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10 ABRAHAM QUINTANILLA, JR.

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 ABRAHAM QUINTANILLA, JR., an) Case No.: 2:23-cv-5515
14 individual,)
15 Plaintiff,) **COMPLAINT FOR**
16 v.) **(1) FEDERAL TRADEMARK**
17) **INFRINGEMENT IN VIOLATION OF**
18) **15 USC § 1114;**
19 CATALINA CLASSIC CRUISES,) **(2) VIOLATION OF SECTION 43 OF**
20 INC., a California Corporation, and) **THE LANHAM ACT, 15 USC § 1125;**
21 DOES 1 through 20, Inclusive,) **(3) VIOLATION OF THE CALIFORNIA**
22 Defendant.) **COMMON LAW RIGHT OF**
23) **PUBLICITY; and**
24) **(4) VIOLATION OF CALIFORNIA**
25) **STATUTE RIGHT OF PUBLICITY;**
26) **CIVIL CODE § 3344.1.**
27) **DEMAND FOR JURY TRIAL**
28)

1 Plaintiff Abraham Quintanilla, Jr. (“**Quintanilla**” or “**Plaintiff**”), by and through its
2 undersigned counsel, hereby sues defendant Catalina Classic Cruises, Inc. (“**Catalina**
3 **Cruises**” or “**Defendant**”) and DOES 1 through 20, inclusive (collectively,
4 “**Defendants**”), and in support thereof states as follows:

5 **PRELIMINARY STATEMENT**

6 1. This is an action to remedy acts of, *inter alia*, federal trademark infringement,
7 false designation of origin and misrepresentation in commerce, false advertising, unfair
8 competition, dilution, and misappropriation, all caused by, *inter alia*, the Defendant’s
9 infringement of Plaintiff’s valuable trademark “SELENA”.

10 **JURISDICTION AND VENUE**

11 2. This Court has subject matter jurisdiction over this action pursuant to 28
12 U.S.C. §§ 1121, 1131 and 1338(a) and (b) and 15 U.S.C. §§ 1114 and 1125 as, among
13 other things, Plaintiff’s causes of action arises under the Federal Trademark Act (“**The**
14 **Lanham Act of 1946**”), 15 U.S.C. § 1051 *et seq.* Further, this Court has jurisdiction over
15 Plaintiff’s California state common law claims pursuant to 28 U.S.C. § 1367.

16 3. This Court has personal jurisdiction over Defendant because Defendant is a
17 corporation registered in this Judicial District and has marketed, promoted, sold, and
18 distributed Defendant’s goods and services in this Judicial District.

19 4. Venue is proper in this Court under 28 U.S.C. §1391(b) because Defendant
20 resides in this Judicial District, Defendant’s conduct resulted in actionable conduct within
21 this Judicial District, a substantial part of the events or omissions giving rise to the claim
22 occurred in this Judicial District and Defendant is subject to the Court’s personal
23 jurisdiction with respect to this action.

24 **THE PARTIES**

25 5. Plaintiff Quintanilla is an individual citizen of the State of Texas residing in
26 Nueces County, Texas.

27 6. Defendant Catalina Cruises is a California Corporation with its principal place
28 of business in Los Angeles County, California.

1 12. Plaintiff Quintanilla is the owner of U.S. Trademark Registration Nos.
2 4,160,607, 5,522,456 and 5,993,615 as set forth on the Principal Register of the United
3 States Patent and Trademark Office (the “USPTO”) for the design plus word trademark
4 “Selena” depicted below (individually and collectively, the “Mark”):



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9 13. The Mark is registered for, among other categories, “Audio recording and
10 production; Entertainment in the nature of visual and audio performances, namely,
11 musical band, rock group, gymnastic, dance, and ballet performances; Entertainment
12 Services namely, providing a web site featuring musical performances, musical videos,
13 related film clips, photographs, and other multimedia materials; Fan clubs; Operation of a
14 museum commemorating the life of Selena Quintanilla Perez”. A true and correct copy of
15 Plaintiff’s three trademark registrations are attached hereto as **Exhibit “A”**.

16 14. The Mark (Reg. No. 4,160,607) has become incontestable within the meaning
17 of Section 15 of the Lanham Act, 15 U.S.C. § 1065. A true and correct copy of the
18 USPTO’s Notice of Acknowledgment under Section 15 for the Mark (Reg. No. 4,160,607)
19 is attached hereto as **Exhibit “B”**.

20 15. Plaintiff Quintanilla has continuously used the Mark in commerce in
21 connection with entertainment services and merchandise since at least as early as 1989.

22 16. As a result of its widespread, continuous, and exclusive use of the Mark to
23 identify his goods and services and Plaintiff as their source, Plaintiff owns valid and
24 subsisting federal statutory and common law rights to the Mark.

25 17. Plaintiff’s Mark is distinctive to both the consuming public and Plaintiff’s
26 trade.

27 18. Plaintiff Quintanilla has invested substantial time, energy, finances, and
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1 entrepreneurial effort in developing and fostering the reputation and legacy of Selena, her
2 popularity, fame, and prominence in the public eye.

3 19. Over the years, Plaintiff Quintanilla, by and through Selena’s name, voice,
4 signature, photograph, and likeness, has selectively endorsed and continues to selectively
5 endorse a variety of products and services, including clothing and fashion accessories.

6 20. Selena’s name, voice, signature, photograph, likeness, and persona have come
7 to be associated in the minds of the consuming public with products and services, including
8 apparel products and entertainment services.

9 21. Selena’s name, voice, signature, photograph, likeness, and persona have
10 become widely known to a sizeable segment of the public in the United States and
11 internationally, and thereby have become, and are, valuable commercial assets that
12 symbolize Selena and the level of quality associated with Selena products, services, and
13 the goodwill that is associated with them.

14 22. Plaintiff regularly receives substantial financial offers requesting permission
15 for, and seeking the use of, Selena’s name, voice, signature, photograph, likeness, and
16 persona, including for licensing, endorsing, marketing, and promoting products, and
17 services.

18 23. Plaintiff maintains strict control over the manner and use of Selena’s name,
19 voice, signature, photograph, likeness and persona. Plaintiff exercises careful consideration
20 in selecting and approving products and services that he will permit to use Selena’s name,
21 voice, signature, photograph, likeness and persona. Plaintiff restricts such use and licensing
22 to products and services that are of acceptably high quality to Plaintiff and for which
23 compensation is commensurate with the exploitation and value thereof.

24 **Defendant’s Infringing Activities**

25 24. Defendant is a California Corporation engaged in the business of providing
26 Ferry and Charter Boat Services.

27 25. Defendant, in coordination with an entity listed as “Cumbia Cruise L.A.”,
28 engaged in the unauthorized and unlawful promotion, marketing, and sale of services

1 and/or merchandise through or containing the name, identity, image, and depicted likeness
2 of Selena and registered Mark.

3 26. Defendant is a repeat violator of Plaintiff's rights under federal and state law.

4 27. Commencing on or around November 13, 2022, Defendant, by and through,
5 among other avenues, Ticketleap, Inc. ("**Ticketleap**") and its social media accounts and
6 various websites owned and/or controlled by Defendant, used the Mark and the depicted
7 likeness of Selena to promote a cruise event without Plaintiff's consent.

8 28. Specifically, Defendant promoted a so-called "Cumbia Cruise" event entitled
9 "Cumbia Cruise Homenaje a Selena y La Sonor Dinamita por Maritza y Su Sonora". A
10 true and correct copy of Defendant's infringing flyer and promotional materials for this
11 event is attached hereto as **Exhibit "C"**.

12 29. Approximately one year later, commencing on or around April 10, 2023,
13 Defendant again, by and through, among other avenues, Ticketleap and its social media
14 accounts and various websites owned and/or controlled by Defendant, used the Mark and
15 the depicted likeness and image of Selena to promote another cruise event without
16 Plaintiff's consent.

17 30. Specifically, Defendant promoted a so-called "Cumbia Cruise" event entitled
18 "Tributo a Selena". A true and correct copy of Defendant's infringing flyer and
19 promotional materials for this event is attached hereto as **Exhibit "D"**.

20 **Notice of Infringement**

21 31. Based upon the infringing nature of Defendant's unauthorized use of the
22 Mark and name and likeness of Selena to offer competing entertainment services, Plaintiff,
23 on June 2, 2023, caused to have delivered to Defendant a cease and desist letter
24 highlighting Plaintiff's unauthorized use of the Mark as well as the nature of Defendant's
25 infringement of Plaintiff's Mark and rights of publicity, demanding that Defendant cease
26 and desist any future use of the Mark ("**Plaintiff's Cease & Desist Letter**"). A true and
27 correct copy of Plaintiff's Initial Cease & Desist Letter is attached hereto as **Exhibit "E"**.

28 32. Defendant's wrongful and willful actions in the infringement of Plaintiff's

1 proprietary rights in the Mark have caused substantial injury to Plaintiff.

2 33. All conditions precedent to the institution of this action have been satisfied,
3 discharged, excused, and/or waived.

4 **COUNT I**

5 **FEDERAL TRADEMARK INFRINGEMENT IN VIOLATION OF 15 USC § 1114**

6 34. Plaintiff repeats and re-alleges each and every allegation contained in
7 paragraphs 1 through 33 as if fully set forth herein.

8 35. The use in commerce by Defendant of the Mark “SELENA” has been without
9 the consent of Plaintiff, the owner and registrant of U.S. Trademark Registration Nos.
10 4,160,607, 5,522,456 and 5,993,615, in violation of 15 U.S.C. § 1114.

11 36. The use in commerce of, among other things, the Defendant’s various online
12 social media accounts and websites are also confusingly similar to Plaintiff’s Mark, and
13 such use has been without the consent of Plaintiff.

14 37. Defendant’s promotion of live entertainment services through the use of Mark
15 has been without the consent of Plaintiff.

16 38. Defendant’s aforesaid uses in commerce of Plaintiff’s Mark, which are
17 colorable imitations, counterfeits, copies, or confusingly similar to Plaintiff’s Mark, are
18 likely to cause confusion, or to cause mistake, or to deceive, in violation of 15 U.S.C. §
19 1114, and they have caused such confusion.

20 39. Defendant’s aforesaid uses in commerce of Plaintiff’s Mark has caused
21 substantial confusion and mistake, and have deceived customers of Plaintiff, potential
22 customers of Plaintiff, and others seeking services from Plaintiff, nationwide, and
23 particularly in California, in violation of 15 U.S.C. § 1114.

24 40. Defendant willfully infringed Plaintiff’s Mark, whereby Plaintiff is entitled to
25 damages, including Defendant’s profits, other damages sustained by Plaintiff, the costs of
26 this action, and reasonable attorneys’ fees, as set forth in 15 U.S.C. § 1117.

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COUNT II

VIOLATION OF SECTION 43 OF THE LANHAM ACT § 1125

41. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 through 40 as if fully set forth herein.

42. Defendant's use in commerce of Plaintiff's exact Mark in connection with the provision of Defendant's entertainment services has caused substantial confusion and is likely to continue to cause confusion and mistake, and to deceive, and to make consumers mistakenly believe that such goods and services are Plaintiff's goods, or that such goods and services are sponsored by, approved by or somehow connected with Plaintiff, with consequent injury to Plaintiff and to consumers of Plaintiff's goods and services.

43. The aforesaid infringements of Plaintiff's Mark by Defendant has caused readily identifiable confusion nationwide and are likely to continue to cause confusion or mistake, or to deceive as to the affiliation, connection, or association of Defendant with Plaintiff, or as to the origin, sponsorship, or approval of the goods, services, or commercial activities of Defendant by Plaintiff, in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

44. Defendant's conduct was done intentionally and willfully with the purpose and design to defraud Plaintiff. Defendant knew that its conduct would cause Plaintiff great financial harm and reputational damage. Defendant's conduct was wanton, willful and completely devoid of any legitimate purpose. Left unchecked, Defendant will seek to defraud and cause harm to others. As a result, Plaintiff is entitled to award of punitive damages to both punish Defendant and to dissuade it from engaging in similar wrongful conduct in the future all in amount subject to proof at trial.

COUNT III

VIOLATION OF THE CALIFORNIA COMMON LAW RIGHT OF PUBLICITY

45. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 through 44 as if fully set forth herein.

1 46. Plaintiff did not authorize Defendant to use Selena’s name, likeness, identity
2 or persona in connection with the promotion of Defendant’s production and/or
3 entertainment services.

4 47. Plaintiff was not contacted by Defendant to seek or obtain his permission, nor
5 was Plaintiff compensated by Defendant for the use of Selena’s name, likeness, identity or
6 persona.

7 48. The use of Selena’s name, likeness, identity or persona by Defendant was, and
8 is, in conscious disregard of Plaintiff’s right of publicity, and of Plaintiff’s exclusive right
9 to control the use and exploitation of Selena’s name, likeness, identity or persona.

10 49. In doing the acts alleged herein, Defendant has used for commercial purpose
11 Selena’s name, likeness, identity, or persona without Plaintiff’s consent.

12 50. The commercial use and misappropriation of Selena’s name, likeness,
13 identity, or persona is a violation of California’s common law right to publicity.

14 51. As a proximate result of Defendant’s acts alleged herein, Plaintiff has suffered
15 and will continue to suffer in an amount to be proven at trial.

16 **COUNT IV**

17 **VIOLATION OF CALIFORNIA STATUTE OF RIGHT TO PUBLICITY**

18 **CIVIL CODE § 3344.1**

19 52. Plaintiff repeats and re-alleges each and every allegation contained in
20 paragraphs 1 through 51 as if fully set forth herein.

21 53. In doing the acts alleged herein, Defendant has knowingly, willfully, and
22 unlawfully used and misappropriated Selena’s name, likeness, identity, or persona in
23 connection with the exploitation and promotion of Defendant’s production and/or
24 entertainment services for its own commercial purposes.

25 54. Defendant’s misappropriation of Selena’s name, likeness, identity, or persona
26 for their own commercial purpose is a violation of California Civil Code § 3344.1.

27 55. As a result of Defendant’s actions, Plaintiff has suffered, and will continue to
28 suffer, damages in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, in light of the foregoing, Plaintiff Abraham Quintanilla, Jr. respectfully requests that this honorable court enter a final judgment in his favor and as against Defendant Catalina Classic Cruises, Inc. as follows:

- (i) Determining that Defendant’s use of Plaintiff’s Mark constitutes:
 - a. trademark infringement in violation of 15 U.S.C. §1114;
 - b. false designation of original and unfair competition in violation of 15 U.S.C. §1125; and
 - c. trademark infringement and unfair competition in violation of the common law of the State of California;
- (ii) That Defendant and all those acting in concert with him be permanently restrained and enjoined from using the Mark “SELENA” or any colorable imitation thereof, with respect to any entertainment or similar services, including the sale of merchandise;
- (iii) That Defendant and anyone associated with it and all those acting in concert with it be permanently restrained and enjoined from infringing Plaintiff’s “SELENA” Mark;
- (iv) For the full value of all Defendant’s profits derived from Defendant’s unlawful acts set forth herein, together with the damages of Plaintiff, including lost profits, in an amount to be determined;
- (v) That the amount of any judgment be trebled pursuant to 15 U.S.C. § 1117, due to the willful infringement of Plaintiff’s “SELENA” Mark by Defendant;
- (vi) The costs of this action and Plaintiff’s reasonable attorneys’ fees, to be taxed against the Defendant, in accordance with 15 U.S.C. § 1117;
- (vii) All advertising materials, brochures, handouts, or any other materials containing the “SELENA” Mark, or any colorable imitation thereof, or any other similar mark be accounted for, and delivered to the attorney for

1 Plaintiff for such disposal and/or destruction as Plaintiff may exercise
2 pursuant to 15 U.S.C. § 1118; and

3 (viii) For a permanent injunction, pursuant to 15 U.S.C. § 1116, against
4 Defendant and anyone associated with Defendant, as well as those persons
5 in active concert or participation with Defendant who receive actual notice
6 of the order by personal service or otherwise from:

- 7 a. Using the “SELENA” Mark (however spelled, whether capitalized,
8 abbreviated, singular or plural, printed or stylized, whether used
9 alone or in combination with any word or words, and whether used
10 in caption, text, orally or otherwise); or any reproduction,
11 counterfeit, copy, colorable imitation or confusingly similar
12 variation of the “SELENA” Mark as a trade name, trademark or
13 service mark, or in any other manner which suggests in any way that
14 Defendant and/or his activities originate from, are affiliated with, or
15 are sponsored, authorized, approved or sanctioned by Plaintiff, or
16 that Plaintiff and/or his activities are affiliated in any way with the
17 Defendant;
- 18 b. Infringing Plaintiff’s “SELENA” Mark or any colorable imitation
19 thereof;
- 20 c. Using in connection with its activities any false or deceptive
21 designation, representation, or description of Plaintiff or his Mark,
22 whether by symbols or words or statements, which would damage or
23 injure Plaintiff or give Defendant an unfair competitive advantage in
24 the marketplace;
- 25 d. Using any internet web site or domain name or metatag or online
26 account which includes the “SELENA” Mark or any similar marks;
- 27 e. Purchasing or using any searchable key words which include the
28 “SELENA” Mark;

- f. Engaging in acts of state or common law trade name infringement, trademark infringement, service mark infringement, unfair competition or misappropriation which would damage or injure Plaintiff;
 - g. Diluting the trade name and trademarks of Plaintiff; *and*
 - h. Inducing, encouraging, aiding, abetting or contributing to any of the aforesaid acts.
- (ix) For an award of punitive damages, in an amount to be proven at trial;
 - (x) That the Court grant such other and further relief as this Court deems just, proper, and equitable under the circumstances.

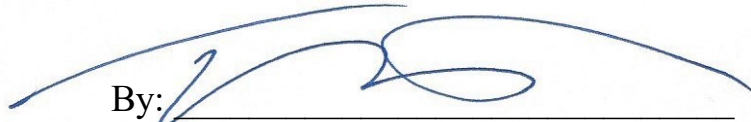
DEMAND FOR TRIAL BY JURY

Plaintiff demands a trial by jury on all issues in this action so triable.

DATED: July 10, 2023

Respectfully Submitted,

**SINGH, SINGH & TRAUBEN, LLP
THOMAS K. RICHARDS**

By: 

Thomas K. Richards

Attorneys for Plaintiff
ABRAHAM QUINTANILLA, JR.