawful detainer or wrongful eviction)
Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (not provisionally complex) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (not eminent domain, landlord/tenant, or foreclosure)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (non-domestic relations)
Sister State Judgment
Administrative Agency Award (not unpaid taxes)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (not specified above) (42)
Declaratory Relief Only
Injunctive Relief Only (non-harassment)
Mechanics Lien
Other Commercial Complaint Case (non-tort/non-complex)
Other Civil Complaint (non-tort/non-complex)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (not specified above) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

SHORT TITLE: Bob Banner Associates, Inc. v. Whacko, Inc. et. al

CASE NUMBER

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

This form is required pursuant to LASC 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? [X] YES CLASS ACTION? [] YES LIMITED CASE? [] YES TIME ESTIMATED FOR TRIAL 5-8 [] HOURS/[X] DAYS

Item II. Select 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 Los Angeles Superior Court Local Rule 2.0.

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

- 1. Class Actions must be filed in the County Courthouse, Central District.
2. May be filed in Central (Other county, or no Bodily Injury/Property Damage).
3. Location where cause of action arose.
4. Location where bodily injury, death or damage occurred.
5. Location where performance required or defendant resides.
6. Location of property or permanently garaged vehicle.
7. Location where petitioner resides.
8. Location wherein defendant/respondent functions wholly.
9. Location where one or more of the parties reside.
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.

Table with 3 columns: A (Civil Case Cover Sheet Category No.), B (Type of Action), and C (Applicable Reasons). Rows include Auto Tort, Uninsured Motorist, Asbestos, Product Liability, Medical Malpractice, Other Personal Injury/Property Damage/Wrongful Death, Business Tort, Civil Rights, Defamation, and Fraud.

Non-Personal Injury/Property Damage/
Wrongful Death Tort (Cont'd.)

Employment

Contract

Real Property

Judicial Review Unlawful Detainer

SHORT TITLE: Bob Banner Associates, Inc. v. Whacko, Inc. et. al	CASE NUMBER
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A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons -See Step 3 Above
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice	1., 2., 3.
	<input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3.
Other (39)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case	1., 2., 3.
	<input type="checkbox"/> A6109 Labor Commissioner Appeals	10.
Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not Unlawful Detainer or wrongful eviction)	2., 5.
	<input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence)	2., 5.
	<input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud)	1., 2., 5.
	<input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff	2., 5., 6.
	<input type="checkbox"/> A6012 Other Promissory Note/Collections Case	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	1., 2., 3., 5.
	<input type="checkbox"/> A6031 Tortious Interference	1., 2., 3., 5.
	<input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 8.
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	2., 6.
	<input type="checkbox"/> A6032 Quiet Title	2., 6.
	<input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6.
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- Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.
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.

SHORT TITLE: Bob Banner Associates, Inc. v. Whacko, Inc. et. al	CASE NUMBER
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Judicial Review (Cont'd.)

Provisionally Complex Litigation

Enforcement of Judgment

Miscellaneous Civil Complaints

Miscellaneous Civil Petitions

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
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., 8. 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.


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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 NUMBER UNDER COLUMN C WHICH APPLIES IN THIS CASE <input type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input checked="" type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input checked="" type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.		ADDRESS: 5900 WILSHIRE BLVD #2300	
CITY: LOS ANGELES	STATE: CA	ZIP CODE: 90036	

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 Los Angeles Superior Court (Code Civ. Proc., § 392 et seq., and LASC Local Rule 2.0, subs. (b), (c) and (d)).

Dated: November 20, 2012



(SIGNATURE OF ATTORNEY/FILING PARTY)

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 form CM-010.
4. Complete Addendum to Civil Case Cover Sheet form LACIV 109 (Rev. 01/07), LASC Approved 03-04.
5. Payment in full of the filing fee, unless fees have been waived.
6. Signed order appointing the Guardian ad Litem, JC form FL-935, if the plaintiff or petitioner is a minor under 18 years of age, or if required by Court.
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.