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Clerk of the Superior Court
By Gen Dieu, Deputy Clerk

9 SUPERIOR COURT OF CALIFORNIA
10 COUNTY OF SAN DIEGO, CENTRAL DIVISION

11 BESSMON KALASHO;
12 JESSICA KALASHO,

13 PLAINTIFFS

14 v.

15 STEPHEN J. LIOSI; &
16 DOES 1-10, INCLUSIVE

17 DEFENDANTS

CASE NUMBER: 37-2018-00039261-CU-PN-CTL

UNLIMITED CIVIL JURISDICTION

JURY DEMAND

COMPLAINT FOR

- (1) LEGAL MALPRACTICE
- (2) EQUITABLE INDEMNITY; &
- (3) DECLARATORY RELIEF

18 NOW COME BESSMON KALASHO, and JESSICA KALASHO (hereinafter,
19 collectively, "Plaintiffs") and allege causes of action against Defendant, STEPHEN J. LIOSI,
20 an individual and attorney licensed to practice law in the State of California, and DOES 1
21 through 10, inclusive, and each of them. alleges as follows:

22 1. Plaintiffs are individuals over the age of eighteen, residing in the City of El Cajon
23 within the County of San Diego, State of California.

24 2. Venue is proper in this Court as all events described herein took place within the
25 jurisdictional boundaries of the Court, and the amount in controversy exceeds \$25,000.00.
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1 3. Plaintiffs are informed and believe and thereon allege that Defendant STEPHEN
2 J. LIOSI is an individual residing within the County of San Diego, State of California.

3 4. Plaintiffs are ignorant of the true names and capacities of Defendant(s) sued
4 herein as DOES 1 through 10, inclusive, and therefore sue these Defendants by such fictitious
5 names pursuant to Code Civ. Proc. § 474. Plaintiffs will amend this Complaint to allege their
6 true names and capacities when ascertained. Plaintiffs are informed and believes and thereon
7 alleges that each of the fictitiously named Defendant(s) is/are responsible in some manner for
8 the occurrences herein alleged and that Plaintiffs' damages as herein alleged were
9 proximately caused by such Defendant(s).

10 5. The underlying case, an action entitled, *Tawfiq v. Miss Middle East Beauty*
11 *Pageant*, (Case No. 37-2017-00019692-CU-FR-CTL) was filed in the Superior Court of
12 California, County of San Diego, by Zhala Tawfiq and against the Miss Middle East Beauty
13 Pageant (hereinafter the "Pageant"), and its operator, BESSMON KALASHO, alleging causes
14 of action arising out of Ms. Tawfiq's participation in the Pageant, where she was crowned the
15 winner, and the circumstances surrounding the Pageant's subsequent decision "take back
16 crown" after a dispute arose between Ms. Tawfiq and the Pageant. (hereinafter "the
17 Underlying Case").¹

18 6. Plaintiffs are informed and believe, and thereon allege, that LIOSI and DOES 1
19 through 10, inclusive, whether individual, corporate, associate, or otherwise, are fictitious
20 names of Defendant(s) whose true names and capacities are. at this time, unknown to
21 Plaintiffs. Plaintiffs are informed and believe and on this basis allege that at all times herein
22 mentioned, each of the Defendant(s) sued herein as DOES 1 through 10, inclusive, is and was
23 acting for itself or as an agent, servant and/or employee of his or its Co-Defendant(s), and in
24 doing the things hereinafter mentioned was acting in the scope of authority as such agent,
25 servant and employee, and with the authorization, permission and consent of his or its co-
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27 ¹ The underlying case was filed by Zhala Tawfiq on May 31, 2017, and alleged against BESSMON KALASHO
28 and MISS MIDDLE EAST BEAUTY PAGEANT USA, INC. causes of action for fraud, intentional infliction of emotional
dis3s, and defamation per se.

1 Defendant(s); and each of said fictitiously-named Defendant(s), whether acting for himself or
2 itself as agent, corporation, association or otherwise, is in some way liable or responsible to
3 Plaintiffs and their members for the claims hereinafter alleged. At such time as Defendant(s)'
4 true names become known to Plaintiffs, Plaintiffs will seek leave to amend this Complaint to
5 insert their true names and capacities.

6 **FIRST CAUSE OF ACTION**
7 **Legal Malpractice (Professional Negligence)**
8 **(Against STEPHEN J. LIOSI and DOES 1 through 10)**

9 7. Plaintiffs incorporate by reference paragraphs 1 through 6, as though fully set
10 forth herein.

11 8. On or about June 13, 2017, Defendant LIOSI was retained by BESSMON
12 KALASHO to defend him, and the Pageant in the Underlying Case.

13 9. LIOSI, and DOES 1-10, and each of them, owed Plaintiffs certain fiduciary duties
14 to act at all times in good-faith and in Plaintiffs' best interests; LIOSI, and DOES 1-10, and
15 each of them, also owed Plaintiffs a duty of care which included, among other things, the
16 obligation to perform with reasonable care and skill those services for which Defendant(s)
17 were retained, and, not to expose Plaintiffs to any undue risk or peril. This fiduciary
18 relationship has never been repudiated by LIOSI, or anyone else.

19 10. LIOSI, and DOES 1-10, and each of them, breached their fiduciary duties and
20 obligations to Plaintiffs by doing the acts, and by failing to do acts, and through omissions,
21 completely failed to manage the litigation with reasonable care and skill, or at all.

22 11. Regarding several forms of written discovery, which had been served on LIOSI
23 in the Underlying Case, he failed to:

- 24 a. Respond (timely, or at all) to discovery, causing waiver of their rights to object;
- 25 b. Oppose any of the discovery motions brought against them, resulting in sanctions; and
- 26 c. Propound any discovery at all.

27 12. At all times mentioned herein, LIOSI, and DOES 1-10, and each of them, had a
28 duty to use such skill, prudence, and diligence as members of the legal profession commonly
possess and exercise, in providing legal services to Plaintiffs herein.

1 13. The conduct of Defendant, and DOES 1-10, and each of them, alleged herein, in
2 the acts and omissions herein alleged directly resulted in damages and harm to Plaintiffs as
3 set out herein. In addition to the other acts and omissions alleged above, Defendant LIOSI
4 failed to adequately communicate, to sufficiently explain, and/or competently advise Plaintiffs
5 on whether to prepare and file a:

- 6 a. Responsive Pleading in the form of an Answer, Demurrer, or other response;
- 7 b. Special Motion to Strike under Code Civ. Proc. § 425.16 (“Anti-SLAPP”);
- 8 c. Cross-Complaint against Zhala Tawfiq;
- 9 d. Cross-Complaint against Paris Kargar;
- e. Cross-Complaint against 3 Brothers Taco Shop, Inc.; and
- f. Cross-Complaint against Lina Charry.

10 14. At all times mentioned herein, Defendant LIOSI, and DOES 1-10, inclusive, and
11 each of them, breach their duties and failed to exercise reasonable care and skill in their
12 representation of Plaintiffs BESSMON KALASHO and JESSICA KALASHO by negligently
13 and carelessly doing all of the acts and omitting to act as herein alleged. Among other things,
14 Defendant LIOSI failed to exercise reasonable care and skill and were negligent in failing to
15 properly respond to Ms. Tawfiq’s complaint in the underlying case with an Anti-SLAPP
16 motion and/or Demurrer, and instead, by responding with an Answer.

17 15. At all times mentioned herein, LIOSI, and DOES 1-10, inclusive, and each of
18 them, breach their duties and failed to exercise reasonable care and skill in their
19 representation of Plaintiffs BESSMON KALASHO and JESSICA KALASHO by negligently
20 and carelessly doing all of the acts and omitting to act as herein alleged. Among other things,
21 Defendant LIOSI failed to exercise reasonable care and skill and were negligent in preparing,
22 filing, and serving the Cross-Complaint on each of the four plaintiffs in the Underlying Case.

23 16. At all times mentioned herein, LIOSI, and DOES 1-10, inclusive, and each of
24 them, breached their duties and failed to exercise reasonable care and skill in their
25 representation of Plaintiffs BESSMON KALASHO and JESSICA KALASHO by negligently
26 and carelessly doing all of the acts and omitting to act as herein alleged. Among other things,
27 LIOSI, and DOES 1-10, inclusive, failed to exercise reasonable care and skill and were
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1 negligent in failing to prepare or file any written opposition to the Anti-SLAPP motion and
2 Demurrer filed by Ms. Tawfiq, Ms. Kargar, and 3 Brothers Taco Shop, Inc.

3 17. At all times mentioned herein, LIOSI, and DOES 1-10, inclusive, and each of
4 them, breached their duties and failed to exercise reasonable care and skill in their
5 representation of Plaintiffs BESSMON KALASHO and JESSICA KALASHO by negligently
6 and carelessly doing all of the acts and omitting to act as herein alleged. Among other things,
7 LIOSI, and DOES 1-10, inclusive, failed to exercise reasonable care and skill and were
8 negligent in failing to dismiss the Cross-Complaint against Ms. Charry when he still had time
9 to do so, after learning of the court's ruling on the Anti-SLAPP motion brought by the other
10 three plaintiffs, but before Ms. Charry had scheduled her Anti-SLAPP motion to be heard, or,
11 if not before she scheduled it, then, before she had filed the documents in support of her
12 motion, or, if not before she had filed the documents, then, before her attorney appeared in
13 court to argue in favor of the unopposed motion and demurrer.

14 18. At all times mentioned herein, LIOSI, and DOES 1-10, inclusive, and each of
15 them, breached their duties and failed to exercise reasonable care and skill in their
16 representation of Plaintiffs BESSMON KALASHO and JESSICA KALASHO by negligently
17 and carelessly doing all of the acts and omitting to act as herein alleged. Among other things,
18 LIOSI, and DOES 1-10, inclusive, failed to exercise reasonable care and skill and were
19 negligent in failing to prepare or file any written opposition to the motions for attorney's fees
20 which were filed by all four plaintiffs, by noticed motions, to determine the reasonableness of
21 the attorney's fees which they incurred in bringing the Anti-SLAPP motions.

22 19. As a direct and proximate result of the aforementioned negligence, omissions,
23 and/or intentional acts and failures to act by of the LIOSI, and DOES 1-10, inclusive, and each
24 of them, Plaintiffs herein have had significant adverse judgments and/or orders entered
25 against them, causing them to suffer substantial harm.

26 20. As a further direct and proximate result of the negligence, omissions, and/or
27 intentional acts of the LIOSI, and DOES 1-10, inclusive, and each of them, Plaintiffs
28 BESSMON KALASHO and JESSICA KALASHO have sustained damages. These damages

1 include the actual amounts they were ordered to pay, any interest they incur on such unpaid
2 amounts, and amounts which they continue to incur as a direct result of the negligence alleged
3 against LIOSI's, and DOES 1-10, inclusive, the amounts for which will be determined at trial.

4 **SECOND CAUSE OF ACTION**

5 **Implied Equitable Indemnity**

6 **(Against STEPHEN J. LIOSI and DOES 1 through 10)**

7 21. Plaintiffs incorporate by reference paragraphs 1 through 20, as though fully set
8 forth herein.

9 22. Plaintiffs are informed and believe, and thereon allege, that they are in no way
10 responsible for the attorney's fees they were ordered to pay in the Underlying Case because
11 such orders were taken against them as a direct result of LIOSI's having negligently prepared,
12 filed, and served the Cross-Complaint, on which all four plaintiffs were successful in striking
13 on their unopposed Anti-SLAPP motions. Plaintiffs were, however, found responsible under
14 the law to pay such attorney's fees under California's Anti-SLAPP laws. Plaintiffs are
15 informed and believe and thereon allege that the conduct, in whole or in part, of LIOSI, and
16 DOES 1-10, inclusive, should be deemed fully responsible for the acts which created the basis
17 upon which the attorney's fees orders were made—namely, the preparing and filing of the
18 Cross-Complaint.

19 23. By reason of the foregoing allegations, Plaintiffs are entitled to a judgment, over
20 and against LIOSI, and DOES 1-10, inclusive, for their percentage of the attorney's fees orders
21 which were incurred by reason of the negligence of LIOSI, and DOES 1-10, inclusive, in
22 addition to costs and reasonable attorney's fees according to proof.

23 **THIRD CAUSE OF ACTION**

24 **Declaratory Relief**

25 **(Against STEPHEN J. LIOSI and DOES 1 through 10)**

26 24. Plaintiffs incorporate by reference paragraphs 1 through 23, as though fully set
27 forth herein.

28 25. A dispute has arisen and an actual controversy now exists between Plaintiffs and
LIOSI, and DOES 1-10, and each of them, concerning their respective rights and duties, and

1 that Plaintiffs contend that they are entitled to indemnity from Defendants, and each of them,
2 by virtue of the theory of implied equitable indemnity pursuant to the fiduciary relationship
3 between the parties alleged herein, and on grounds that LIOSI, and DOES 1-10, inclusive,
4 breached those duties, and have caused and continue to cause, Plaintiffs to be ordered liable
5 for paying attorney's fees. Plaintiffs are informed and believe and allege thereon that LIOSI,
6 and DOES 1-10, inclusive, oppose and deny the above contentions and contend that Plaintiffs
7 are not entitled to indemnity from any Defendant herein.

8 26. A declaration of rights is necessary and appropriate at this time so that Plaintiffs
9 may ascertain their rights and duties, and because no adequate remedy, other than as prayed
10 herein, exists by which the rights of the parties may be determined.

11 **WHEREFORE, PLAINTIFFS PRAY AS FOLLOWS:**

12 1. For a declaration of this Court that LIOSI, and DOES 1-10, inclusive, are
13 obligated to indemnify and hold Plaintiffs harmless against those attorney's fees which
14 Plaintiffs have been ordered to pay to Ms. Tawfiq, Ms. Kargar, 3 Brothers Taco Shop, Inc.,
15 and/or Ms. Charry for a total of \$39,960.00 in the Underlying Case;

16 2. For a judgment against Defendant(s), and each of them, in the amount as any
17 plaintiff in the Underlying Case may recover against Plaintiffs caused by the negligence of
18 LIOSI, and DOES 1-10, inclusive.

19 3. For a judgment that Defendant(s), and each of them, are liable to Ms. Tawfiq, Ms.
20 Kargar, 3 Brothers Taco Shop, Inc., and/or Ms. Charry for such a percentage of damages
21 proximately caused by LIOSI, and DOES 1-10;

22 4. For judgment against Defendant(s), and each of them, declaring that Plaintiffs
23 have no liability to Ms. Tawfiq, Ms. Kargar, 3 Brothers Taco Shop, Inc., and/or Lina Charry
24 related to the attorney fee orders which were entered against them for \$39,960.00; and, that
25 such liability is instead upon LIOSI, and DOES 1-10, and each of them; and, that any liability
26 of Plaintiffs arising out of this action must be borne proportionately by such LIOSI, and DOES
27 1-10 (s), inclusive, and Plaintiffs based on their respective percentage of liability for such
28 attorney fee orders.

1 5. For judgment against LIOSI, and DOES 1-10, and each of them, for consequential
2 damages;

3 6. For judgment against LIOSI, and DOES 1-10, and each of them, for costs and
4 expenses, including attorney's fees incurred by Plaintiffs in extricating from Defendant(s)' acts
5 and omissions, necessarily including defending against the claims of Ms. Tawfiq, Ms. Kargar,
6 3 Brothers Taco Shop, Inc., and Ms. Charry, in an amount according to proof;

7 7. For attorney's fees and costs against LIOSI pursuant to the attorneys' fees and
8 costs provision in the contract between LIOSI and Plaintiffs according to proof;

9 8. For Plaintiffs' costs of suit herein incurred; and,

10 9. For such other and further relief as the Court may deem just and proper.

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12 DATED: 06-Aug-2018

13 RESPECTFULLY SUBMITTED,
14 LAW OFFICES OF JAMES P. FINIGAN,

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16 By: _____

17 JAMES P. FINIGAN, ATTORNEY FOR PLAINTIFFS
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