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12 PROSPECT PARK NETWORKS, LLC

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF LOS ANGELES

15 PROSPECT PARK NETWORKS, LLC, a
16 Delaware limited liability company,

17 Plaintiff,

18 vs.

19 AMERICAN BROADCASTING
20 COMPANIES, INC., a Delaware corporation;
21 and DOES 1 through 10, inclusive,

22 Defendants.

Case No.:

COMPLAINT FOR BREACH OF
WRITTEN CONTRACT

[DEMAND FOR JURY TRIAL]

23 Plaintiff Prospect Park Networks, LLC (“Plaintiff” or “Prospect”) brings this action against
24 Defendants American Broadcasting Companies, Inc. (“ABC”) and Does 1 through 10 (collectively
25 “Defendants”), inclusive, and hereby alleges as follows:

26 **SUMMARY OF THE CLAIM**

27 1. On April 14, 2011, to the astonishment and dismay of millions of soap fans, ABC
28 publicly announced its ill-conceived decision to cancel two of the most beloved and iconic daytime soap

1 series ever produced, *One Life to Live* (“OLTL”) and *All My Children* (“AMC”). Not surprisingly,
2 ABC’s cancellation of these long-running soaps, together comprising eighty-plus years of television
3 history, was met with public outrage. The national media was quick to dub this day, the
4 “Soapocalypse.”

5 2. Fortunately, however, for those disheartened soap fans, entertainment veterans Jeffrey
6 Kwatinetz and Rich Frank, the founders and principals of Plaintiff Prospect Park, saw value where ABC
7 did not. Kwatinetz (a famed talent manager and producer) and Frank (former president of Walt Disney
8 studios) seized on this opportunity to launch their new web-based network, *The Online Network*, and in
9 the process, put hundreds of people back to work. In July 2011, Prospect signed an *exclusive* licensing
10 deal with ABC ensuring the continuation and survival of these epic soaps on the new network, and that
11 ABC would make a hefty profit for doing virtually nothing *on shows it cancelled!*

12 3. Ironically, less than nine months after cancelling OLTL, ABC came back to Prospect
13 asking to borrow seven OLTL characters to appear *on a limited basis* in ABC’s competing soap series
14 *General Hospital*. Despite the enormous premiums paid for exclusivity, Prospect acceded to ABC’s
15 request as a gesture of good will to ABC and more importantly to the actors playing these roles, who
16 would otherwise be unemployed while Prospect was ramping up for production. However, to ensure the
17 integrity of the OLTL characters on loan, and protect the millions invested by Prospect and its
18 principals, Prospect insisted, and ABC agreed, that ABC would consult Prospect on *General Hospital*
19 story lines. More importantly, ABC also agreed that *Prospect would have express “approval” rights*
20 *over ABC’s use of the OLTL characters*. These terms were added to the license by amendment in
21 January 2012. With its rights protected by contract, Prospect proceeded under the reasonable
22 assumption that ABC (which was sharing in the profits) would act like a true partner and collaborate
23 toward the success of the re-launch.

24 4. Unbeknownst to Prospect at the time, elements within the ABC/*General Hospital*
25 community of executives had very different intentions- intentions that became evident before the ink
26 was even dry on the amendment. *For over one year*, ABC outright failed and refused to consult with
27 Prospect on *any* storylines involving these characters, rendering Prospect’s approval rights meaningless.
28 Instead, ABC misused the OLTL characters without regard for Prospect’s rights, or the fact that these

1 characters were to be returned to Prospect for use on OLTL. In the ultimate act of bad faith, ABC
2 inexplicably killed-off two OLTL characters on loan to *General Hospital* by having their car forced off a
3 cliff. ABC effectively killed another major OLTL character, *who was not even licensed to ABC*, by
4 revealing that this long-standing OLTL character is in fact another character on *General Hospital*.
5 Prospect was neither consulted on, nor did it approve, ABC killing off its characters. The list goes on.

6 5. Prospect has since learned that at least one ABC executive responsible for these
7 egregious programming choices has openly declared his desire to see Prospect fail. Whether ABC has
8 acted from a hidden desire to regain control of OLTL, or a basic fear of embarrassment if Prospect
9 succeeds, remains unclear. What is clear is that ABC has breached *both* the express terms of its contract
10 and the “implied covenant of good faith and fair dealing” that inures to every contract. Despite
11 repeated overtures from Prospect to resolve these issues amicably, ABC refuses to take corrective action
12 and has rebuffed every effort by Prospect to come to reasonable terms. Indeed, ABC has recently added
13 to its long list of breaches by refusing to freely transfer to Prospect the URLs associated with the soaps it
14 purchased (*onelifetolive.com and allmychildren.com*). These URLs are not only critical to establishing
15 public awareness for the re-launch, but they are part of the rights paid for by Prospect.

16 6. Although ABC is obviously bent on repeating its mistakes of the past, Prospect has no
17 intention of allowing a “Soapocalypse II.” Nor will Prospect permit ABC to continue alienating
18 millions of soap fans anxiously awaiting the re-launch slated for April 29. These shows will go forward,
19 and Prospect will address its rights in Court. Regardless of how successful Prospect may be, the fact
20 remains that ABC did not deliver what it promised, Prospect did not get what it paid for, and Prospect is
21 now entitled to recover millions of dollars in damages for ABC’s egregious conduct.

22 THE PARTIES

24 7. Plaintiff Prospect is, and at all times herein mentioned was, a Delaware limited liability
25 company with its principal place of business in Los Angeles, California. Prospect is an entertainment
26 company founded by Jeff Kwatinetz and Rich Frank, individuals with long and storied careers in
27 developing and producing top television and other entertainment programming.

1 8. Plaintiff is informed and believes, and based thereon alleges, that Defendant ABC is a
2 Delaware corporation doing business in Los Angeles, California and subject to the jurisdiction of the
3 Courts of the State of California.

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

12 10. Plaintiff is informed and believes and based thereon alleges that, at all times material
13 hereto, ABC and Doe Defendants 1 through 10, and each of them, were the agents, employees, partners,
14 joint venturers, co-conspirators, owners, principals and employers of the remaining Defendants, and
15 each of them, and at all times herein mentioned were acting within the course and scope of that agency,
16 employment, partnership, conspiracy, ownership or joint venture. Plaintiff further alleges on the basis of
17 information and belief that ABC and Doe Defendants 1 through 10, and each of them, authorized,
18 directed and/or ratified the wrongful acts alleged herein and, consequently, all of ABC and Doe
19 Defendants 1 through 10 are jointly and severally liable to Plaintiff.

20
21 **FIRST CAUSE OF ACTION**

22 **(For Breach of Contract Against Defendants)**

23 11. Plaintiff repeats, re-alleges, adopts and incorporates each and every allegation contained
24 in paragraphs 1 through 10, inclusive, as though set forth herein.

25 12. On or about July 8, 2011, Prospect entered into a written "License Agreement" with ABC
26 pursuant to which Prospect obtained an option for *exclusive* rights to the formats of the iconic television
27 soap series *All My Children* ("AMC") and *One Life To Live* ("OLTL"), including without limitation the
28 rights to "*format, title, settings, characters, characterizations* and other such relative and ancillary

1 rights” to each of the series (emphasis added). “Format rights” are further specifically defined in the
2 License to include “*all elements* of AMC and OLTL . . .” (emphasis added). In addition to granting
3 these rights, ABC expressly represented and warranted (in Section 10 of the License) that it “will not
4 exercise any right or take any action or license or authorize any other person to exercise any right or take
5 any action or license which conflicts with or might prejudice or derogate from the rights” granted to
6 Prospect. A true and correct copy of the License Agreement, and relevant amendments thereto
7 (collectively the “License”), is attached hereto as Exhibit A and incorporated herein by reference.

8 13. Exclusivity of *all* OLTL characters was a key inducement to the License, and to
9 Prospect’s willingness to pay enormous license fees (as much as \$4 million in the first season alone) and
10 share profits for rights to OLTL. Despite this, in or around January 25, 2012, ABC approached Prospect
11 asking permission to use, on a limited basis, seven OLTL characters in ABC’s soap series *General*
12 *Hospital*. The characters requested included fan favorites Todd Manning, Blair Manning, Starr
13 Manning, John McBain, Cole Thornhart, Hope Thornhart and Tea Delgado. Prospect agreed to amend
14 the License to accommodate ABC’s request. It did so as a gesture of good will to ABC and the actors
15 portraying these roles- to ensure that they would have employment and income while Prospect was in
16 pre-production and development of OLTL.

17 14. At the time, Prospect had no reason to anticipate that ABC would kill off the characters it
18 paid for and/or otherwise portray these characters in a manner that would alienate OLTL fans or
19 otherwise jeopardize the success of the re-launch. In fact, when ABC first approached Prospect with the
20 proposed amendment, its executives assured Prospect that the role of these characters in *General*
21 *Hospital* would be limited. More importantly, ABC further agreed (as part of a written amendment to
22 the License) that it would “consult with [Prospect] in connection with the story lines for the OLTL
23 characters on GH,” and that Prospect would have express “approval” rights over any changes to “an
24 element in connection with a character that is considered ‘canon’ for OLTL.” (See Exhibit A, January
25 25, 2012 Amendment Sec. 3(b)). These provisions were paramount to ensuring the consistency of the
26 characters and story lines, to ensure a smooth transition of the characters into the story lines being
27 developed by Prospect, and of course to protect the value of the property and millions invested by
28 Prospect to revive these beloved soaps.

1 15. In addition to these express terms, Prospect also relied on the implied covenant of good
2 faith and fair dealing which applies to all contracts, including the License. This implied covenant
3 required among other things that ABC do everything the License presupposes it would do to accomplish
4 its purpose, and that it further refrain from doing anything which would destroy, injure or frustrate
5 Prospect's right to receive the benefits of the License.

6 16. Despite the good will exercised by Prospect, ABC has not reciprocated. Instead, it has
7 acted irresponsibly and recklessly, using the OLTL characters without due regard for Prospect's rights
8 and without concern for the negative impact ABC's adverse actions would have on the future success of
9 OLTL. More specifically, ABC has materially breached both the express terms of the License, and the
10 implied covenant of good faith and fair dealing therein, by at least the following:

- 11 (a) For over one year after execution of the amendment, ABC failed to consult with
12 Prospect on *any* story lines involving OLTL characters and, indeed, never even
13 once sent a synopsis;
14 (b) ABC significantly altered the history and other elements of key characters listed
15 in the 2012 amendment *without consulting and/or obtaining Prospect's prior*
16 *approval;*
17 (c) ABC repeatedly referenced and altered the story lines of OLTL characters that
18 were *not* listed in the 2012 amendment, *again without Prospect's knowledge or*
19 *approval;*

20 17. As just one example of ABC's unapproved and outrageous behavior, ABC killed off two
21 OLTL characters that were *temporarily* licensed for use on *General Hospital*, Cole and Hope Thornhart,
22 by having their car forced over a cliff. ABC eliminated another major OLTL character, Thomas
23 Delgado, *who was not even licensed to ABC*, by claiming Delgado is really another *General Hospital*
24 character, Lorenzo Alcazar. With regard to the character Todd Manning, after telling Prospect
25 executives that his role on *General Hospital* would be limited, ABC made him one of the most central
26 characters on that show, and even moved the newspaper he owns, *The Sun*, from Llanview to Port
27 Charles, where *General Hospital* takes place. This in turn has impacted Manning's transition back to
28 OLTL and made it near impossible to keep him without alienating the fans.

1 18. In other instances, ABC damaged OLTL characters (including characters to which they
2 did not have any rights) by, among other things, creating absurd story lines, having characters do things
3 they would never do (and of which Prospect would never have approved), and destroying critical
4 character relationships popular with soap fans. All of this was done without Prospect's knowledge,
5 consultation and/or approval, and in direct breach of the License.

6 19. In fact, when ABC finally did acknowledge its obligation to consult in or about February
7 2013, only *after* being threatened with litigation, the information it provided to Prospect concerning
8 story lines and characters was incomplete and wrong in many instances. That too is a breach.

9 20. ABC has breached the License in other ways as well. Among other things, despite
10 repeated requests from Prospect, ABC inexplicably failed and refused to turn over to Prospect's control
11 the URL's *onelifetolive.com* and *allmychildren.com*, which URL's are critical elements of the two series
12 acquired by Prospect and to which it has clear contractual rights. This breach has damaged Prospect's
13 ability to inform the public about the shows, as anyone going to these URL's would be directed to
14 ABC's general website.

15 21. Prospect is also informed and believes, and on that basis alleges, that in breach of the
16 implied covenant, ABC entered into long-term contracts with certain actors known for their characters in
17 OLTL, thereby preventing those actors from working with Prospect and effectively removing any
18 incentive for them to do so. ABC did so knowing full well that it had short term rights to the OLTL
19 characters, and without disclosing to the actors Prospect's right to get the characters back. Prospect is
20 informed and believes, and on that basis alleges, that at least some of these actors moved their families
21 to Los Angeles not knowing that their characters were on short term loan to *General Hospital* and that
22 Prospect had rights to get the characters back. Prospect is also informed and believes, and on that basis
23 alleges, that ABC induced certain OLTL actors not to cooperate with Prospect by, among other things,
24 casting Prospect in a negative light and suggesting incorrectly that Prospect is somehow negatively
25 interfering with their careers. Indeed, in the middle of Prospect's negotiations with certain actors, ABC
26 went so far as to offer these actors different roles in *General Hospital*, simply to induce them not to
27 work with Prospect.

1 22. At considerable expense and effort, and to mitigate its damages from ABC's outrageous
2 conduct described above, Prospect was able to negotiate a short term acting deal with one of these stars
3 tied to a long term contract with ABC. As arranged with ABC, this actor would transition back to
4 *General Hospital* after four weeks of shooting on *OLTL*, presumably as the same character. However,
5 in direct contradiction with the spirit of this arrangement, and in further breach of the implied covenant,
6 ABC recently announced that this actor will in fact portray a new character on *General Hospital* and
7 will appear on screen ***at the same time he is airing as a principal character on OLTL***. No logical
8 rationale exists for this bizarre casting decision, other than ABC's clear intent to damage Prospect's
9 chances of success. As further evidence of this fact, ABC has recently threatened to pull from its
10 network Prospect's *OLTL* advertisements (for which it paid considerable sums) because they feature
11 this very actor ***playing the character licensed to Prospect***.

12 23. Prospect has performed all conditions, covenants and promises required under the
13 License, including without limitation timely exercise of its option, except those conditions, covenants
14 and promises which have been excused by Defendants' wrongful conduct.

15 24. As a direct and proximate result of Defendants' breaches, Prospect has been damaged in
16 an amount according to proof at trial, but which Prospect is informed and believes is no less than \$25
17 million.

18
19 WHEREFORE, as to all causes of action against Defendants, Plaintiff prays for judgment against
20 Defendants as follows:

- 21 1. Compensatory damages in accordance with proof at trial, but which is reasonably
22 estimated to be no less than \$25,000,000;
 - 23 2. For all costs of suit incurred herein;
 - 24 3. For pre-judgment and post-judgment interest as may be provided by law; and
25
- 26
27
28

1 4. For such other and further relief as the Court may deem to be just and proper.
2

3 Dated: April 18, 2013

LAVELY & SINGER
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MICHAEL E. WEINSTEN
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6
7 By:



MICHAEL E. WEINSTEN
Attorneys for Plaintiffs
PROSPECT PARK NETWORKS, LLC

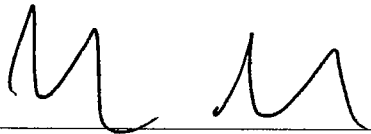


Demand For Jury Trial

Prospect Park hereby demands a trial by jury in the above entitled action.

Dated: April 18, 2013

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