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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 MANHATTAN WEST, LLC, a Nevada limited)
10 liability company,)
11 Plaintiff,)
12 v.)
13 CENTURY PARTNERS, LTD., a Nevada)
14 corporation, and KELLY MURPHY, an individual,)
15 PHANTOM ENTERTAINMENT, LLC, a)
16 Nevada limited liability, ALTERNATIVE)
17 ENTERPRISES, LLC, a Nevada limited liability)
18 company and KRAVE ENTERTAINMENT,)
19 LLC, a Nevada limited liability company,)
Defendants)

Case No.:

20
21 **COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF**

22
23 MANHATTAN WEST, LLC (“Plaintiff”) complains as follows against CENTURY
24 PARTNERS, LTD (“Century”), KELLY MURPHY (“Murphy”), ALTERNATIVE ENTERPRISES,
25 LLC (“Alternative”), PHANTOM ENTERTAINMENT, LLC (“Phantom”) and KRAVE
26 ENTERTAINMENT, LLC (“Krave”) (Century, Murphy, Alternative, Phantom and Krave collectively
27 known herein as the “Defendants”), on information and belief, Plaintiff alleges as follows:
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1 **NATURE OF ACTION**

2 1. This is an action for violations of the Anti-cybersquatting Consumer Protection Act,
3 15 U.S.C. §1125(d), violations of the Lanham Act, state and common law trademark infringement,
4 intentional interference with prospective economic advantage, declaratory relief, and injunctive relief.
5 Plaintiff seeks damages, an injunction restraining Defendants from infringing Plaintiff's rights, and
6 a judgment ordering the transfer of the domain name <piranhalv.com> to Plaintiff.
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9 **PARTIES**

10 2. Plaintiff Manhattan West, LLC, is a Nevada limited liability company with its
11 principal place of business in Clark County, Nevada.

12 3. Defendant Century Partners, Ltd., is a Nevada corporation with its principal place of
13 business in Clark County, Nevada.

14 4. Defendant Kelly Murphy is a resident of Clark County, Nevada.

15 5. Defendant Alternative Enterprises, LLC is a Nevada limited liability company with its
16 principal place of business in Clark County, Nevada.

17 6. Defendant Phantom Entertainment, LLC is a Nevada limited liability company with its
18 principal place of business in Clark County, Nevada.

19 7. Defendant Krave Entertainment, LLC is a Nevada limited liability company with its
20 principal place of business in Clark County, Nevada.
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24 **JURISDICTION AND VENUE**

25 8. Jurisdiction is proper in this Court under 28 U.S.C. §1331 and 1338; as well as 15
26 U.S.C. §1125 and 15 U.S.C. §8131. Venue is proper in this Court under 28 U.S.C. §1391(b) and ©.
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1 This Court has supplemental jurisdiction over Plaintiff's state and common law claims pursuant to 28
2 U.S.C. § 1367(a). The Court has personal jurisdiction over Defendants because their principal place
3 of business is located in the judicial district and they have committed tortious conduct in this judicial
4 district.

5
6 **ALLEGATIONS COMMON TO ALL COUNTS**
7

8 9. Plaintiff is a limited liability company that owns and operates certain clubs located
9 in Clark County, Nevada under the names Piranha Night Club and 8 ½ Ultra Lounge.

10 10. Upon information and belief, Defendant Phantom owns and operates a night club in
11 Clark County, Nevada known as Krave. Phantom became the owner and operator of Krave when it
12 purchased substantially all of the assets of Krave Entertainment pursuant to a sale of assets by
13 Krave from its bankruptcy proceeding (In re: Krave Entertainment, LLC BK-S-10-10672-MKN) on
14 or about October 5, 2010.

15
16 11. Upon information and belief, Alternative is the manager and member of Phantom
17 and exercises full control and ownership over Phantom.

18 12. Plaintiff markets its business through various methods, including the internet by means
19 of certain domain names, web sites, social media, e-mail and other methods of internet marketing.

20
21 13. A large portion of the Plaintiff's revenue is reliant on the internet, as a means of
22 introducing prospective customers to the clubs and informing prospective, current and past customers
23 of events and special events that would be of interest to these customers.

24 14. Plaintiff has for many years done business under the names Piranha Night Club and 8
25 ½ Ultra Lounge (the "Marks") and has obtained common law trademark ownership and rights in these
26 names. Plaintiff has further spent enormous amounts of time and money developing and marketing
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1 these brands in the local market and national market in print, broadcast media and the internet.

2 15. Based on its use of the Marks, Plaintiff has the exclusive right to use in the marks in
3 connection with its clubs and business.

4 16. On or about December 13th 2010 the Defendants registered the domain name
5 <piranhalv.com>. The registrant was Defendant Century and the Administrative Contact was
6 Defendant Kelly Murphy.

7
8 17. By registering the domain name <piranhalv.com> the Defendants were and are
9 attempting to trade on the goodwill and business of the Plaintiff.

10 18. Defendants are not only infringing on the trademark and other rights the Plaintiff has
11 in its business names, but has intentionally, wrongfully and maliciously set in place a scheme were by
12 customers who sought information under <piranhalv> or <piranhalv.com> about the Plaintiff's
13 business would be wrongfully directed to the Defendants' competing web site for Krave.

14
15 19. In doing so the Defendants are not only directly stealing the prospective customer, but
16 they are also wrongfully creating the false believe among countless prospective, current and past
17 customers that the Plaintiff's business is either merged with the Defendants' business or is out of
18 business.

19 20. The Infringing domain name is almost identical to that of Plaintiff's name and other
20 domain names owned by the Plaintiff.

21
22 21. Defendants registered the infringing domain name without the consent or authorization
23 of Plaintiff. Defendants registered, uses, and is trafficking on the infringing domain name with the bad
24 faith purpose of harassing the Plaintiff and harming its business and preventing the Plaintiff from
25 claiming ownership of the infringing domain name.

26 22. Defendants' bad faith intent is evident because (1) they have no intellectual property
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1 rights in the infringing domain name; (2) their legal name is not embodied in the infringing domain
2 name; (3) they have not previously used the infringing domain name in the past; and (4) upon
3 information and belief, Plaintiffs have previously registered or acquired multiple domain names which
4 they know are identical or confusingly similar to marks of others that are distinctive at the time of
5 registration of such domain names, without regard to the effect of the parties.
6

7 23. Century and Murphy have such a unity of interest and ownership between the
8 corporation and its equitable owner that the separate personalities of the corporation and the
9 shareholder do not in reality exist.

10 24. If the Court allows the acts in question to be treated as those of the corporation alone
11 inequality will result.

12 25. Upon information and belief, the Defendants have: commingled their funds and other
13 assets; held out that one is liable for the debts of the other; allowed Murphy to have complete
14 ownership of the corporation, such that Murphy controls completely the corporation's actions; used
15 the same offices and employees, and used each other as a mere shell or conduit for the affairs of the
16 other.
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19 **FIRST CLAIM FOR RELIEF**

20 (VIOLATION OF 15 U.S.C. §1125(d), THE ANTI-CYBERSQUATTING CONSUMER PROTECTION ACT)

21 26. The Defendants registered, used and trafficked in the infringing domain name with the
22 bad faith intent to profit from the infringing domain name.
23

24 27. The infringing domain name was identical or confusingly similar to the Plaintiff's name
25 at the time Defendants registered the infringing domain name, and it remains so today.

26 28. Defendants' registration, use and trafficking in the infringing domain name has caused,
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1 and will continue to cause, damages to Plaintiff, and is causing irreparable harm where there is no
2 adequate remedy at law.

3 29. Plaintiff is entitled to temporary and injunctive relief, statutory damages of up to
4 \$100,000, and other damages for Defendants' violation of the Anti-cybersquatting Consumer
5 Protection Act, 15 U.S.C. §1125(d).

6 30. Plaintiff seeks an Order from the Court ordering the transfer of the infringing domain
7 name to himself and damages in an amount of at least \$100,000.00 for each violation of the Act.
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10 **SECOND CLAIM FOR RELIEF**

11 **(DECLARATORY JUDGMENT -- DOMAIN NAME OWNERSHIP)**

12 31. An actual controversy has arisen and exists between Plaintiff and Defendants within
13 the meaning of 28 U.S.C. §2201.

14 32. By virtue of their registration of the Domain Name, Defendants implicitly contends that
15 they are the rightful owners of the Domain Name to the exclusion of Plaintiff, and that Plaintiff has
16 no ownership rights in or to the Domain Name.

17 33. Plaintiff seeks an order from the Court declaring that it is the sole owner of all right,
18 title and interest in and to the Domain Name.
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21 **THIRD CLAIM FOR RELIEF**

22 **(VIOLATION OF 15 U.S.C. §1125(a) AND 15 U.S.C. §8131, THE LANHAM ACT)**

23 34. Plaintiff has been damaged by Defendants' conduct in an amount that is within the
24 jurisdictional limits of the Court. Plaintiff is entitled to injunctive and equitable relief against
25 Defendants restraining and enjoining them and all others acting by, through, under or in concert with
26

1 him from (a) using Plaintiff's name, trade names, or service marks in any manner; (b) registering any
2 domain names that are identical or confusing similar to the name or other trade names, trademarks or
3 service marks of Plaintiff, or assisting, aiding or abetting any other person in engaging in any of the
4 conduct described in sections (a) and (b). Plaintiff asks the Court to enter permanent injunctive relief
5 by exercise of its own equitable powers; and under all applicable statutes and rules of law.
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8 **FOURTH CLAIM FOR RELIEF: UNFAIR, DECEPTIVE,**

9 **AND FRAUDULENT BUSINESS PRACTICES**

10 35. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth
11 herein.

12 36. The acts of Defendants, and each of them, as alleged herein constitute unfair and
13 unlawful competition in violation of NRS 598A-Nevada Unfair Trade Practices Act.

14 37. As demonstrated elsewhere herein, Plaintiff has lost money or property and suffered
15 injury in fact as a result of Defendants' unfair and unlawful business practices.

16 38. By reason of the foregoing, Defendants, and each of them, have been improperly and
17 unjustly enriched at the expense of the public and Plaintiff in an amount to be determined and
18 according to proof at trial. Defendants are obligated to make restitution to Plaintiff in this amount.
19

20 39. Plaintiff and the public are being irreparably harmed by Defendants' unfair business
21 practices and unfair competition. There is no adequate remedy at law, thereby justifying preliminary
22 and permanent injunctive relief under NRS 598A-Nevada Unfair Trade Practices Act.
23

FIFTH CLAIM FOR RELIEF

(Common Law Trademark Infringement)

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3 40. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth
4 herein.

5 41. By virtue of having used and continuing to use Plaintiff's Marks, Plaintiff has
6 acquired common law trademark rights in the name Piranha and any connected or similar name.
7

8 42. Defendants' use of a mark the same and/or confusingly similar to the Marks used by
9 Plaintiff infringes Plaintiff's common law trademark rights in its Marks and is likely to cause
10 confusion, mistake, or deception among consumers, who will believe that Defendants' activities,
11 website and services originate from, or are affiliated with, or are endorsed by Plaintiff, when, in
12 fact, they are not.

13 43. As the direct and proximate result of Defendants' infringement of the Plaintiff's
14 common law trademark rights under Nevada and Federal common law, Plaintiff has suffered, and
15 will continue to suffer, monetary damages and irreparable injury to its business, reputation, and
16 goodwill.
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SIXTH CLAIM FOR RELIEF

(Intentional Interference with Prospective Economic Advantage)

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20 44. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth
21 herein.
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23 45. Despite having no legal right to do so, Defendants are using Plaintiff's marks and/or
24 marks that are confusingly similar to Plaintiff's Marks; Defendants knew and have known that
25 Plaintiff is in the business of owning and managing night clubs frequented by local and national
26 customers .
27

1 46. Upon information and belief, Defendants committed acts intended or designed to
2 disrupt Plaintiffs' prospective economic advantage arising from the providing of their services.

3 47. Defendants' actions have disrupted or are intended to disrupt Plaintiff's business by,
4 among other things, diverting web users away from Plaintiff's website and from their clubs to the
5 Defendants' website and club.

6 48. Defendants have no legal right, privilege or justification for their conduct.

7 49. As a direct and proximate result of Defendants' intentional interference with
8 Plaintiff's prospective economic advantage, Plaintiff has suffered, and will continue to suffer,
9 monetary damages and irreparable injury.
10

11 50. Based on the intentional, willful and malicious nature of Defendants' actions,
12 Plaintiff is entitled to recover monetary damages, exemplary or punitive damages and reasonable
13 attorneys' fees, and costs incurred in connection with this action.
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16 **SEVENTH CLAIM FOR RELIEF**

17 **(Declaratory Relief)**

18 51. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth
19 herein.

20 52. That despite these allegations and statements made by Plaintiff, Defendants have
21 continued to use the Plaintiff's Marks for their own benefit and caused substantial harm to
22 Plaintiff.
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24 53. Plaintiff has made demand that Defendants cease the use of the Plaintiff's Marks,
25 but Defendants have refused to do so.
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1 54. That as a result of the aforementioned refusal to cease use of the Plaintiff's Marks, a
2 justifiable controversy exists relating to the rights and ownership of the Marks.

3 55. That Plaintiff requests a declaratory ruling by this court declaring that the
4 Defendants, and each of them, are not entitled to the use of the Plaintiff's Marks and that Plaintiff
5 has been irreparably harmed.

6 56. That Plaintiff has no adequate remedy at law unless this court determines its rights
7 relative to the Plaintiff's Marks.
8

9 57. That Plaintiff has been required to retain the services of an attorney to prosecute
10 this matter and is entitled to be reimbursed for its attorneys fees and costs incurred herein.
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12 **EIGHTH CLAIM FOR RELIEF**

13 **(Injunctive Relief)**

14 58. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth
15 herein.
16

17 59. That the Defendants having engaged in a course of conduct and activities calculated
18 to cause irreparable injury to the Plaintiff, inter alia, Defendants' use of a mark the same and/or
19 confusingly similar to the Plaintiff's Marks infringing Plaintiff's common law trademark rights in
20 the Plaintiff's Marks that is likely to cause confusion, mistake, or deception among consumers,
21 who will believe that Defendants' activities, website and/or Internet domain name originate from,
22 or are affiliated with, or are endorsed by Plaintiff, when, in fact, they are not.
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24 60. As the direct and proximate result of Defendants' infringement of the Plaintiff's
25 common law trademark rights under Nevada and Federal common law, Plaintiff has suffered, and
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1 will continue to suffer, monetary damages and irreparable injury to its business, reputation, and
2 goodwill.

3 61. Defendants have refused to cease the use of the Plaintiff's Marks. Plaintiff has
4 suffered, and will continue to suffer, monetary damages and irreparable injury to their business,
5 reputation, and goodwill.

6 62. Unless this Court issues a restraining order or an injunction prohibiting the
7 Defendants, and each of them, their employees, servants, agents, representatives acting on their
8 behalf in any way using a mark that is confusingly similar to the Plaintiff's Marks, it is likely that
9 there will be irreparable injury to the business interests of the Plaintiff.

10 63. There is no adequate remedy at law for the damages which Plaintiff may suffer. It
11 would be impossible to determine the potential monetary damages which would result if
12 Defendants' wrongful actions are allowed to continue as monetary damages would not fully
13 compensate Plaintiff for the injury to their business reputation and goodwill. In addition, it is not
14 known if Defendants are financially incapable of paying significant monetary damages; therefore
15 Plaintiff has no monetary remedy.

16 64. Plaintiff has been required to hire the services of an attorney to litigate this matter
17 and is entitled to an award of attorney fees.

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21 **NINTH CLAIM FOR RELIEF**

22 (Tortious Interference with Contractual Relations)

23 65. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth
24 herein.

25 66. Despite having no legal right to do so, Defendants are interfering with the contractual
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1 rights of Plaintiff's by one or more of the following actions:

- 2 (a) Contacting and soliciting the Plaintiff's employees and independent contractors;
- 3 (b) Contacting and soliciting the Plaintiff's current customers;
- 4 (c) Contacting other parties with whom the Plaintiff has contractual relations of any nature,
- 5 with the intent of interfering with those contractual relations.

6

7 67. Upon information and belief, Defendants committed acts intended or designed to

8 disrupt Plaintiffs' contractual relations, which arise from the Plaintiff providing their services.

9 68. Defendants' actions have disrupted or are intended to disrupt Plaintiff's business by,

10 among other things, inducing employees, independent contractors and customers to breach or terminate

11 their contractual relations with the Plaintiff.

12 69. Defendants have no legal right, privilege or justification for their conduct.

13

14 70. As a direct and proximate result of Defendants' intentional interference with Plaintiff's

15 contractual relations, Plaintiff has suffered, and will continue to suffer, monetary damages and

16 irreparable injury.

17 71. Based on the intentional, willful and malicious nature of Defendants' actions, Plaintiff

18 is entitled to recover monetary damages, exemplary or punitive damages and reasonable attorneys'

19 fees, and costs incurred in connection with this action.

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TENTH CLAIM FOR RELIEF

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(Alter Ego and Veil-piercing and NRS 78.747)

24 72. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth

25 herein.

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73. Defendants' actions demonstrate that the actions of Phantom and Krave were

1 influenced, directed, controlled, and governed by Alternative and Murphy.

2 74. There has been such unity of interest and ownership between all of the Defendants
3 that one is inseparable from the other.

4 75. The facts show that adherence to the fiction of the various entities Phantom, Krave
5 and Alternative as a separate entities would, under the circumstances, sanction fraud and promote
6 injustice.

7
8 76. Plaintiff asks this Court to issue a judgment finding that (a) the veil of the various
9 entities should be pierced; and (b) that the Defendants are such the one is the alter ego of the other
10 and that each should be jointly and severally held liable for the actions of the other.

11
12 77. Plaintiff has been required to hire the services of an attorney to litigate this matter
13 and is entitled to an award of attorney fees.
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16 **PRAYER FOR RELIEF**

17 Plaintiff respectfully asks the Court to enter judgment against Defendants as follows:

- 18 (I) Declaring that Plaintiff is the sole and exclusive owner of all right, title and interest
19 of the Domain Names;
20
21 (ii) Temporary and permanent injunctive relief restraining Defendants and all others
22 acting by, through, under or in concert with him from (a) using Plaintiff's name or
23 other Plaintiff trademarks, trade names, or service marks in any manner; (b)
24 registering any domain names that are identical or confusing similar to Plaintiff's
25 name or other trade names, trademarks or service marks of Plaintiff, or which
26 contain misspellings of the name or other trade names, trademarks or service marks
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1 of Plaintiff, or assisting, aiding or abetting any other person in engaging in any of
2 the conduct described in sections (a) and (b);

- 3 (iii) Ordering the transfer of the infringing domain name to Plaintiff;
4 (iv) Awarding to Plaintiff all actual damages caused by Defendants;
5 (v) Awarding to Plaintiff exemplary damages against Defendants, jointly and severally,
6 in an amount to be determined by the trier of fact;
7 (vi) Awarding to Plaintiff reasonable and necessary attorney's fees pursuant to 15
8 U.S.C. §1117 and all other applicable statutes and rules of law and equity;
9 (vii) Awarding to Plaintiff all costs of court; and
10 (viii) Awarding to Plaintiff all other relief to which he may be entitled.
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15 Dated this 23rd day of November, 2011.
16

17 COHEN-JOHNSON, LLC

18 By: /s/ H. Stan Johnson
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