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Earl DeBartolomeo
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DISTRICT COURT

CLARK COUNTY, NEVADA

9 MICHAEL MINELLI, an individual,) CASE NO.:
10 Plaintiff,) DEPT NO.:
11 vs.)
12 SIMON & SCHUSTER, INC., a New York)
13 Corporation, JAY LOUIS, an individual,)
14 DOES I through X, inclusive, and ROE) **COMPLAINT**
15 CORPORATIONS I through X, inclusive,)
16 Defendants.)

A575825
XX111

COMPLAINT

15 COMES NOW Plaintiff MICHAEL MINELLI (hereinafter "Minelli" and/or
16 "Plaintiff"), by and through his attorney of record, PRESTON P. REZAEI, ESQ., for his
17 Complaint against SIMON & SCHUSTER, INC., a New York Corporation, JAY LOUIS, an
18 individual,, DOES I through X, inclusive, and ROE CORPORATIONS I through X, inclusive,
19 (hereinafter individually identified or collectively referred to as "Defendants") and alleges as
20 follows:

GENERAL ALLEGATIONS

- 21 1. Plaintiff Minelli is, and at all times relevant herein has been, a resident of the City
22 of Las Vegas, County of Clark, State of Nevada.
- 23 2. Defendant SIMON & SCHUSTER, INC. (hereinafter "Simon & Schuster") is, and
24 at all times relevant herein was, a corporation organized under the laws of the state of New
25 York, with its principal executive office at 51 W. 52ND ST., New York, NY 10019, authorized
26 to do business in the State of Nevada.

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1 3. Defendant SIMON SPOTLIGHT ENTERTAINMENT (hereinafter "SSE") is, and at
2 all times relevant herein was, a company affiliated with Defendant Simon & Schuster, and a
3 division of Simon & Schuster located at 1230 Avenue of the Americas, New York, NY 10020.

4 4. Simon & Schuster publishes various forms of literature, including books sold abroad
5 and in the United States, including, but not limited to, Clark County, Nevada.

6 5. Defendant JAY LOUIS (hereinafter "Jay Louis"), whose physical residence is
7 unknown, is, and at all times relevant herein has been, an agent and/or employee of Defendant
8 Simon & Schuster.

9 6. The identities of the Defendants, DOES I through X, inclusive, and ROE
10 CORPORATION I through X, inclusive, are unknown at this time and may be individuals,
11 partnerships, or corporations. Plaintiff alleges that each of the Defendants designated herein as
12 DOE or ROE are responsible in some manner for the damages herein alleged. Plaintiff will
13 request leave of court to amend this Complaint to name the Defendants specifically and to
14 assert the appropriate allegations against each of the DOE or ROE Business Entities Defendants
15 when their identities become known.

16 7. Plaintiff is informed and believes, and based on that information and belief alleges,
17 that at all times mentioned in this complaint, Defendants were the agents and employees of their
18 codefendants and in doing the things alleged in this complaint were acting within the course
19 and scope of such agency and employment.

20 8. At all times relevant herein, Plaintiff was, and still is, a marketing and promotion
21 contractor in the entertainment industry.

22 9. At all times relevant herein, Plaintiff was an independent contractor with Station
23 Casinos and Hard Rock Hotel and Casino, in Clark County, Nevada.

24 10. Plaintiff had always enjoyed a good reputation, both generally and in his occupation.

25 11. Defendant Jay Louis is the creator of the website named
26 www.hotchickswithdeuchbags.com and the author of the book which evolved from that
27 website, entitled *HOT CHICKS WITH DOUCHEBAGS*.

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1 12. On or about July 2008, Defendants published the book titled *HOT CHICKS WITH*
2 *DOUCHEBAGS* (hereinafter "Publication" and/or "Book"), with a copyright date of 2008 and
3 placed in retail stores in August 2008.

4 13. According to the Book, a Douchebag is, *inter alia*, "a feminine hygiene device used
5 for cleansing."

6 14. The Publication has two entire pages dedicated to statements of and/or concerning
7 the Plaintiff, and describing and/or otherwise referring to Plaintiff as a Douchebag.

8 15. The Publication incorporates a photograph of the Plaintiff (hereinafter
9 "Photograph").

10 16. The Photograph has been personally taken by Defendant Jay Louis.

11 17. The Photograph was taken without Plaintiff's knowledge or consent.

12 18. The Publication refers to the Plaintiff as a Douchebag.

13 19. The Publication is fraught with derogatory, offensive, and otherwise defamatory
14 statements of and concerning the Plaintiff.

15 20. The Publication's derogatory, offensive, and otherwise defamatory statements and
16 insinuations are libelous on their face.

17 21. The Publication is understood to be of and concerning the Plaintiff by those who
18 read it, in that it contains a photograph of Plaintiff.

19 22. The Publication is false as it pertain to the Plaintiff.

20 23. After weeks of ridicule by friends, acquaintances, coworkers, employers, and
21 strangers alike, Plaintiff discovered that his photograph was displayed in the Publication after
22 finally being contacted by a friend who heard that the Book was being sold in retail stores such
23 as Barnes and Nobles.

24 24. The Publication has subjected Plaintiff to hatred, contempt, and humiliation.

25 25. Plaintiff has been, and continues to be the subject of ridicule in that he has been, is
26 now, and continues to be called a Douchebag by friends, acquaintances, coworkers, employers,
27 and strangers alike.

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1 26. As a direct and proximate result of the Publication, Plaintiff has suffered loss of
2 reputation, shame, mortification, injury to his feelings, and business.

3 27. The Publication was not was not privileged because it was published by Defendants
4 with malice, hatred, and ill will toward the Plaintiff and the desire to injure Plaintiff, in that
5 Defendants made the Publication with conscious disregard of its defamatory nature and impact.

6 28. The Publication has resulted in the commercial exploitation of Plaintiff's likeness.

7 29. Plaintiff's privacy has been invaded, as Plaintiff is not a public figure.

8 30. The Publication depicts Plaintiff has a "Douchebag" and a dubious man.

9 31. The Publication is false, harmful, and vulgar.

10 32. Plaintiff has a reasonable expectation of privacy which has been violated.

11 33. Defendants have sought to capitalize, and have capitalized on Plaintiff's likeness for
12 purpose other than the dissemination of news or information.

13 34. Defendants have used Plaintiff's likeness for trade purposes.

14 35. Defendants have used Plaintiff's Photograph to promote and sell the Book.

15 36. As a direct and proximate result of Defendants' Publication and depiction of
16 Plaintiff in a vulgar and negative manner, the Plaintiff has suffered damages, as Plaintiff has
17 been deprived of business opportunities, in that Plaintiff has been, and continues to be the
18 subject of ridicule in that he has been, is now, and continues to be called a Douchebag by
19 friends, acquaintances, coworkers, employers, and strangers alike.

20 37. Plaintiff's personal and professional life has been affected adversely.

21 **FIRST CAUSE OF ACTION**

22 **LIBEL**

23 38. Plaintiff repeats and realleges the allegations contained hereinabove and
24 incorporates the same by reference as though fully set forth herein.

25 39. On or about July 2008, Defendants maliciously prepared and composed, of and
26 concerning Plaintiff, the subject Publication, referring to Plaintiff as a Douchebag.

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1 40. The Publication contains derogatory, offensive, and otherwise defamatory
2 statements of and concerning the Plaintiff, in that the Publication refers to and expressly calls
3 Plaintiff a Douchebag.

4 41. The Publication was published, and continues to be published and distributed to
5 bookstores nationwide, including, but not limited to Clark County Nevada.

6 42. Pursuant to Defendants' malicious intent, the Publication was read by countless
7 other persons.

8 43. Persons to whom said defamatory Publication was communicated as aforesaid,
9 understood said words describing Plaintiff as a Douchebag, and the Publication in its entirety to
10 have a defamatory meaning.

11 44. Said defamatory publication communicated as aforesaid was maliciously calculated
12 to cause great injury to Plaintiff's reputation, in that Defendants knew or should have known
13 that the Publication would subject Plaintiff to hatred, contempt, ridicule, and humiliation.

14 45. Plaintiff had always enjoyed a good reputation, both generally and in his occupation.

15 46. As a direct and proximate result of the Defendants' acts and/or omissions, Plaintiff
16 has been damaged in excess of Ten Thousand Dollars (\$10,000.00), plus interest thereon, in an
17 amount to be determined at trial.

18 47. Because Defendants acted intentionally, with malice, or with gross and reckless
19 negligence, Plaintiff is entitled to punitive or exemplary damages against Defendants and each
20 of them.

21 48. Plaintiff has been forced to retain the services of an attorney in order to pursue the
22 claims herein, and therefore is entitled to reasonable attorney fees and costs of the suit incurred.

23 **SECOND CAUSE OF ACTION**

24 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

25 49. Plaintiff repeats and realleges the allegations contained hereinabove, and
26 incorporates the same by reference as though fully set forth herein.

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1 50. Defendants and each of them had knowledge of Plaintiff's susceptibility to
2 emotional distress due to the vulgar and offensive nature of this Publication, and the negative
3 light in which the Plaintiff is cast.

4 51. Defendants and each of them published Plaintiff's Photograph and likeness without
5 Plaintiff's consent.

6 52. Defendants' conduct was extreme and outrageous, in that Defendants acted
7 intentionally and maliciously insofar as their actions were taken with knowledge that emotional
8 and physical distress would result of Defendants' conduct, but nevertheless undertook and
9 continue such conduct with wanton and reckless disregard of the consequences to Plaintiff.

10 53. As a direct and proximate result of Defendants' extreme and outrageous conduct as
11 alleged hereinabove, Plaintiff has suffered sever emotional damage, mental anguish, emotional
12 and physical distress, and has been injured in mind and body, all to Plaintiff's damages.

13 54. As a further direct and proximate result of Defendants' conduct as alleged herein,
14 Plaintiff has incurred and in the future will incur, varied expenses in the examination, care and
15 treatment of Plaintiff's physical and emotional injuries, the exact nature and extent of which are
16 presently unknown to Plaintiff. Plaintiff will seek leave of Court to amend this Complaint to
17 set forth the full amount of damages sustained when ascertained.

18 55. As a direct and proximate result of Defendants' Publication, Plaintiff has been
19 damaged in excess of Ten Thousand Dollars (\$10,000.00), plus interest thereon, in an amount
20 to be determined at trial.

21 56. The acts of Defendants were willful, wanton, malicious and oppressive, and justify
22 the awarding of exemplary and punitive damages.

23 57. Due to Defendants' actions, Plaintiff has been forced to retain the services of an
24 attorney in order to pursue the claims herein, and therefore is entitled to reasonable attorney's
25 fees and costs of the suit incurred herein.

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1 68. Plaintiff has a reasonable expectation of privacy in his personal and private
2 information including his likeness and photograph as described herein, and said private
3 information should not be used without Plaintiff's consent or authorization.

4 69. Defendants' conduct as described herein, constitutes a serious invasion of Plaintiff's
5 right to privacy.

6 70. As a direct and proximate result of the conduct of Defendants, Plaintiff has suffered
7 emotional distress, mental suffering, and invasion of his Constitutional right to privacy.

8 71. As a direct and proximate result of Defendants' Publication, Plaintiff has been
9 damaged in excess of Ten Thousand Dollars (\$10,000.00), plus interest thereon, in an amount
10 to be determined at trial.

11 72. The acts of Defendants were willful, wanton, malicious and oppressive, and justify
12 the awarding of exemplary and punitive damages.

13 73. Due to Defendants' actions, Plaintiff has been forced to retain the services of an
14 attorney in order to pursue the claims herein, and therefore is entitled to reasonable attorney's
15 fees and costs of the suit incurred herein.

16 **FIFTH CAUSE OF ACTION**

17 **LOSS OF GOODWILL**

18 74. Plaintiff repeats and realleges the allegations contained hereinabove and
19 incorporates the same by reference as though fully set forth herein.

20 75. As a result of Defendants' Publication set forth above, Plaintiff has suffered in his
21 reputation and has lost the goodwill and trade of many persons with whom he had, and/or
22 otherwise would have had profitable business.

23 76. As a direct and proximate result of the Defendants' acts and/or omissions, Plaintiff
24 has been damaged in excess of Ten Thousand Dollars (\$10,000.00), plus interest thereon, in an
25 amount to be determined at trial.

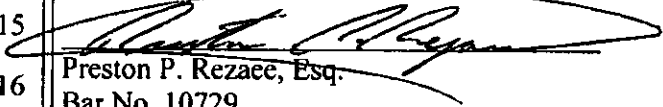
26 77. Because Defendants acted intentionally, with malice, or with gross and reckless
27 negligence, Plaintiff is entitled to punitive or exemplary damages against Defendants and each
28 of them.

1 78. Plaintiff has been forced to retain the services of an attorney in order to pursue the
2 claims herein, and therefore is entitled to reasonable attorneys fees and costs of the suit incurred
3 herein.

4 WHEREFORE, Plaintiffs pray for judgment against Defendants and each of them as
5 follows:

- 6 1. Compensatory damages in an amount to be proven at the time of trial;
- 7 2. Special damages in an amount to be proven at the time of trial;
- 8 3. General damages in an amount to be proven at the time of trial;
- 9 4. Punitive damages;
- 10 5. For Pre-Judgment interest;
- 11 6. For costs of suit incurred herein;
- 12 7. For an award of reasonable attorney's fees and expenses, and
- 13 8. For such other and further relief as the Court deems just and proper.

14 Dated this 13 day of NOVEMBER, 2008.

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19 Las Vegas, Nevada 89104
20 Attorney for Plaintiff.

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