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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

11
12 JOHN D. THOMAS,) Case No.
13) Assigned for all purposes to:
Plaintiff,)
14 vs.) **COMPLAINT FOR DAMAGES AND**
15) **INJUNCTIVE RELIEF; JURY DEMAND**
LEAGLE, INC., a former Arkansas)
16 corporation; and DOES 1-25,)
17)
Defendants.)
18)
19)

20 Plaintiff alleges:

21 **GENERAL ALLEGATIONS**

22 1. **Summary of Allegations.** Defendants maintain an internet website that
23 purports to provide information about legal cases. Defendants published and continue
24 to publish information regarding a legal case against plaintiff which left the false
25 impression that judgment was in effect against him, including for fraud, when in fact
26 the case was dismissed. In spite of amicable demand, defendant failed and resumed to
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1 remove or correct the information, causing damage to plaintiff's reputation and
2 business interests. Plaintiff seeks monetary damages and equitable relief.

3 2. **Parties: Plaintiff.** John D. Thomas ("Thomas") is an individual and a resident
4 of the State of California. Thomas is not a public figure.

5 3. **Defendants.**

6 a. LEAGLE, INC. ("Leagle") was a corporation formerly registered in the State of
7 Arkansas, whose standing is now revoked. Plaintiff is informed and believes that its
8 principal place of business at all relevant times, was and is in Arkansas.

9 b. Plaintiff does not know the true names and capacities of the defendants sued
10 as Does 1-25, and therefor sues them under those fictitious names. Upon learning their
11 true names and identities, plaintiff will amend the complaint to allege the same. Each
12 fictitious defendant is in some way responsible for the wrongs alleged herein. At all
13 relevant times, each defendant was acting as the authorized, apparent, and ostensible
14 agent of Leagle.

15 4. **Jurisdiction.** This court has jurisdiction over this matter under the diversity
16 provisions of 28 USC §1332. The amount in controversy exceeds \$75,000.

17 5. **Venue.** Venue is properly lain in this court pursuant to 28 USC §1391(b)(2) in
18 that the publication that is the basis of plaintiff's claim was done in California, among
19 other places, and the injury to plaintiff took place in California.

20 6. At all relevant times, up to and including the date of this complaint,
21 defendants maintained an internet website at www.leagle.com, which purported to
22 publish information regarding litigation in various courts, including the Fourth District
23 Court of Appeal, Division Three, in Santa Ana, California.

24 6. Defendants published and continue to publish a report on a lawsuit whose
25 short title is *Modarres v. Thomas*, whose trial court case number was 07CC03908, and
26 whose appellate number was G048684/G050017. A true copy of this report as posted on
27 February 1, 2023 at www.leagle.com/decision/incaco20150413036, is attached as
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1 Exhibit 1 and incorporated in this paragraph by reference as if it was set forth in full.
2 Among other things, the matter published states that plaintiff Thomas was adjudged
3 guilty of civil fraud in the lawsuit and implies that this finding was final and in effect.

4 7. After the Court of Appeal ruled on the matter and the case was remanded to
5 the Superior Court, the lawsuit was dismissed with prejudice, and the previous
6 judgment was of no force and effect whatsoever. The matter published by defendants
7 failed to disclose this fact, and created the false impression that a final judgment has
8 issued finding that Thomas was guilty of civil fraud.

9 8. Thomas personally, and through agents and counsel, communicated with
10 defendant Leagle by mail, email, and telephone, requesting that Leagle take action to
11 correct this false impression. Leagle failed and refused to respond and did not change or
12 correct its posted material.

13 9. By reason of this publication, Leagle falsely implied that Thomas had been
14 finally adjudged guilty of civil fraud, and was held for punitive damages.

15 10. At all relevant times Thomas has been and is self-employed as a real estate
16 developer, developing infill residential projects in North San Diego and Riverside
17 Counties. His projects require him or the limited liability companies he controls to
18 obtain financing for obtaining entitlements and for construction of the projects.

19 11. As a direct and proximate result of Leagle's misleading publication and its
20 failure to correct or remove it, Thomas's professional reputation has been damaged by
21 the false impression that he was finally adjudged guilty of civil fraud and held for
22 punitive damages. In particular, the publication deterred lenders from lending to him,
23 resulting in delays in the financing of one or more of his projects, with the result that the
24 interest rates and other terms he was charged increased. Accordingly, he was damaged,
25 and continues to be damaged, in an amount subject to proof, in excess of \$75,000.

26 **First Cause of Action**

27 **(Defamation)**

1 12. Plaintiff realleges Paragraphs 1 through 11, inclusive, hereinabove, and
2 incorporates them by reference as if they were set forth in full.

3 13. The publication alleged hereinabove was false, in that it communicated that
4 Thomas had been finally adjudged guilty of civil fraud and held for punitive damages,
5 which was never the case.

6 14. The false publication injured Thomas in his professional and business
7 reputation.

8 15. The false publication caused Thomas to suffer consequential damages in an
9 amount subject to proof but in excess of \$75,000, as a result of delays in obtaining
10 financing for his projects and in incurring increased interest rates when financing was
11 finally obtained.

12 16. The false publication was an act of malice, especially after Thomas informed
13 defendants of the dismissal of the subject lawsuit and the nonexistence of any judgment
14 against him therein. Accordingly, Thomas is entitled to recover punitive and exemplary
15 damages in an amount subject to proof.

16 17. Further, Thomas is entitled to a preliminary and permanent injunction
17 forbidding defendants to publish the matter in question unless there is a visible and
18 clear clarification that the case was dismissed.

19 **Second Cause of Action**
20 **(False Light Invasion of Privacy)**

21 18. Plaintiff realleges Paragraphs 1 through 17, inclusive, hereinabove, and
22 incorporates them by reference as if they were set forth in full.

23 19. The publication in question placed Thomas before the public and before the
24 real estate development and lending communities, in a false light, namely as a person
25 adjudged guilty of civil fraud.

26 20. The false publication caused Thomas to suffer consequential damages in an
27 amount subject to proof but in excess of \$75,000, as a result of delays in obtaining
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1 financing for his projects and in incurring increased interest rates when financing was
2 finally obtained.

3 21. The publication was an act of malice, especially after Thomas informed
4 defendants of the dismissal of the subject lawsuit and the nonexistence of any judgment
5 against him therein. Accordingly, Thomas is entitled to recover punitive and exemplary
6 damages in an amount subject to proof.

7 22. Further, Thomas is entitled to a preliminary and permanent injunction
8 forbidding defendants to publish the matter in question unless there is a visible and
9 clear clarification that the case was dismissed.

10 **Wherefore**, plaintiff prays for relief as follows:

- 11 1. For consequential damages in an amount subject to proof but in excess of
- 12 \$75,000;
- 13 2. For punitive and exemplary damages in an amount subject to proof;
- 14 3. For a preliminary and permanent injunction forbidding defendants to publish
- 15 the matter in question unless there is a visible and clear clarification that the case was
- 16 dismissed; and
- 17 4. For such other and further relief as may seem just and proper to this court.

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19 Respectfully submitted,

20 **The David Epstein Law Firm**

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22 Dated: February 2, 2023

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24 David G. Epstein
25 Attorneys for Plaintiff

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Demand for Jury Trial

Plaintiff demands a jury trial in this action.

Respectfully submitted,

The David Epstein Law Firm

Dated: February 2, 2023

David G. Epstein
Attorneys for Plaintiff

The David Epstein Law Firm



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Exhibit 1

