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12
13 Attorneys for Counterclaim Plaintiff
DISCOVERY COMMUNICATIONS, LLC

14
15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA

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18 DISCOVERY COMMUNICATIONS, LLC,
a Delaware limited liability company,

19 Counterclaim
20 Plaintiff,

21 vs.

22 LMNO CABLE GROUP, INC.,
a California corporation, LMNO
23 ENTERTAINMENT GROUP, LLC, a
California limited liability company,

24 Counterclaim
25 Defendants.

Case No. 2:16-cv-4543-JAK-SK

**COUNTERCLAIMS FOR
DAMAGES, RECOVERY OF
PROPERTY, RESTITUTION,
ACCOUNTING,
DECLARATORY AND
INJUNCTIVE RELIEF,
TRADEMARK
CANCELLATION**

26 DEMAND FOR JURY TRIAL

1 Discovery Communications, LLC (“Discovery”) alleges as follows, upon actual
2 knowledge as to itself, and upon information and belief as to all other matters:

3 **INTRODUCTION**

4 1. For over a decade, the LMNO Defendants (defined below) and Discovery
5 enjoyed a long-standing relationship during which the LMNO Defendants produced a
6 number of programs for various Discovery networks. Unbeknownst to Discovery, the
7 LMNO Defendants utilized that long-standing relationship with Discovery to create a
8 false atmosphere of trust upon which Discovery relied, but the LMNO Defendants
9 secretly and repeatedly betrayed that trust.

10 2. Through a call to Discovery’s ethics hotline in late 2015 from a
11 whistleblower who worked for one or both of the LMNO Defendants, Discovery
12 recently learned that the LMNO Defendants were, and have been for years,
13 systematically defrauding and victimizing Discovery. Triggered by the
14 whistleblower, Discovery undertook to determine the scope of the betrayal and the
15 damage the LMNO Defendants inflicted.

16 3. Among the steps Discovery undertook was to reach out to the LMNO
17 Defendants to obtain more information and to seek to conduct audits of their books
18 and records relating to their work for Discovery. Rather than cooperate with
19 Discovery on the audits (as contractually required) and work to quell Discovery’s
20 serious concerns, the LMNO Defendants stonewalled, delayed, and frustrated
21 Discovery’s efforts.

22 4. In the midst of Discovery’s efforts to piece together the facts, Discovery
23 was contacted by the Federal Bureau of Investigation in March 2016 seeking
24 information in connection with what Discovery learned was an ongoing federal
25 criminal investigation into the LMNO Defendants’ business practices. Since that
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1 initial contact by the FBI, Discovery has been cooperating fully with the federal
2 authorities in their investigation.

3 5. In addition to cooperating with the federal authorities, Discovery
4 continued its efforts to attempt to obtain information from the LMNO Defendants that
5 only they had access to and controlled. The LMNO Defendants' response to those
6 efforts actually heightened Discovery's concerns and confirmed some of the wrongful
7 conduct the whistleblower had identified—including LMNO's failure to contribute its
8 share of production budgets for numerous shows.

9 6. On June 17, 2016, Discovery sent the LMNO Defendants notices of
10 termination relating to certain programs. Just a week later, on June 24, 2016, LMNO
11 (defined below) filed its Complaint against Discovery in this action.

12 7. Although Discovery is not privy to the government's investigation, on
13 June 30, 2016—less than a week after LMNO sued Discovery—it was publicly
14 reported that the FBI raided the LMNO Defendants' offices, executing a sealed search
15 warrant in connection with its criminal investigation.

16
17 **NATURE OF THE COUNTERCLAIMS**

18 8. Discovery asserts these counterclaims to remedy the rampant deceptive
19 and unlawful conduct perpetrated against Discovery by LMNO Cable Group, Inc.
20 ("LMNO") and LMNO Entertainment Group, LLC ("LEG") (together the "LMNO
21 Defendants"), which has only recently come to light. LMNO, acting with others,
22 including its President and CEO Eric Schotz ("Schotz"), devised and implemented a
23 scheme designed to systematically and repeatedly overcharge and defraud Discovery
24 in connection with a variety of television programs produced by the LMNO
25 Defendants for Discovery (the "Programs"). This scheme was orchestrated by the
26 LMNO Defendants, Schotz and others, and involved the repeated submission to
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1 Discovery of detailed, but fraudulent, production budgets. The LMNO Defendants
2 used the fraudulent budgets, and false representations of what the LMNO Defendants
3 actually spent in producing the Programs, to induce Discovery to make inflated
4 payments and to wrongfully withhold profit participation payments to Discovery. The
5 LMNO Defendants further manipulated books and records purposely to reflect false
6 and/or doctored information, while simultaneously maintaining separate books and
7 records that documented the actual costs of production, at substantially lower amounts
8 than those reflected in the false budgets. These false budgets went far beyond
9 “padding,” or generous but good-faith estimates of actual costs, and instead routinely
10 and intentionally overstated the actual costs of production by more than 30%.

11 9. Senior executives at LMNO, including Schotz and Ed Horwitz
12 (“Horwitz”) (LMNO’s Executive Vice President for Production), were aware that the
13 budgets prepared by the LMNO Defendants and submitted to Discovery (and, in many
14 cases, attached as exhibits to the various production agreements) were fraudulent and
15 did not accurately reflect either the real costs of producing the various Programs to
16 which they applied or the amount for which the LMNO Defendants intended to
17 produce the Programs. As LMNO, LEG, Schotz and Horwitz intended, Discovery
18 relied on these detailed budgets in determining how much it would spend on a
19 Program. In fact, the scheme to defraud Discovery depended on that reliance.
20 Moreover, all of the information regarding the LMNO Defendants’ fraudulent
21 conduct, including as relates to the fraudulent budgets the LMNO Defendants
22 submitted, was in the exclusive knowledge of the LMNO Defendants and their agents
23 and/or representatives. Discovery was thus unaware, and had no reason to be aware,
24 of the LMNO Defendants’ fraudulent conduct.

25 10. Throughout their relationship, Discovery and the LMNO Defendants
26 generally produced Programs for Discovery pursuant to one of two contractual
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1 arrangements: “co-production” or “commission.” For “co-production” shows,
2 Discovery and LMNO would each contribute a set percentage or amount to cover the
3 full cost of producing the show and would share ownership and intellectual property
4 rights in the resulting shows. For “commission” shows, Discovery would pay the full
5 cost of producing the show and would own the intellectual property and other rights in
6 the resulting show.

7 11. But by presenting fraudulent and knowingly inflated budgets that
8 overstated actual production costs by the amount of LMNO’s contractually agreed-
9 upon share, LMNO purposely deceived Discovery into bearing the entire cost to
10 produce Programs undertaken on a “co-production” basis, while LMNO fraudulently
11 retained (and exploited) intellectual property rights in those Programs.

12 12. In addition, the LMNO Defendants prepared and submitted detailed and
13 substantially inflated budgets to Discovery for the commissioned Programs. The
14 LMNO Defendants, Schotz, Horwitz, and others were aware that the actual costs
15 would be significantly less, but knowingly and intentionally provided inflated figures
16 so that they and possibly others could retain excess funding they knew would result
17 from the inflated figures.

18 13. An added impact of these fraudulent budget submissions was that
19 Discovery was also deprived of profit participation, or royalties, that LMNO was
20 obligated to report and pay Discovery under the “co-production” model. For example,
21 Discovery was entitled to 20% of the net revenues from the licensing of Programs for
22 international broadcast. To calculate the net revenues upon which royalties were
23 payable to Discovery, LMNO would be entitled to deduct its costs for producing and
24 licensing the Program (including distribution costs, such as third party commissions).
25 Because LMNO was not in fact paying *any* production costs, it should have deducted
26 only the licensing costs in calculating net revenues for reporting and disbursement to
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1 Discovery. Instead, LMNO compounded its fraud, deducting phantom and non-
2 existing production costs from revenues it received from the exploitation of
3 intellectual property rights fraudulently obtained through inflated budgets such that it
4 asserted that no royalties were owed to Discovery. In fact, as Discovery had paid the
5 entire cost of production of these Programs, it was entitled to 100% of the royalties
6 from the license, less only the actual licensing costs.

7 14. The LMNO Defendants’ conduct not only breached various contractual
8 provisions in the agreements between Discovery and the LMNO Defendants, but their
9 conduct also constitutes fraud that resulted in Discovery incurring millions of dollars
10 in damages for which it seeks recovery through these counterclaims.

11 **THE PARTIES**

12 15. Discovery is a Delaware limited liability company with its principal place
13 of business in Silver Spring, Maryland. Discovery is a global media company that
14 provides programming content—both original and purchased—across multiple
15 distribution platforms to 3 billion cumulative subscribers worldwide through a variety
16 of networks. These networks include the Discovery Channel, TLC, Investigation
17 Discovery (“ID”) and Animal Planet. Discovery Communications, LLC was formerly
18 known as Discovery Communications, Inc. (“DCI”), which is a party to certain of the
19 contracts at issue in these Counterclaims. As the successor entity, Discovery has all
20 rights of and stands in the shoes of DCI.

21 16. Defendant LMNO is a California corporation with its principal place of
22 business in Los Angeles, California. LMNO is a television production company that
23 has until recently worked with Discovery to produce certain programs for Discovery
24 including, among others, *The Little Couple* and *7 Little Johnstons*, that have aired on
25 various Discovery networks.

1 *Little Johnstons* and *The Coroner: I Speak for the Dead*—were commissioned by
2 Discovery (together, the “Commissioned Programs”). For these Commissioned
3 Programs, Discovery agreed to pay the entire cost of production in exchange for the
4 LMNO Defendants’ production and delivery of the final Programs. The relevant
5 contracts for the Commissioned Programs provide in exchange for paying all of the
6 production costs, Discovery owns all of the rights in the Commissioned Programs.
7 LEG is a contract party only in relation to *The Coroner: I Speak for the Dead*. For all
8 other Programs, the contractual arrangements are between Discovery and LMNO.

9 23. Fourteen of the programs were co-produced by Discovery and LMNO:
10 *The Little Couple*, *Killer Confessions*, *Murder Book*, *Unusual Suspects*, *Hollywood &*
11 *Crime*, *Baby Genius*, *Bear Whisperer*, *Bipolar Kids* now known as *Bipolar Mysteries*:
12 *Families in Crisis* (“Bipolar Mysteries”), *Cheating Vegas*, *Housebound*, *Insane*
13 *Bathrooms*, *Meteorite Men*, *NICU Diaries*, and *Surreal Estate* (collectively, the “Co-
14 Produced Programs”). For Co-Produced Programs, Discovery agreed to fund a certain
15 percentage of the production costs, and LMNO was contractually obligated to fund the
16 remaining percentage. Under this structure, the parties were to share both the
17 production costs and the rights—the latter via a license of certain rights in the Co-
18 Produced Programs from LMNO to Discovery.

19 24. Rather than contribute its contractually agreed-upon share of production
20 costs for the Co-Produced Programs, however, LMNO manipulated the detailed
21 budgets that were presented to Discovery (which were in most cases included as
22 exhibits to the production agreements) by inflating them, such that by paying its share
23 of the budget (typically 70%), Discovery was actually paying all of (or, at times, more
24 than) the actual estimated and actual in-fact production costs for the Co-Produced
25 Programs, with LMNO *making no funding contribution at all*. There is simply no
26 scenario, contractually or pursuant to industry standards, under which Discovery
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1 would pay all of the production costs for a Co-Produced Program, and allow LMNO
2 to retain (and sell) rights in that Program. Effectively, LMNO attempted to convert
3 the funding arrangement of these Co-Produced Programs into that used for
4 Commissioned Programs (*i.e.*, Discovery paying 100% of the budget) through the
5 deceptive use of fraudulent budgets, without providing Discovery with the benefits
6 associated with Commissioned Programs. In this way, LMNO was taking advantage
7 of and defrauding Discovery on two fronts: monetarily and as to the underlying
8 rights.

9 25. LMNO was not only substantially inflating budget numbers so that
10 Discovery would pay all of the production costs for the Co-Produced Programs, but in
11 some cases, even the amounts reflected as Discovery's share were in excess of the
12 amount actually required to produce those programs. Accordingly, the LMNO
13 Defendants, Schotz, Horowitz, and potentially others would reap that excess for
14 themselves. Even with respect to the Commissioned Programs, the budgets submitted
15 by the LMNO Defendants were manipulated such that Discovery paid in excess of the
16 amount actually necessary to produce those Programs (and actually incurred by the
17 LMNO Defendants in producing the Programs), with the LMNO Defendants
18 pocketing the difference without informing Discovery or seeking to return the
19 overpayments that resulted from such intentional and systematic overcharging.

20 26. The budgets that LMNO created and submitted to Discovery for
21 approval, and on which all the contracts were predicated, were false and fraudulent for
22 an additional reason. LMNO never disclosed that it never intended to and never
23 would contribute to the budgets for the Co-Produced Programs.

24 II. The Contractual Framework and Relevant Agreements

25 27. The Commissioned Programs and the Co-Produced Programs are each
26 subject to a series of written agreements. As more fully detailed below, Discovery
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1 and the LMNO Defendants entered into various “Master Agreements” setting forth the
2 overall terms and conditions that would provide the framework regarding the
3 production and exploitation of the Programs. The parties had separate Master
4 Agreements that governed the Commissioned Programs and the Co-Produced
5 Programs.

6 28. Using these Master Agreements as a foundation, Discovery and the
7 LMNO Defendants would then enter into “Attachments” that (together with the
8 Master Agreements) governed the production of a particular Program. Depending on
9 the Program, the parties would also enter into “Amendments” that typically, but not
10 invariably, addressed the renewal of a Program for an additional season and contained
11 specific budgets for those seasons. Therefore, for a particular Program, there would
12 be a Master Agreement, Attachment, and Amendments that collectively set forth the
13 terms and conditions governing LMNO’s or LEG’s production of that Program for
14 Discovery.

15 **A. The Co-Production Agreements**

16 29. Discovery and LMNO originally entered into a Master Co-Production
17 Agreement dated January 8, 2002 (the “Master”). That same year, they amended the
18 Master when they entered into an Amended and Restated Master Agreement dated as
19 of December 10, 2002 (the “Amended and Restated Master”). Subsequently, in 2013,
20 the parties made further amendments when they entered into a December 31, 2013
21 Amendment (the “2013 Master Amendment”) that further amended and supplemented
22 both the Master and the Amended and Restated Master (the Master, Amended and
23 Restated Master and 2013 Master Amendment are together with all exhibits appended
24 thereto, collectively referenced herein as the “Co-Production Master Agreements”).

25 30. The Co-Production Master Agreements imposed a variety of material
26 obligations on LMNO. For example, Section 1.6 of Exhibit C to the 2013 Master
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1 Amendment provided that “[u]nless otherwise set forth in the Attachment, if the total
2 actual, documented costs of production of the Program are less than the Production
3 Budget hereunder (the difference referred to as the ‘Savings’), then Producer shall
4 remit to Company a pro rata portion of the Savings that is equal to the percentage
5 Company contributes to the Production Budget. For example, if Company’s Budget
6 Contribution is 50% of the Production Budget, Company shall receive 50% of the
7 Savings.” Budget Contributions were to be governed by the applicable Attachments
8 pursuant to Section 1.3 of Exhibit C.

9 31. Section 2.5 of that same exhibit also provided that if LMNO was unable
10 to finance its portion of a production budget, then for subsequent productions of that
11 Program, Discovery could commission additional episodes, and pay all the production
12 costs itself, but then own all rights for those episodes “throughout the world, in
13 perpetuity.”

14 32. In addition, pursuant to Section 5.7 of that same exhibit, LMNO was
15 required to keep “books, accounts and records that accurately and fairly reflect in
16 reasonable detail its transactions and disposition of funds paid in connection with
17 carrying out the transactions or services contemplated by this Agreement.”

18 33. LMNO was also obligated, pursuant to Section 5.2 of that same exhibit,
19 to remit to Discovery a pro rata portion of any tax credits or other governmental
20 subsidies it received.

21 34. Paragraph II in the Amended and Restated Master provided that “DCI
22 agrees to pay Producer, and Producer agrees to accept a ‘Budget Contribution’ equal
23 to a percentage (as set forth in the applicable Attachment) of the actual, documented
24 final cost of production of the Program based upon the DCI approved Production
25 Budget up to the amount set forth in the applicable Attachment. All overages unless
26 pre-approved by DCI in writing, shall be the responsibility of Producer. The Budget
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1 Contribution shall be payable in accordance with Exhibit H (‘Payment Schedule’) of
2 the applicable Attachment.”

3 35. Section 4.2 of Exhibit A to the Amended and Restated Master also
4 required LMNO to keep complete books of account showing in detail all expenses and
5 charges incurred in the production of the Programs.

6 36. Section 10 of Exhibit A to the Amended and Restated Master provides
7 Discovery the right to terminate an applicable Attachment, in addition to any and all
8 other rights Discovery may have, in the event of a default by LMNO for, among other
9 things, failing to cure a default of a material obligation. That provision further
10 provides that upon termination, Discovery has all rights in Program Materials,
11 including the right to produce additional programs, and LMNO is obligated to deliver
12 to Discovery all Program Materials in its possession or control.

13 37. These Co-Produced Master Agreements govern the following Programs:
14 *The Little Couple, Killer Confessions, Murder Book, Unusual Suspects, Hollywood &*
15 *Crime, Baby Genius, Bear Whisperer, Bipolar Mysteries, Cheating Vegas,*
16 *Housebound, Insane Bathrooms, Meteorite Men, NICU Diaries, and Surreal Estate.*
17 As alleged below, these Programs were also subject to additional terms and conditions
18 under various Attachments and Amendments. The Co-Produced Master Agreements
19 are governed by Maryland law.

20 **1. The Little Couple**

21 38. Discovery and LMNO entered into a Co-Production Attachment for New
22 Program, dated November 5, 2008 (together with any exhibits thereto, “The Little
23 Couple Attachment”) that relates specifically to *The Little Couple* Program. In
24 addition, starting in February 2009, the parties entered into a series of amendments to
25 *The Little Couple* Attachment relating to the production of *The Little Couple*

1 (collectively, and together with any exhibits thereto, “*The Little Couple*
2 Amendments”).

3 39. In connection with *The Little Couple* Attachment and each *The Little*
4 *Couple* Amendment thereafter, LMNO prepared detailed budgets that it would submit
5 to Discovery for its approval upon which Discovery’s percentage contribution would
6 be calculated and LMNO’s percentage contribution would be calculated. Those
7 budgets were intentionally and secretly inflated by LMNO and submitted to Discovery
8 for Discovery’s approval. Discovery approved such budgets and relied on them being
9 fair and accurate in agreeing to enter into the relevant agreement with LMNO and
10 making its co-funding contribution, which was directly tied to the budget.

11 40. Section 2.A of *The Little Couple* Attachment states that, “[Discovery]
12 agrees to pay [LMNO] . . . Sixty Six percent (66%) of the Production Budget, up to
13 . . . (USD ██████████) (the ‘Budget Contribution’) payable in accordance with the
14 Payment Schedule attached hereto as Exhibit H.” The Payment Schedule in Exhibit H
15 to *The Little Couple* Attachment reiterates that “[Discovery’s] Contribution” is “66%”
16 and “Co-Funders [LMNO’s] Contribution” is “34%” or “██████████.”

17 41. All relevant subsequent *Little Couple* Amendments reflect that
18 Discovery’s contribution to the production costs increased to 70%, with LMNO’s
19 contribution decreasing to 30%. At all times relevant, however, LMNO was always
20 obligated to contribute its percentage of the production costs. For example, Section 2
21 of Amendment 1, dated as of February 17, 2009, states, “[Discovery’s] Series Budget
22 Contribution for the First Season of the Program shall be seventy percent (70%) of the
23 final going-in Company approved production budget (‘Production Budget’), up to . . .
24 (USD \$ ██████████) payable in accordance with the Payment Schedule attached hereto
25 as Exhibit H-1 and made a part thereof.” The Payment Schedule in Exhibit H-1 to
26 Amendment 1 dated as of February 17, 2009 states, “[Discovery’s] Contribution” is

1 “70%” and “Co-Funders [LMNO’s] Contribution” is “30%” or “[REDACTED].” However,
2 LMNO concealed that it never intended to and never in fact did contribute its 30% to
3 the production budget, making Discovery’s 70% contribution a de facto 100%
4 budgetary contribution. LMNO repeated this pattern of fraudulent behavior for each
5 of *The Little Couple* agreements that was supposed to be co-funded.

6 42. This 70%/30% arrangement is reiterated in Section 2 of Amendment 3
7 dated as of August 24, 2009 and Exhibits G-2 and H-2 thereto; Section 3 of
8 Amendment 4 dated as of February 11, 2010 and Exhibits G-3 and H-3 thereto;
9 Section 2 of Amendment 5 dated as of September 10, 2010 and Exhibits G-4 and H-4
10 thereto; Section 1 of Amendment 9 dated as of November 29, 2011 and Exhibits G-6
11 and H-6 thereto; Amendment 10 dated as of December 16, 2012 and Exhibits G-6 and
12 H-7 thereto; Section 2 of Amendment 11 dated as of June 11, 2013 and Exhibits G-7
13 and H-8 thereto; Exhibit H-9 to Amendment 12 dated as of July 1, 2013; Amendment
14 14 dated as of January 27, 2014 and Exhibit G-8 thereto; Section 2 of Amendment 17
15 dated as of August 6, 2014 and Exhibit G-9 thereto; and Section 2 to Amendment 21
16 dated as of July 1, 2015 and Exhibit G-11 thereto.

17 43. Section 7.F of *The Little Couple* Attachment provides that if LMNO is
18 unable or declines to finance its portion of a production budget, then Discovery could
19 commission additional episodes for subsequent productions of *The Little Couple*, pay
20 all the production costs itself, but then own all rights for those episodes “throughout
21 the world, in perpetuity.”

22 44. Pursuant to *The Little Couple* Attachment and *The Little Couple*
23 Amendments, LMNO was obligated to “return any overpayment” to Discovery.

24 45. Due to LMNO’s failure to contribute to the production costs, Discovery
25 overpaid its contribution as set forth in *The Little Couple* Attachment and *The Little*
26 *Couple* Amendments at issue herein.

1 46. In violation of *The Little Couple* Attachment and *The Little Couple*
2 Amendments, LMNO never returned any overpayments owed to Discovery.

3 47. Pursuant to Section 7(D)(ii)(a) of *The Little Couple* Attachment,
4 “production budget increases or decreases shall reflect actual and direct costs of
5 production of such episodes in the Season.”

6 48. Pursuant to Section 5 of *The Little Couple* Attachment, Discovery was to
7 receive 20% of LMNO’s Adjusted Gross Revenues from all media in perpetuity. In
8 other words, if LMNO licensed *The Little Couple* to a third party, Discovery was to
9 receive 20% of those Adjusted Gross Revenues. In calculating Adjusted Gross
10 Revenues, LMNO was permitted to deduct certain costs and expenses. These costs
11 and expenses, however, were required to be actual, real, verifiable, and actually
12 incurred by LMNO.

13 **2. Unusual Suspects**

14 49. Discovery and LMNO entered into a Co-Production Attachment for New
15 Program, dated July 3, 2008, as relates to the program *Unusual Suspects* (together
16 with any exhibits thereto, the “*Unusual Suspects Attachment*”). In addition, starting
17 in January 2010, the parties entered into a series of amendments to the *Unusual*
18 *Suspects Attachment* relating to the production of *Unusual Suspects* (collectively, and
19 together with any exhibits thereto, the “*Unusual Suspects Amendments*”).

20 50. In connection with the *Unusual Suspects Attachment* and each *Unusual*
21 *Suspects Amendment* thereafter, LMNO prepared detailed budgets that it would
22 submit to Discovery for its approval upon which Discovery’s percentage contribution
23 would be calculated and LMNO’s percentage contribution would be
24 calculated. Those budgets were intentionally and secretly inflated by LMNO and
25 submitted to Discovery for Discovery’s approval. Discovery approved such budgets
26 and relied on them being fair and accurate in agreeing to enter into the relevant
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1 agreement with LMNO and making its co-funding contribution, which was directly
2 tied to the budget.

3 51. Section 2.A of the *Unusual Suspects* Attachment states that “[Discovery]
4 agrees to pay [LMNO] and [LMNO] agrees to accept [a Budget Contribution of] Sixty
5 Eight Percent (68%), up to ... (USD \$ [REDACTED]) (the ‘Budget Contribution’) payable
6 in accordance with the Payment Schedule attached hereto as Exhibit H.” The
7 Payment Schedule in Exhibit H states “[Discovery’s] Contribution is “68%” and “Co-
8 Funders [LMNO’s] Contribution” is “32%” or “[REDACTED].”

9 52. Later amendments to the *Unusual Suspects* Attachment reiterate
10 LMNO’s obligation to contribute a percentage to the production costs and identified
11 the applicable percentage. This arrangement is set forth in Section 2 of Amendment 3
12 dated as of December 9, 2010 and Exhibits H-2 and G-2 thereto; Exhibit H-2 to
13 Amendment 3 dated as of August 1, 2011; Section 2 of Amendment 4 dated as of
14 September 9, 2011 and Exhibits G-Episode 11 and H-2 thereto; Section 2 of
15 Amendment 5 dated as of September 12, 2011 and Exhibits G-3 and H-3 thereto;
16 Section 2 of Amendment 6 dated as of February 27, 2012 and Exhibits G-4 and H-4
17 thereto; Section 2 of Amendment 7 dated as of July 24, 2012 and Exhibits G-5 and H-
18 5; Section 2 of Amendment 8 dated as of June 14, 2013 and Exhibits G-6 and H-6
19 thereto; Section 2 to Amendment 10 dated as of March 28, 2014 and Exhibit G-7
20 thereto; and Section 2 to Amendment 11 dated as of February 26, 2015 and Exhibit G-
21 8 thereto.

22 53. Section 8.E of the *Unusual Suspects* Attachment provides that if LMNO
23 is unable to finance its portion of a production budget, then Discovery could
24 commission additional episodes for subsequent productions of *Unusual Suspects*, pay
25 all the production costs itself, but then own all rights for those episodes “throughout
26 the world, in perpetuity.”

1 54. Pursuant to the *Unusual Suspects* Attachment and the *Unusual Suspects*
2 Amendments, LMNO was obligated to “return any overpayment” to Discovery.

3 55. Due to LMNO’s failure to contribute to the production costs, Discovery
4 overpaid its contribution as set forth in the *Unusual Suspects* Attachment and the
5 *Unusual Suspects* Amendments at issue herein.

6 56. In violation of the *Unusual Suspects* Attachment and the *Unusual*
7 *Suspects* Amendments, LMNO never returned any overpayments owed to Discovery.

8 57. Pursuant to Section 8(B)(ii)(a) of the *Unusual Suspects* Attachment,
9 “production budget increases or decreases shall reflect actual and direct costs of
10 production of such Additional Episodes in the Production Year.”

11 58. Pursuant to Section 5 of the *Unusual Suspects* Attachment, Discovery
12 was to receive twenty percent of LMNO’s Adjusted Gross Revenues from all media in
13 perpetuity. In other words, if LMNO licensed *Unusual Suspects* to a third party,
14 Discovery was to receive 20% of those Adjusted Gross Revenues. In calculating
15 Adjusted Gross Revenues, LMNO was permitted to deduct certain costs and expenses.
16 These costs and expenses, however, were required to be actual, real, verifiable, and
17 actually incurred by LMNO.

18 **3. Killer Confessions**

19 59. Discovery and LMNO entered into a Co-Production Attachment for New
20 Program, dated August 20, 2014, as relates to the program *Killer Confessions* (the
21 “Killer Confessions Attachment”). In addition, in November 2015, the parties entered
22 into an amendment to the *Killer Confessions* Attachment relating to the production of
23 *Killer Confessions* (the, “Killer Confessions Amendment”).

24 60. In connection with the *Killer Confessions* Attachment and the *Killer*
25 *Confessions* Amendment thereafter, LMNO prepared detailed budgets that it would
26 submit to Discovery for its approval upon which Discovery’s percentage contribution
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1 would be calculated and LMNO's percentage contribution would be
2 calculated. Those budgets were intentionally and secretly inflated by LMNO and
3 submitted to Discovery for Discovery's approval. Discovery approved such budgets
4 and relied on them being fair and accurate in agreeing to enter into the relevant
5 agreement with LMNO and making its co-funding contribution, which was directly
6 tied to the budget.

7 61. Pursuant to Section 2.A of the *Killer Confessions* Attachment, "[t]he
8 'Budget Contribution' for the Program shall be a per episode 'Flat Fee' equal to [REDACTED]
9 [REDACTED] United States Dollars (USD \$ [REDACTED]) per episode (for
10 an aggregate payment of [REDACTED] United States Dollars
11 (USD \$ [REDACTED]))."

12 62. Based upon written documentation, Discovery understood that its flat fee
13 budget contribution for *Killer Confessions* for season one was 74.5% of the total
14 production costs, or \$ [REDACTED], with LMNO contributing the remaining 25.5%, or
15 \$ [REDACTED].

16 63. Pursuant to Section 2.A(i) of the *Killer Confessions* Attachment, "[f]or
17 subsequent Production Years (if ordered), the Flat Fee shall be seventy-four and one-
18 half percent (74.5%) of the Company-approved production budget for such Production
19 Year, subject to the applicable production budget limits set forth hereunder."

20 64. Discovery exercised its contractual option to order a second production
21 year of *Killer Confessions* in an "Amendment 1" to the *Killer Confessions*
22 Attachment, effective as of November 30, 2015. For this subsequent production year,
23 Discovery understood that its contribution was 74.5% of the total production costs,
24 with LMNO obligated to contribute the remaining 25.5%

25 65. Pursuant to Section 6 of the *Killer Confessions* Attachment, Discovery
26 was to receive twenty percent of LMNO's Adjusted Gross Revenues from all media in
27

1 perpetuity. In other words, if LMNO licensed *Killer Confessions* to a third party,
2 Discovery was to receive 20% of those Adjusted Gross Revenues. In calculating
3 Adjusted Gross Revenues, LMNO was permitted to deduct certain costs and expenses.
4 These costs and expenses, however, were required to be actual, real, verifiable, and
5 actually incurred by LMNO.

6 **4. Hollywood & Crime**

7 66. Discovery and LMNO entered into a Co-Production Attachment for New
8 Program, dated March 16, 2012, as relates to the program *Hollywood & Crime* (the
9 "Hollywood & Crime Attachment").

10 67. In connection with the *Hollywood & Crime Attachment*, LMNO prepared
11 a detailed budget that it submitted to Discovery for its approval upon which
12 Discovery's percentage contribution would be calculated and LMNO's percentage
13 calculation would be calculated. This budget was intentionally and secretly inflated
14 by LMNO and submitted to Discovery for Discovery's approval. Discovery approved
15 such budget and relied on it being fair and accurate in agreeing to enter into the
16 relevant agreement with LMNO and making its co-funding contribution, which was
17 directly tied to the budget.

18 68. Section 2.A of the *Hollywood & Crime Attachment* states that
19 "[Discovery] agrees to pay [LMNO], and [LMNO] agrees to accept . . . 74% of the
20 Production Budget, up to . . . \$ [REDACTED] . . . payable in accordance with the Payment
21 Schedule attached hereto as Exhibit H." The Payment Schedule in Exhibit H to the
22 *Hollywood & Crime Attachment* states that Discovery's contribution totals 74% and
23 the "Co-Funders [LMNO's] contribution" is "26%"—or "\$ [REDACTED]."

24 69. Pursuant to the *Hollywood & Crime Attachment*, LMNO was obligated
25 to "return any overpayment" to Discovery.
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1 70. Due to LMNO’s failure to contribute to the production costs, Discovery
2 overpaid its contribution as set forth in the *Hollywood & Crime* Attachment.

3 71. In violation of the *Hollywood & Crime* Attachment, LMNO never
4 returned any overpayments owed to Discovery.

5 72. Pursuant to Section 8(B)(ii)(a) of the *Hollywood & Crime* Attachment,
6 “production budget increases or decreases shall reflect actual and direct costs of
7 production of such Additional Episodes in the Production Year.”

8 73. Section 8.D also provides that if LMNO is unable or declines to finance
9 its portion of a production budget, then Discovery could commission additional
10 episodes for subsequent productions of *Hollywood & Crime*, pay all the production
11 costs itself, but then own all rights for those episodes “throughout the world, in
12 perpetuity.”

13 74. Pursuant to Section 6 of the *Hollywood & Crime* Attachment, Discovery
14 was to receive twenty percent of LMNO’s Adjusted Gross Revenues from all media in
15 perpetuity. In other words, if LMNO licensed *Hollywood & Crime* to a third party,
16 Discovery was to receive 20% of those Adjusted Gross Revenues. In calculating
17 Adjusted Gross Revenues, LMNO was permitted to deduct certain costs and expenses.
18 These costs and expenses, however, were required to be actual, real, verifiable, and
19 actually incurred by LMNO.

20 **5. Murder Book**

21 75. Discovery and LMNO entered into a Co-Production Attachment for New
22 Program, dated December 31, 2013, as relates to the program *Murder Book* (the
23 “Murder Book Attachment”). In addition, starting in May 2014, the parties entered
24 into amendments to the *Murder Book* Attachment relating to the production of *Murder*
25 *Book* (the, “Murder Book Amendments”).

1 76. In connection with the *Murder Book* Attachment and the relevant *Murder*
2 *Book* Amendment thereafter, LMNO prepared detailed budgets that it would submit to
3 Discovery for its approval upon which Discovery’s percentage contribution would be
4 calculated and LMNO’s percentage contribution would be calculated. Those budgets
5 were intentionally and secretly inflated by LMNO and submitted to Discovery for
6 Discovery’s approval. Discovery approved such budgets and relied on them being fair
7 and accurate in agreeing to enter into the relevant agreement with LMNO and making
8 its co-funding contribution, which was directly tied to the budget.

9 77. Pursuant to Section 2.A of the *Murder Book* Attachment, “[t]he ‘Budget
10 Contribution’ for the Program shall be a per episode ‘Flat Fee’ equal to [REDACTED]
11 [REDACTED]
12 [REDACTED] (USD \$ [REDACTED] per episode (for an aggregate payment of
13 [REDACTED]
14 United States Dollars (USD \$ [REDACTED])).”

15 78. Based upon written documentation, Discovery understood that its flat fee
16 budget contribution for *Murder Book* for season one was 70% of the total production
17 costs, or \$ [REDACTED], with LMNO contributing the remaining 30%, or \$ [REDACTED].

18 79. Further, Section 2.A(i) of the *Murder Book* Attachment states, “[f]or
19 subsequent Production Years (if ordered), the Flat Fee shall be seventy percent (70%)
20 of the Company-approved production budget for such Production Year, subject to the
21 applicable production budget limits set forth hereunder.”

22 80. Discovery exercised its contractual option to order a second production
23 year of *Murder Book* in Amendment 2, effective as of February 20, 2015, to the
24 *Murder Book* Attachment. For this subsequent production year, Discovery understood
25 that its contribution was 70% of the total production costs, with LMNO obligated to
26 contribute the remaining 30%.

1 81. Pursuant to Section 6 of the *Murder Book* Attachment, Discovery was to
2 receive twenty percent of LMNO's Adjusted Gross Revenues from all media in
3 perpetuity. In other words, if LMNO licensed *Murder Book* to a third party,
4 Discovery was to receive 20% of those Adjusted Gross Revenues. In calculating
5 Adjusted Gross Revenues, LMNO was permitted to deduct certain costs and expenses.
6 These costs and expenses, however, were required to be actual, real, verifiable, and
7 actually incurred by LMNO.

8 **6. Other Co-Produced Programs**

9 82. In addition to the Programs identified above, there were additional Co-
10 Produced Programs, including *Baby Genius*, *Bear Whisperer*, *Bipolar Mysteries*,
11 *Cheating Vegas*, *Housebound*, *Insane Bathrooms*, *Meteorite Men*, *NICU Diaries*, and
12 *Surreal Estate*. These additional Co-Produced Programs were all governed by the
13 Amended and Restated Master and their respective Attachments and any Amendments
14 thereto that required LMNO to contribute toward the production costs of those
15 Programs, which LMNO fraudulently and deliberately failed to do.

16 83. Each of the Attachments for each of these Co-Produced Programs also
17 provide that if LMNO is unable or declines to finance its portion of a production
18 budget, then Discovery could commission additional episodes for subsequent
19 productions of these Co-Produced Programs, pay all the production costs itself, but
20 then own all rights for those episodes "throughout the world, in perpetuity."

21 **B. The Commission Agreements**

22 84. There are two Commission Programs that are the subject of these
23 Counterclaims: *7 Little Johnstons* and *The Coroner: I Speak for the Dead*. Each is
24 governed by a separate Master Commission Agreement and specific Attachments, as
25 described below, with the Master Commission Agreement for *7 Little Johnstons*
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1 governed by Maryland Law, and the Master Commission Agreement for *The*
2 *Coroner: I Speak for the Dead* governed by California law.

3 **1. 7 Little Johnstons**

4 85. The Master Commission Agreement dated January 28, 2004 (the
5 “January 28, 2004 Master”) provides that Discovery has 100% ownership of each
6 show described in each Attachment to it. Specifically, pursuant to Section 2.1 to
7 Exhibit A of the January 28, 2004 Master, “[LMNO] and [Discovery] agree that for
8 the purpose of ownership pursuant to Section 201 of the U.S. Copyright Act (but not
9 for tax or any other similar purposes), the Program and all elements thereof and
10 relating thereto, including without limitation, outtakes, research and publicity
11 materials (collectively, the ‘Materials’) shall be considered works made for hire for
12 [Discovery] and are the sole and exclusive property of [Discovery], its successors and
13 assigns, for all copyright terms, renewal terms and revivals thereof throughout the
14 world, for all uses and purposes whatsoever (e.g., display, broadcast, sell, transfer,
15 perform, reproduce, prepare derivative works, etc.). [Discovery] will have the sole
16 and exclusive right to exploit in any manner or media whether now known or hereafter
17 devised all rights in the Materials, including without limitation all intellectual property
18 and other proprietary rights, throughout the world in perpetuity without any additional
19 payment to any individual or entity.”

20 86. Discovery and LMNO entered into a Commission Attachment for New
21 Program, dated November 10, 2014 (together with any exhibits thereto, the “7 Little
22 Johnstons Attachment”), that relates specifically to the *7 Little Johnstons* Program. In
23 addition, starting in January 2015, the parties entered into amendments to the *7 Little*
24 *Johnstons Attachment* relating to the production of *7 Little Johnstons* (collectively,
25 and together with any exhibits thereto, the “7 Little Johnstons Amendments”).

1 87. Pursuant to the *7 Little Johnstons* Attachment and the *7 Little Johnstons*
2 Amendments, LMNO was obligated to “return any overpayment” to Discovery.

3 88. In violation of the *7 Little Johnstons* Attachment and the *7 Little*
4 *Johnstons* Amendments, LMNO never returned any overpayments owed to Discovery.

5 89. Pursuant to Section 5.3 of Exhibit A to the January 28, 2004 Master,
6 LMNO must “keep complete books of account showing in detail all expenses and
7 charges incurred in the production of the Program.”

8 90. Pursuant to Section 5.2 of Exhibit A to the January 28, 2004 Master,
9 LMNO was obligated to deposit the Budget Contribution “in a segregated bank
10 account set up exclusively for the production of [*7 Little Johnstons*]” and the Budget
11 Contribution “shall not be co-mingled with any other funds of [LMNO] which are not
12 directly connected with the production of [*7 Little Johnstons*].”

13 91. LMNO was also obligated, pursuant to Section VIII(K) of the *7 Little*
14 *Johnstons* Attachment, to remit to Discovery all tax credits or other governmental
15 subsidies it received.

16 **2. *The Coroner: I Speak for the Dead***

17 92. The Master Commission Agreement dated November 16, 2015
18 (“November 16, 2015 Master”) provides that Discovery has 100% ownership of each
19 show described in each Attachment to it. Specifically, pursuant to Section 2.1 to
20 Exhibit A of the November 16, 2015 Master, “[LEG] and [Discovery] agree that for
21 the purpose of ownership pursuant to Section 201 of the U.S. Copyright Act (but not
22 for tax or any other similar purposes), the Program and all elements thereof and
23 relating thereto, including without limitation, Program titles, outtakes, research and
24 publicity materials (collectively, the ‘Materials’) shall be considered works made for
25 hire for [Discovery] and are the sole and exclusive property of [Discovery], its
26 successors and assigns, for all copyright terms, renewal terms and revivals thereof
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1 throughout the world, for all uses and purposes whatsoever (e.g., display, broadcast,
2 sell, transfer, perform, reproduce, prepare derivative works, etc.). [Discovery] will
3 have the sole and exclusive right to exploit in any manner or media whether now
4 known or hereafter devised all rights in the Materials, including without limitation all
5 trademarks, intellectual property and other proprietary rights, throughout the world in
6 perpetuity without any additional payment to any individual or entity.”

7 93. Discovery and LEG are parties to the Commission Attachment for New
8 Program, dated as of August 31, 2015 (“*The Coroner: I Speak for the Dead*
9 Attachment”), and any amendments thereto, to the November 16, 2015 Master,
10 relating to the production of the show *The Coroner: I Speak for the Dead*
11 (collectively, “*The Coroner: I Speak for the Dead Agreement*”).

12 94. Pursuant to Section 5.4 of Exhibit A to the November 16, 2015 Master,
13 LEG must “keep complete books of account showing in detail all expenses and
14 charges incurred, or Additional Funding . . . if received, in the production of the
15 Program.”

16 95. LEG also must keep “books, accounts and records that accurately and
17 fairly reflect in reasonable detail its transactions and dispositions of funds paid in
18 connection with carrying out the transactions or services contemplated by this
19 Agreement” pursuant to Section 6.1(c) of Exhibit A to the November 16, 2015
20 Master.

21 **III. Discovery Receives Whistleblower Tip**

22 96. In late 2015, Discovery received a message via its ethics hotline
23 concerning allegations that LMNO and its principals, including Schotz, had been
24 repeatedly engaging in fraudulent conduct relating to LMNO’s production of various
25 programs for Discovery. Prior to receiving this message, Discovery was wholly
26 unaware of any allegations that LMNO and/or LEG were secretly defrauding

1 Discovery and violating their contracts. According to the whistleblower, LMNO's
2 fraudulent conduct included, *inter alia*, systematic fraudulent behavior involving
3 production costs and budgets (including keeping separate, secret internal budgets that
4 reflected the true cost of the Programs it was producing for Discovery, which, for the
5 Co-Produced Programs, were based on Discovery's percentage of the budget
6 contribution only); the failure to properly share with Discovery tax credits LMNO
7 received on productions; and the improper use of LMNO's corporate credit card by
8 certain of its principals for personal expenditures, which would then be expensed as
9 "production costs."

10 **IV. Discovery's Response After Learning of the LMNO Defendants'** 11 **Wrongful Conduct**

12 97. Taking these allegations very seriously, Discovery requested a meeting
13 with Schotz to discuss the matter. That meeting took place on February 10, 2016, at
14 the LMNO Defendants' offices. Discovery set forth its concerns to the LMNO
15 Defendants in detail, but received unsatisfactory answers.

16 98. Accordingly, at the close of that February 10, 2016 meeting, Discovery
17 delivered to the LMNO Defendants separate Notices of Audit, Preservation and
18 Default relating to programs *The Little Couple*, *Killer Confessions*, *The Coroner: I*
19 *Speak for the Dead*, *Unusual Suspects* and *Hollywood & Crime*, and a Notice of
20 Preservation and Default relating to *7 Little Johnstons* (collectively, the "Notices of
21 Default").

22 99. Discovery promptly invoked its audit rights under the relevant
23 agreements, as set forth in the Notices of Default. The LMNO Defendants requested a
24 meeting with Discovery to explain how they handle the production of Discovery
25 programming. Discovery agreed to attend, and also desired to include its external
26 auditor at the meeting. The LMNO Defendants objected to Discovery's request, so
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1 Discovery attended the meeting without its external auditor. On February 25, 2016,
2 during a meeting at the LMNO Defendants’ counsel’s office, Discovery again
3 requested access to the LMNO Defendants’ books and records to commence an audit
4 for the programs identified in the Notices of Default. At this meeting, LMNO merely
5 provided two recently “rebuilt and recreated” documents relating to *Hollywood &*
6 *Crime*—a Program not even in production at the time—as well as a single photograph
7 reflecting the purported state of the LMNO Defendants’ purported books and records.
8 The LMNO Defendants indicated that additional materials would be provided at a
9 later date and so Discovery agreed to sequence the audit, starting with *The Little*
10 *Couple*.

11 100. A month later, the LMNO Defendants indicated the audit could
12 commence but only for the Program *Hollywood & Crime*. Even then, when
13 Discovery’s auditors arrived at LMNO’s offices to begin the audit of *Hollywood &*
14 *Crime*, LMNO provided only three documents and a single photograph. Two of those
15 documents—*i.e.*, the recently “rebuilt and recreated” documents related to *Hollywood*
16 *& Crime*—had already been provided, together with the same photograph, to
17 Discovery at the February 25, 2016 meeting. At no time did LMNO provide
18 Discovery with even the most basic types of documents normally examined in any
19 standard audit. While LMNO briefly showed Discovery’s auditors a lengthy cost
20 ledger—entitled *Hollywood & Crime* Cost “Bible”—LMNO refused to allow
21 Discovery to retain a copy. LMNO’s refusal to provide this basic, obviously relevant
22 Cost “Bible” amplified Discovery’s concerns. Moreover, the LMNO representative
23 who attended the initial audit thwarted Discovery’s efforts at every turn, and refused
24 to answer even basic questions.

25 101. Because the LMNO Defendants indicated they would require more time
26 to provide documents and information related to Discovery’s audit, Discovery
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1 provided the LMNO Defendants with an extension of the “cure period” identified in
2 the Notices of Default, ultimately allowing the LMNO Defendants until April 18,
3 2016 to cure the identified defaults.

4 102. In the nearly three-month period following delivery of Discovery’s
5 Notices of Default, the LMNO Defendants offered no meaningful access to their
6 books and records and provided no assurances that their material breaches would or
7 could be cured. In the limited audits that LMNO allowed to go forward, Discovery’s
8 auditors’ observations supported the claim made by the whistleblower that LMNO
9 was secretly pegging its own internal budget and costs to only Discovery’s
10 contribution to the total approved budget.

11 103. In a letter dated April 18, 2016—the close of the extended cure period—
12 the LMNO Defendants’ outside counsel *admitted* that the LMNO Defendants failed to
13 keep any records validating the costs of production of the Programs and that LMNO
14 had not been contributing its share of production costs for Co-Produced Programs as it
15 was contractually obligated to do. Thus, the LMNO Defendants not only failed to
16 cure the identified, material defaults, their counsel’s letter confirmed that they were in
17 material breach of their various agreements with Discovery.

18 104. Accordingly, on or around June 17, 2016, Discovery sent the LMNO
19 Defendants Notices of Termination relating to *The Little Couple*, *Unusual Suspects*,
20 *Killer Confessions*, *Hollywood & Crime*, *The Coroner: I Speak for the Dead*, and 7
21 *Little Johnstons* (the last of which was made effective as of July 2, 2016) (collectively,
22 the “Notices of Termination”). In connection with the termination, and consistent
23 with its rights under the various agreements, Discovery requested that the LMNO
24 Defendants return to Discovery all Program Materials and/or Program Deliverables
25 (as defined in the relevant agreements) relating to the Programs. Notwithstanding
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1 repeated requests, the LMNO Defendants have refused to return Program Materials
2 and/or Program Deliverables for *Killer Confessions* and *7 Little Johnstons*.

3 **V. LMNO’s Wrongful Use of Discovery’s Trademarks**

4 105. Discovery is the registered owner of the distinctive mark THE LITTLE
5 COUPLE, registered in the Principal Register of the United States Patent &
6 Trademark Office (“PTO”), Reg. No. 4,062,239, in relation to entertainment and
7 educational services. Discovery also has common law rights in the mark THE
8 LITTLE COUPLE in connection with entertainment services and related services and
9 goods, referred to collectively as “Discovery’s Marks.”

10 106. Discovery first began airing *The Little Couple* on its TLC network on or
11 about May 26, 2009, and the show has continuously aired on TLC since that time, and
12 has never appeared on any other television network in the United States. Through
13 Discovery’s efforts and actions to market, fund, advertise, and promote *The Little*
14 *Couple* over the course of eight seasons, 134 episodes, and seven years, and by
15 broadcasting the show on Discovery’s network TLC, the mark has gained widespread
16 recognition and became famous. As LMNO admits in its Complaint, *The Little*
17 *Couple* is a successful show.

18 107. Moreover, the general public associates *The Little Couple* with Discovery
19 and TLC, not with LMNO. Discovery has promoted the mark THE LITTLE
20 COUPLE not only through television advertisements, but also online, in print, and
21 through various instrumentalities of popular culture to educate consumers in the
22 United States and around the world that they can view *The Little Couple* program on
23 Discovery’s TLC network and related channels. As a result, THE LITTLE COUPLE
24 has become specifically valuable to Discovery, possessing strong secondary meaning
25 among consumers.

1 108. On or about, September 20, 2010, Discovery applied to register the mark
2 THE LITTLE COUPLE as a word mark for “Entertainment and educational services
3 in the nature of television and multimedia program series featuring subjects of general
4 human interest distributed via various platforms across multiple forms of transmission
5 media; providing entertainment information to others via a global computer network.”
6 On or about November 29, 2011, the PTO issued a certificate of registration for
7 Discovery’s mark THE LITTLE COUPLE for the same services, as U.S. Patent &
8 Trademark Office Reg. No. 4,062,239.

9 109. Annexed hereto as Exhibit A is a true and correct copy of the PTO
10 registration certificate evidencing Discovery’s ownership of the trademark THE
11 LITTLE COUPLE and a printout from the PTO’s website setting forth the status of
12 this mark. The registration for THE LITTLE COUPLE is valid, subsisting, and
13 unrevoked.

14 110. Following Discovery’s termination of its relationship with LMNO
15 relating to *The Little Couple* on or about June 17, 2016, LMNO has unlawfully used
16 and exploited Discovery’s registered trademarks, including its mark THE LITTLE
17 COUPLE, through, *inter alia*, on information and belief, the sale of apparel related to
18 *The Little Couple*. LMNO has no credible claim to ongoing association with *The*
19 *Little Couple* show or Discovery’s mark THE LITTLE COUPLE given that Discovery
20 has lawfully terminated the production agreements with LMNO.

21 111. On information and belief, LMNO is continuing to attempt to create false
22 associations between LMNO and *The Little Couple* generally, through the sale of
23 apparel and merchandise, and otherwise.

24 112. LMNO’s unauthorized use of Discovery’s mark is particularly harmful
25 given the FBI’s recent raid on LMNO, which creates a danger that the public will
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1 associate *The Little Couple* and the real individuals who appear on the show with the
2 investigation into LMNO's criminality.

3 **FIRST CLAIM FOR RELIEF**
4 **Breach of Written Contract against LMNO**
5 **(LMNO's Failure to Contribute Its Share of the Production Costs for Certain**
6 **Co-Produced Programs)**

7 113. Discovery repeats and realleges each of the allegations set forth in
8 paragraphs 1 through 112, above, as though set forth in full herein.

9 114. LMNO systematically and repeatedly failed to contribute its contractually
10 required portion of the production costs for LMNO's production of *The Little Couple*,
11 *Unusual Suspects*, *Hollywood & Crime*, *Killer Confessions*, and *Murder Book*, in
12 violation of the Co-Production Master Agreements and applicable Attachments and
13 Amendments thereto.

14 115. The Co-Production Master Agreements are valid and enforceable
15 contracts that governed LMNO's production of *The Little Couple*, *Unusual Suspects*,
16 *Hollywood & Crime*, *Killer Confessions*, and *Murder Book* for Discovery.

17 116. *The Little Couple* Attachment is a valid and enforceable contract that
18 governed LMNO's production of *The Little Couple* for Discovery.

19 117. *The Little Couple* Amendments dated as of February 17, 2009, as of
20 August 24, 2009, as of February 11, 2010, as of September 10, 2010, as of November
21 29, 2011, as of December 19, 2012, as of June 11, 2013, as of July 1, 2013, as of
22 January 27, 2014, as of August 6, 2014, and as of July 1, 2015 are valid and
23 enforceable contracts that governed LMNO's production of *The Little Couple* for
24 Discovery (together with the Co-Production Master Agreements, *The Little Couple*
25 Attachment, and all *The Little Couple* Amendments, "*The Little Couple Agreement*").

26 118. The *Unusual Suspects* Attachment is a valid and enforceable contract that
27 governed LMNO's production of *Unusual Suspects* for Discovery.

1 119. The *Unusual Suspects* Amendments dated as of December 9, 2010, as of
2 August 1, 2011, as of September 9, 2011, as of September 12, 2011, as of February
3 27, 2012, as of July 24, 2012, as of June 14, 2013, as of March 28, 2014, and as of
4 February 26, 2015 are valid and enforceable contracts that governed LMNO’s
5 production of *Unusual Suspects* for Discovery (together with the Co-Production
6 Master Agreements, the *Unusual Suspects* Attachment, and all other *Unusual Suspects*
7 Amendments, the “*Unusual Suspects Agreement*”).

8 120. The *Hollywood & Crime* Attachment is a valid and enforceable contract
9 that governed LMNO’s production of *Hollywood & Crime* for Discovery (together
10 with the Co-Production Master Agreements, the *Hollywood & Crime Agreement*”).

11 121. The *Killer Confessions* Attachment is a valid and enforceable contract
12 that governed LMNO’s production of *Killer Confessions* for Discovery (together with
13 the Co-Production Master Agreements and all *Killer Confessions* Amendment(s), the
14 “*Killer Confessions Agreement*”).

15 122. The *Murder Book* Attachment is a valid and enforceable contract that
16 governed LMNO’s production of *Murder Book* for Discovery (together with the Co-
17 Production Master Agreements and all *Murder Book* Amendments, the “*Murder Book*
18 *Agreement*”).

19 123. Discovery has performed all of its obligations under the Co-Production
20 Master Agreements, *The Little Couple* Agreement, the *Unusual Suspects* Agreement,
21 the *Hollywood & Crime* Agreement, the *Killer Confessions* Agreement, and the
22 *Murder Book* Agreement.

23 124. By failing to pay its contractually required portion of the production costs
24 for *The Little Couple*, LMNO materially breached *The Little Couple* Agreement,
25 resulting in damages to Discovery, the amount which will be proven at trial.
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1 125. By failing to pay its contractually required portion of the production costs
2 for *Unusual Suspects*, LMNO materially breached the *Unusual Suspects* Agreement,
3 resulting in damages to Discovery, the amount which will be proven at trial.

4 126. By failing to pay its contractually required portion of the production costs
5 for *Hollywood & Crime*, LMNO materially breached the *Hollywood & Crime*
6 Agreement, resulting in damages to Discovery, the amount which will be proven at
7 trial.

8 127. By failing to pay its contractually required portion of the production costs
9 for *Killer Confessions*, LMNO materially breached the *Killer Confessions* Agreement,
10 resulting in damages to Discovery, the amount which will be proven at trial.

11 128. By failing to pay its contractually required portion of the production costs
12 for *Murder Book*, LMNO materially breached the *Murder Book* Agreement, resulting
13 in damages to Discovery, the amount which will be proven at trial.

14 **SECOND CLAIM FOR RELIEF**

15 **Breach of Written Contract against LMNO**
16 **(LMNO's Failure to Return Overpayments to Discovery**
17 **for Certain Co-Produced Programs)**

18 129. Discovery repeats and realleges each of the allegations set forth in
19 paragraphs 1 through 128, above, as though set forth in full herein.

20 130. Relying upon LMNO's fraudulent production budgets for *The Little*
21 *Couple*, *Unusual Suspects*, and *Hollywood & Crime*, Discovery's actual payments
22 exceeded the amounts due pursuant to the relevant governing agreements and LMNO
23 systematically and repeatedly failed to return these overpayments, including any
24 "Savings," owed to Discovery for *The Little Couple*, *Unusual Suspects*, and
25 *Hollywood & Crime*, in violation of the Co-Production Master Agreements and
26 applicable Attachments and Amendments thereto.

1 131. The Co-Production Master Agreements are valid and enforceable
2 contracts that governed LMNO's production of *The Little Couple*, *Unusual Suspects*,
3 and *Hollywood & Crime* for Discovery.

4 132. *The Little Couple* Agreement is a valid and enforceable contract that
5 governed LMNO's production of *The Little Couple* for Discovery.

6 133. The *Unusual Suspects* Agreement is a valid and enforceable contract that
7 governed LMNO's production of *Unusual Suspects* for Discovery.

8 134. The *Hollywood & Crime* Agreement is a valid and enforceable contract
9 that governed LMNO's production of *Hollywood & Crime* for Discovery.

10 135. Discovery has performed all of its obligations under the Co-Production
11 Master Agreements, *The Little Couple* Agreement, the *Unusual Suspects* Agreement,
12 and the *Hollywood & Crime* Agreement.

13 136. By failing to return overpayments owed to Discovery for *The Little*
14 *Couple*, LMNO materially breached *The Little Couple* Agreement, resulting in
15 damages to Discovery, the amount which will be proven at trial.

16 137. By failing to return overpayments to Discovery for *Unusual Suspects*,
17 LMNO materially breached the *Unusual Suspects* Agreement, resulting in damages to
18 Discovery, the amount which will be proven at trial.

19 138. By failing to return overpayments to Discovery for *Hollywood & Crime*,
20 LMNO materially breached the *Hollywood & Crime* Agreement, resulting in damages
21 to Discovery, the amount which will be proven at trial.

22 **THIRD CLAIM FOR RELIEF**

23 **Breach of Written Contract against LMNO**
24 **(LMNO's Failure to Keep Fair and Accurate Books, Accounts, and Records for**
25 **Certain Co-Produced Programs)**

26 139. Discovery repeats and realleges each of the allegations set forth in
27 paragraphs 1 through 138, above, as though set forth in full herein.

1 140. LMNO systematically and repeatedly failed to keep fair and accurate
2 books, accounts, and records for *The Little Couple*, *Unusual Suspects*, *Hollywood &*
3 *Crime*, *Killer Confessions*, and *Murder Book*, in violation of the Co-Production
4 Master Agreements.

5 141. The Co-Production Master Agreements are valid and enforceable
6 contracts that governed LMNO's production of *The Little Couple*, *Unusual Suspects*,
7 *Hollywood & Crime*, *Killer Confessions*, and *Murder Book* for Discovery.

8 142. *The Little Couple* Agreement is a valid and enforceable contract that
9 governed LMNO's production of *The Little Couple* for Discovery.

10 143. The *Unusual Suspects* Agreement is a valid and enforceable contract that
11 governed LMNO's production of *Unusual Suspects* for Discovery.

12 144. The *Hollywood & Crime* Agreement is a valid and enforceable contract
13 that governed LMNO's production of *Hollywood & Crime* for Discovery.

14 145. *The Killer Confessions* Agreement is a valid and enforceable contract that
15 governed LMNO's production of *Killer Confessions* for Discovery.

16 146. The *Murder Book* Agreement is a valid and enforceable contract that
17 governed LMNO's production of *Murder Book* for Discovery.

18 147. Discovery has performed all of its obligations under the Co-Production
19 Master Agreements, *The Little Couple* Agreement, the *Unusual Suspects* Agreement,
20 the *Hollywood & Crime* Agreement, the *Killer Confessions* Agreement, and the
21 *Murder Book* Agreement.

22 148. By failing to keep fair and accurate books, accounts, and records for *The*
23 *Little Couple*, LMNO has materially breached *The Little Couple* Agreement, including
24 Section 5.7 of Exhibit C to the 2013 Master Amendment, resulting in damages to
25 Discovery, the amount which will be proven at trial.

1 149. By failing to keep fair and accurate books, accounts, and records for
2 *Unusual Suspects*, LMNO has materially breached the *Unusual Suspects* Agreement,
3 including Section 5.7 of Exhibit C to the 2013 Master Amendment, resulting in
4 damages to Discovery, the amount which will be proven at trial.

5 150. By failing to keep fair and accurate books, accounts, and records for
6 *Hollywood & Crime*, LMNO has materially breached the *Hollywood & Crime*
7 Agreement, including Section 5.7 of Exhibit C to the 2013 Master Amendment,
8 resulting in damages to Discovery, the amount which will be proven at trial.

9 151. By failing to keep fair and accurate books, accounts, and records for
10 *Killer Confessions*, LMNO has materially breached the *Killer Confessions* Agreement,
11 including Section 5.7 of Exhibit C to the 2013 Master Amendment, resulting in
12 damages to Discovery, the amount which will be proven at trial.

13 152. By failing to keep fair and accurate books, accounts, and records for
14 *Murder Book*, LMNO has materially breached the *Murder Book* Agreement, including
15 Section 5.7 of Exhibit C to the 2013 Master Amendment, resulting in damages to
16 Discovery, the amount which will be proven at trial.

17 **FOURTH CLAIM FOR RELIEF**

18 **Breach of Written Contract against LMNO**
19 **(LMNO's Failure to Tender Accurate Co-Production Budgets**
20 **Reflecting Actual and Direct Costs of Production)**

21 153. Discovery repeats and realleges each of the allegations set forth in
22 paragraphs 1 through 152, above, as though set forth in full herein.

23 154. LMNO systematically failed to tender accurate production budgets that
24 reflected actual and direct costs of production for *The Little Couple*, *Unusual*
25 *Suspects*, and *Hollywood & Crime* in violation of the applicable Program agreements.

26 155. *The Little Couple* Agreement is a valid and enforceable contract that
27 governed LMNO's production of *The Little Couple* for Discovery.
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1 156. The *Unusual Suspects* Agreement is a valid and enforceable contract that
2 governed LMNO's production of *Unusual Suspects* for Discovery.

3 157. The *Hollywood & Crime* Agreement is a valid and enforceable contract
4 that governed LMNO's production of *Hollywood & Crime* for Discovery.

5 158. Discovery has performed all of its obligations under *The Little Couple*
6 Agreement, the *Unusual Suspects* Agreement, and the *Hollywood & Crime*
7 Agreement.

8 159. By failing to tender accurate production budgets that reflected actual and
9 direct costs of production for *The Little Couple*, LMNO has materially breached *The*
10 *Little Couple* Agreement, resulting in damages to Discovery, the amount which will
11 be proven at trial.

12 160. By failing to tender accurate production budgets that reflected actual and
13 direct costs of production for *Unusual Suspects*, LMNO has materially breached the
14 *Unusual Suspects* Agreement, resulting in damages to Discovery, the amount which
15 will be proven at trial.

16 161. By failing to tender accurate production budgets that reflected actual and
17 direct costs of production for *Hollywood & Crime*, LMNO has breached the
18 *Hollywood & Crime* Agreement, resulting in damages to Discovery, the amount which
19 will be proven at trial.

20 **FIFTH CLAIM FOR RELIEF**

21 **Breach of Written Contract against LMNO**
22 **(LMNO's Failure to Pay Discovery Its Share of LMNO's Adjusted Gross**
Revenue for Certain Co-Produced Programs)

23 162. Discovery repeats and realleges each of the allegations set forth in
24 paragraphs 1 through 161, above, as though set forth in full herein.

25 163. Upon information and belief, LMNO has received revenue from its
26 exploitation of *The Little Couple*, *Unusual Suspects*, *Hollywood & Crime*, *Killer*
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1 *Confessions*, and *Murder Book*. LMNO has failed to pay Discovery 20% of LMNO's
2 Adjusted Gross Revenue from all media as required pursuant to Attachments for *The*
3 *Little Couple*, *Unusual Suspects*, *Hollywood & Crime*, *Killer Confessions*, and *Murder*
4 *Book*.

5 164. *The Little Couple* Attachment is a valid and enforceable contract that
6 governed LMNO's production of *The Little Couple* for Discovery.

7 165. The *Unusual Suspects* Attachment is a valid and enforceable contract that
8 governed LMNO's production of *Unusual Suspects* for Discovery.

9 166. The *Killer Confessions* Attachment is a valid and enforceable contract
10 governed LMNO's production of *Killer Confessions* for Discovery.

11 167. The *Hollywood & Crime* Attachment is a valid and enforceable contract
12 that governed LMNO's production of *Hollywood & Crime* for Discovery.

13 168. The *Murder Book* Attachment is a valid and enforceable contract that
14 governed LMNO's production of *Murder Book* for Discovery.

15 169. Discovery has performed all of its obligations under *The Little Couple*
16 Attachment, the *Unusual Suspects* Attachment, the *Killer Confessions* Attachment, the
17 *Hollywood & Crime* Attachment, and the *Murder Book* Attachment.

18 170. By failing to pay Discovery 20% of LMNO's Adjusted Gross Revenue
19 from all media for *The Little Couple*, LMNO has materially breached Section 5 of *The*
20 *Little Couple* Attachment, resulting in damages to Discovery, the amount which will
21 be proven at trial.

22 171. By failing to pay Discovery 20% of LMNO's Adjusted Gross Revenue
23 from all media for *Unusual Suspects*, LMNO breached Section 5 of the *Unusual*
24 *Suspects* Attachment, resulting in damages to Discovery, the amount which will be
25 proven at trial.

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1 172. By failing to pay Discovery 20% of LMNO's Adjusted Gross Revenue
2 from all media for *Killer Confessions*, LMNO breached Section 6 of the *Killer*
3 *Confessions* Attachment, resulting in damages to Discovery, the amount which will be
4 proven at trial.

5 173. By failing to pay Discovery 20% of LMNO's Adjusted Gross Revenue
6 from all media for *Hollywood & Crime*, LMNO breached Section 6 of the *Hollywood*
7 *& Crime* Attachment, resulting in damages to Discovery, the amount which will be
8 proven at trial.

9 174. By failing to pay Discovery 20% of LMNO's Adjusted Gross Revenue
10 from all media for *Murder Book*, LMNO breached Section 6 of the *Murder Book*
11 Attachment, resulting in damages to Discovery, the amount which will be proven at
12 trial.

13 **SIXTH CLAIM FOR RELIEF**

14 **Breach of Written Contract against LMNO**
15 **(LMNO's Failure to Pay Discovery Its Share of Additional Funding**
16 **for *The Little Couple*)**

17 175. Discovery repeats and realleges each of the allegations set forth in
18 paragraphs 1 through 174, above, as though set forth in full herein.

19 176. Upon information and belief, LMNO received tax credits or other
20 governmental subsidies for *The Little Couple*.

21 177. LMNO failed to remit to Discovery a pro rata portion of any tax credits
22 or other governmental subsidies it received for *The Little Couple*, in violation of the
23 2013 Master Amendment.

24 178. The 2013 Master Amendment is a valid and enforceable contract that
25 governed LMNO's production of *The Little Couple* for Discovery.

26 179. Discovery has performed all of its obligations under the 2013 Master
27 Amendment.

1 180. By failing to remit to Discovery a pro rata portion of any tax credits or
2 other governmental subsidies it received for *The Little Couple*, LMNO has materially
3 breached Section 5.2 of Exhibit C to the 2013 Master Amendment, resulting in
4 damages to Discovery, with the precise amount to be proven at trial.

5 **SEVENTH CLAIM FOR RELIEF**

6 **Breach of Written Contract against LEG**
7 **(LEG's Failure to Keep Fair and Accurate Books, Accounts,**
8 **and Records for *The Coroner: I Speak for the Dead*)**

9 181. Discovery repeats and realleges each of the allegations set forth in
10 paragraphs 1 through 180, above, as though set forth in full herein.

11 182. LEG systematically and repeatedly failed to keep fair and accurate books,
12 accounts, and records for *The Coroner: I Speak for the Dead*, in violation of the
13 November 16, 2015 Master.

14 183. The November 16, 2015 Master is a valid and enforceable contract that
15 governed LEG's production of *The Coroner: I Speak for the Dead* for Discovery.

16 184. Discovery has performed all of its obligations under the November 16,
17 2015 Master.

18 185. By failing to keep fair and accurate books, accounts, and records for *The*
19 *Coroner: I Speak for the Dead*, LEG has materially breached Sections 5.4 and 6.1(c)
20 of Exhibit A to the November 16, 2015 Master, resulting in damages to Discovery, the
21 amount which will be proven at trial.

22 **EIGHTH CLAIM FOR RELIEF**

23 **Breach of Written Contract against LMNO**
24 **(LMNO's Failure to Keep Fair and Accurate Books, Accounts,**
25 **and Records for *7 Little Johnstons*)**

26 186. Discovery repeats and realleges each of the allegations set forth in
27 paragraphs 1 through 185, above, as though set forth in full herein.

1 187. LMNO systematically and repeatedly failed to keep fair and accurate
2 books, accounts, and records for *7 Little Johnstons*, in violation of the January 28,
3 2004 Master.

4 188. The January 28, 2004 Master is a valid and enforceable contract that
5 governed LMNO's production of *7 Little Johnstons* for Discovery.

6 189. Discovery has performed all of its obligations under the January 28, 2004
7 Master.

8 190. By failing to keep fair and accurate books, accounts, and records for *7*
9 *Little Johnstons*, LMNO has materially breached Section 5.3 of Exhibit A to the
10 January 28, 2004 Master, resulting in damages to Discovery, the amount which will
11 be proven at trial.

12 **NINTH CLAIM FOR RELIEF**

13 **Breach of Written Contract against LMNO**
14 **(LMNO's Failure to Pay Discovery All Additional Funding for**
***7 Little Johnstons*)**

15 191. Discovery repeats and realleges each of the allegations set forth in
16 paragraphs 1 through 190, above, as though set forth in full herein.

17 192. Upon information and belief, LMNO received tax credits or other
18 governmental subsidies for *7 Little Johnstons*.

19 193. LMNO failed to remit to Discovery all tax credits or other governmental
20 subsidies it received for *7 Little Johnstons*, and/or cooperate with Discovery in
21 obtaining such subsidies, in violation of Section VIII(K) of the *7 Little Johnstons*
22 Attachment.

23 194. The *7 Little Johnstons* Attachment is a valid and enforceable contract that
24 governed LMNO's production of *7 Little Johnstons* for Discovery.

25 195. Discovery has performed all of its obligations under the *7 Little*
26 *Johnstons* Attachment.

1 196. By failing to remit to Discovery all tax credits or other governmental
2 subsidies it received for *7 Little Johnstons*, and/or cooperate with Discovery in
3 obtaining such subsidies, LMNO has materially breached Section VIII(K) of the *7*
4 *Little Johnstons* Attachment, resulting in damages to Discovery, the amount which
5 will be proven at trial.

6 **TENTH CLAIM FOR RELIEF**

7 **Breach of Written Contract against LMNO**
8 **(LMNO’s Failure to Return Any Overpayments to Discovery for *7 Little***
9 ***Johnstons*)**

9 197. Discovery repeats and realleges each of the allegations set forth in
10 paragraphs 1 through 196, above, as though set forth in full herein.

11 198. LMNO failed to return overpayments owed to Discovery for *7 Little*
12 *Johnstons*, in violation of the January 28, 2004 Master, *7 Little Johnstons* Attachment,
13 and *7 Little Johnstons* Amendments (together, the “*7 Little Johnstons* Agreement”).

14 199. The *7 Little Johnstons* Agreement is a valid and enforceable contract that
15 governed LMNO’s production of *7 Little Johnstons* for Discovery.

16 200. Discovery has performed all of its obligations under the *7 Little*
17 *Johnstons* Agreement.

18 201. By failing to return overpayments owed to Discovery for *7 Little*
19 *Johnstons*, LMNO materially breached the *7 Little Johnstons* Agreement, resulting in
20 damages to Discovery, the amount which will be proven at trial.

21 **ELEVENTH CLAIM FOR RELIEF**

22 **Breach of Written Contract against LMNO**
23 **(LMNO’s Failure to Deposit Budget Contribution into a Segregated Bank**
24 **Account for *7 Little Johnstons*)**

24 202. Discovery repeats and realleges each of the allegations set forth in
25 paragraphs 1 through 201, above, as though set forth in full herein.

1 numbers the LMNO Defendants provided to Discovery were accurate, submitted in
2 good faith, and not contrived.

3 216. In submitting budgets to Discovery in connection with the various
4 Programs, the LMNO Defendants made specific, false representations regarding the
5 budget amounts for each of the Co-Produced and Commissioned Programs.
6 Specifically, the LMNO Defendants artificially inflated each of its production budgets
7 in order to drive up Discovery's contribution amounts, and improperly used
8 Discovery's contributions for non-production related purposes.

9 217. For example, on or around October 30, 2008, Horwitz prepared and/or
10 submitted to Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for the
11 pilot for *The Little Couple* as reflected in Exhibit G to *The Little Couple* Attachment.

12 218. On or around February 12, 2009, Horwitz prepared and/or submitted to
13 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season one of
14 *The Little Couple* as reflected in Exhibit G-1 to Amendment 1 dated as of February
15 17, 2009 to *The Little Couple* Attachment.

16 219. On or around August 7, 2009, Horwitz prepared and/or submitted to
17 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season two of
18 *The Little Couple* as reflected in Exhibit G-2 to Amendment 3 dated as of August 24,
19 2009 to *The Little Couple* Attachment.

20 220. On or around February 5, 2010, Horwitz prepared and/or submitted to
21 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season three
22 of *The Little Couple* as reflected in Exhibit G-3 to Amendment 4 dated as of February
23 11, 2010 to *The Little Couple* Attachment.

24 221. On or around August 23, 2010, Horwitz prepared and/or submitted to
25 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season four of
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1 *The Little Couple* as reflected in Exhibit G-4 to Amendment 5 dated as of September
2 10, 2010 to *The Little Couple* Attachment.

3 222. On or around November 10, 2011, Horwitz prepared and/or submitted to
4 Discovery an incorrect, fraudulent production budget less talent fee of \$ [REDACTED] for
5 season five of *The Little Couple* as reflected in Exhibit G-6 to Amendment 9 dated as
6 of November 29, 2011 to *The Little Couple* Attachment.

7 223. On or around June 10, 2013, Horwitz prepared and/or submitted to
8 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season six of
9 *The Little Couple* as reflected in Exhibit G-7 to Amendment 11 dated as of June 11,
10 2013 to *The Little Couple* Attachment.

11 224. On or around January 22, 2014, Horwitz prepared and/or submitted to
12 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season “6B”
13 of *The Little Couple* as reflected in Exhibit G-8 to Amendment 14 dated as of January
14 27, 2014 to *The Little Couple* Attachment.

15 225. On or around August 6, 2014, Horwitz prepared and/or submitted to
16 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season seven
17 of *The Little Couple* as reflected in Exhibit G-9 to Amendment 17 dated as of August
18 6, 2014 to *The Little Couple* Attachment.

19 226. On or around March 12, 2015, Horwitz prepared and/or submitted to
20 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for additional
21 episodes for season seven of *The Little Couple* as reflected in Exhibit G-10 to
22 Amendment 20 dated as of March 24, 2015 to *The Little Couple* Attachment.

23 227. On or around June 24, 2015, Horwitz prepared and/or submitted to
24 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] prepared by
25 Horwitz for season eight of *The Little Couple* as reflected in Exhibit G-11 to
26 Amendment 21 dated as of July 1, 2015 to *The Little Couple* Attachment.

1 228. On or around July 9, 2008, Horwitz prepared and/or submitted to
2 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season one of
3 *Unusual Suspects* as reflected in Exhibit G to the *Unusual Suspects* Attachment.

4 229. On or around December 3, 2010, Horwitz prepared and/or submitted to
5 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] prepared by
6 Horwitz for season two of *Unusual Suspects* as reflected in Exhibit G-2 to
7 Amendment 3 dated as of December 9, 2010 to the *Unusual Suspects* Attachment.

8 230. On or around September 9, 2011, Horwitz prepared and/or submitted to
9 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for an additional
10 episode of season two of *Unusual Suspects* as reflected in Exhibit G-Episode 11 to
11 Amendment 4 dated as of September 9, 2011 to the *Unusual Suspects* Attachment.

12 231. On or around September 14, 2011, Horwitz prepared and/or submitted to
13 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season three
14 of *Unusual Suspects* as reflected in Exhibit G-3 to Amendment 5 dated as of
15 September 12, 2011 to the *Unusual Suspects* Attachment.

16 232. On or around April 2, 2012, Horwitz prepared and/or submitted to
17 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season four of
18 *Unusual Suspects* as reflected in Exhibit G-4 to Amendment 6 dated as of February
19 27, 2012 to the *Unusual Suspects* Attachment.

20 233. On or around July 16, 2012, Horwitz prepared and/or submitted to
21 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season five of
22 *Unusual Suspects* as reflected in Exhibit G-5 to Amendment 7 dated as of July 24,
23 2012 to the *Unusual Suspects* Attachment.

24 234. On or around June 12, 2013, Horwitz prepared and/or submitted to
25 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season six of
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1 *Unusual Suspects* as reflected in Exhibit G-6 to Amendment 8 dated as of June 14,
2 2013 to the *Unusual Suspects* Attachment.

3 235. On or around March 21, 2014, Horwitz prepared and/or submitted to
4 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season seven
5 of *Unusual Suspects* as reflected in Exhibit G-7 to Amendment 10 dated as of March
6 28, 2014 to the *Unusual Suspects* Attachment.

7 236. On or around February 11, 2015, Horwitz prepared and/or submitted to
8 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season eight
9 of *Unusual Suspects* as reflected in Exhibit G-8 to Amendment 11 dated as of
10 February 26, 2015 to the *Unusual Suspects* Attachment.

11 237. On or around March 16, 2012, Horwitz prepared and/or submitted to
12 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for six one-hour
13 episodes of *Hollywood & Crime* as reflected in Exhibit G to the *Hollywood & Crime*
14 Attachment.

15 238. On or around September 9, 2014, Horwitz prepared and/or submitted to
16 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season one of
17 *Killer Confessions* as reflected in a document entitled "Budget Assumptions."

18 239. On or around December 8, 2015, Horwitz prepared and/or submitted to
19 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season two of
20 *Killer Confessions* as reflected in a document entitled "Budget Assumptions."

21 240. On or around January 21, 2014, Horwitz prepared and/or submitted to
22 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season one of
23 *Murder Book* as reflected in a document entitled "Budget Assumptions."

24 241. On or around February 27, 2015, Horwitz prepared and/or submitted to
25 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season two of
26 *Murder Book* as reflected in a document entitled "Budget Assumptions."

1 242. On or around April 2, 2010, Horwitz prepared and/or submitted to
2 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for one one-hour
3 program of *Baby Genius* as reflected in Exhibit G to the *Baby Genius* Attachment
4 dated April 5, 2010 entered into between Discovery and LMNO.

5 243. On or around July 16, 2008, Horwitz prepared and/or submitted to
6 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for two one-hour
7 programs of *Bear Whisperer* as reflected in Exhibit G to the *Bear Whisperer*
8 Attachment dated June 16, 2008 entered into between Discovery and LMNO.

9 244. On or around June 10, 2010, Horwitz prepared and/or submitted to
10 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for a second
11 production year of *Bear Whisperer* as reflected in Exhibit G to the *Bear Whisperer*
12 Attachment dated April 29, 2010 entered into between Discovery and LMNO.

13 245. On or around January 29, 2010, Horwitz prepared and/or submitted to
14 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for one one-hour
15 program of *Bipolar Mysteries* as reflected in Exhibit G to the *Bipolar Mysteries*
16 Attachment dated January 29, 2010 entered into between Discovery and LMNO.

17 246. On or around March 7, 2012, Horwitz prepared and/or submitted to
18 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for three one-hour
19 episodes of *Cheating Vegas* as reflected in Exhibit G to the *Cheating Vegas*
20 Attachment dated March 8, 2012 entered into between Discovery and LMNO.

21 247. On or around March 8, 2010, Horwitz prepared and/or submitted to
22 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for one one-hour
23 pilot of *Housebound* as reflected in Exhibit G to the *Housebound* Attachment dated as
24 of February 9, 2010 entered into between Discovery and LMNO.

25 248. On or around August 28, 2012, Horwitz prepared and/or submitted to
26 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for one half-hour
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1 pilot of *Insane Bathrooms* as reflected in Exhibit G to the *Insane Bathrooms*
2 Attachment dated November 28, 2012 entered into between Discovery and LMNO.

3 249. On or around September 22, 2008, Horwitz prepared and/or submitted to
4 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for one one-hour
5 pilot of *Meteorite Men* as reflected in Exhibit G to the *Meteorite Men* Attachment
6 dated October 7, 2008 entered into between Discovery and LMNO (the "*Meteorite*
7 *Men Attachment*").

8 250. On or around July 8, 2009, Horwitz prepared and/or submitted to
9 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for an additional
10 six episodes of *Meteorite Men* as reflected in Exhibit G-1 to Amendment 1 dated as of
11 June 29, 2009 to the *Meteorite Men* Attachment.

12 251. On or around May 25, 2010, Horwitz prepared and/or submitted to
13 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season two of
14 *Meteorite Men* as reflected in Exhibit C-3 to Amendment 3 dated May 26, 2010 to the
15 *Meteorite Men* Attachment.

16 252. On or around March 7, 2011, Horwitz prepared and/or submitted to
17 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season three
18 of *Meteorite Men* as reflected in Exhibit C-4 to Amendment 4 dated as of March 8,
19 2011 to the *Meteorite Men* Attachment.

20 253. On or around January 26, 2010, Horwitz prepared and/or submitted to
21 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for ten half-hour
22 programs of *NICU Diaries* as reflected in Exhibit G to the *NICU Diaries* Attachment
23 dated January 29, 2010 entered into between Discovery and LMNO.

24 254. On or around December 11, 2012, Horwitz prepared and/or submitted to
25 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for one one-hour
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1 pilot of *Surreal Estate* as reflected in Exhibit G to the *Surreal Estate Attachment*
2 dated November 28, 2012 entered into between Discovery and LMNO.

3 255. On or around November 9, 2014, Horwitz prepared and/or submitted to
4 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for the pilot for 7
5 *Little Johnstons* as reflected in Exhibit C to the *7 Little Johnstons Attachment*.

6 256. On or around January 12, 2015, Horwitz prepared and/or submitted to
7 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season one of
8 *7 Little Johnstons* as reflected in Exhibit C-1 to Amendment 1 dated as of January 9,
9 2015 to the *7 Little Johnstons Attachment*.

10 257. On or around March 31, 2015, Horwitz prepared and/or submitted to
11 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for a special one-
12 hour Q&A episode of *7 Little Johnstons* as reflected in Exhibit C-2 to Amendment 2
13 dated as of March 31, 2015 to the *7 Little Johnstons Attachment*.

14 258. On or around May 4, 2015, Horwitz prepared and/or submitted to
15 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season “1B”
16 of *7 Little Johnstons* as reflected in Exhibit C-3 to Amendment 3 dated as of May 13,
17 2015 to the *7 Little Johnstons Attachment*.

18 259. On or around December 14, 2015, Horwitz prepared and/or submitted to
19 Discovery an incorrect, fraudulent production budget of \$ [REDACTED] for season one of
20 *The Coroner: I Speak for the Dead* in a document entitled “Budget Assumptions.”

21 260. As alleged above, each of the above production budgets prepared and/or
22 submitted by the LMNO Defendants and Horwitz for the Co-Produced Programs and
23 Commissioned Programs—as well as numerous others not included among the
24 illustrative and non-exhaustive examples enumerated above—was false, misleading,
25 artificially inflated, and materially inaccurate.

1 261. The LMNO Defendants, Schotz, and Horwitz were aware that each of the
2 production budgets was false, misleading, artificially inflated, and materially
3 inaccurate.

4 262. The LMNO Defendants' fraudulent misrepresentations, through Horwitz,
5 were made for the purpose of defrauding Discovery, and with the intent of deceiving
6 Discovery into increasing and overpaying its budget contributions for each of the Co-
7 Produced Programs and Commissioned Programs by millions of dollars.

8 263. Discovery relied on the LMNO Defendants' fraudulent
9 misrepresentations in approving the production budgets for each of the Co-Produced
10 Programs and Commissioned Programs. Discovery's payments of its pro-rata portion
11 of the production budgets for each of the Co-Produced Programs were predicated on
12 LMNO's purportedly truthful calculation of those production budgets. Similarly,
13 Discovery's payments for the production budgets for each of the Commissioned
14 Programs were predicated on the LMNO Defendants' purportedly truthful calculation
15 of those production budgets.

16 264. At the time of the LMNO Defendants' fraudulent misrepresentations,
17 Discovery believed them to be true. In reliance on these fraudulent
18 misrepresentations, Discovery was induced to provide its budget contributions for
19 each of the Co-Produced Programs and the Commissioned Programs by millions of
20 dollars.

21 265. Each of the budgets submitted by LMNO for the Co-Produced Programs
22 and by the LMNO Defendants for the Commissioned Programs was reviewed by
23 Discovery and its employees, which would frequently ask questions to the LMNO
24 Defendants about estimated cost projections. Budgets often went through multiple
25 drafts before a final, going-in budget was submitted to Discovery for approval.

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1 Discovery relied on the good-faith nature of such negotiations and representations
2 made during the course of the budget discussions.

3 266. Had Discovery known the actual facts, it would have acted differently to
4 protect its interests. Discovery's reliance on the LMNO Defendants' fraudulent
5 misrepresentations was justifiable.

6 267. LMNO, LEG, Schotz, Horwitz, and the LMNO Defendants' employees
7 and agents actively concealed the fact that these budgets did not represent the true
8 intended cost of production and never informed Discovery that the Programs were
9 produced for less than the budgets reflected.

10 268. Discovery first became aware that the LMNO Defendants might have
11 engaged in fraudulent budgeting in late 2015, when Discovery received a message on
12 its ethics hotline concerning allegations that the LMNO Defendants and their
13 principals, including Schotz, had been repeatedly engaging in fraudulent conduct
14 relating to the LMNO Defendants' production of various Programs for Discovery.

15 269. As a direct and proximate result of the false promises that the LMNO
16 Defendants made without intent to perform them, Discovery has suffered damages,
17 the precise amount and scope of which will be determined at trial.

18 **FOURTEENTH CLAIM FOR RELIEF**

19 **Recovery of Personal Property/Claim and Delivery for *Killer Confessions***
20 **against LMNO**

21 270. Discovery repeats and realleges each of the allegations set forth in
22 paragraphs 1 through 269, above, as though set forth in full herein.

23 271. Section 10 of Exhibit A to the Amended and Restated Master provides:
24 "[u]pon termination, [Discovery] shall have all rights granted under this Amendment
25 and Restatement in all Program Materials (which rights will include the right to
26 produce additional programs), regardless of the stage of completion, and [LMNO]

1 shall promptly deliver, or cause to be delivered, to [Discovery] all Program Materials
2 in [LMNO's] possession or control as of the date of termination.”

3 272. As alleged in greater detail above, LMNO breached the *Killer*
4 *Confessions* Agreement and Discovery terminated the *Killer Confessions* Attachment
5 in its June 17 Notice of Termination.

6 273. Pursuant to the terms of the Amended and Restated Master and
7 Discovery's right to possession of Program Materials after termination as set forth
8 therein, Discovery's June 17 Notice of Termination demanded that LMNO deliver to
9 Discovery all Program Materials, now known as “Program Deliverables,” for *Killer*
10 *Confessions* within two business days (collectively, the “*Killer Confessions Detained*
11 Program Deliverables”).

12 274. Discovery also demanded LMNO's return of the *Killer Confessions*
13 *Detained Program Deliverables* in a letter dated June 23 sent to LMNO (the “June 23
14 Letter”).

15 275. As set forth in the June 23 Letter, the *Killer Confessions Detained*
16 *Program Deliverables* include all research materials for approved stories and stories in
17 the pipeline including contact information for participants connected to stories for
18 season two of *Killer Confessions*, all draft scripts for season two of *Killer*
19 *Confessions*, all edit scripts for season two of *Killer Confessions*, all footage shot
20 with logs for season two of *Killer Confessions*, all story string outs for season two of
21 *Killer Confessions*, and EDL's for uncompleted projects for season two of *Killer*
22 *Confessions*.

23 276. The *Killer Confessions Detained Program Deliverables* are valuable to
24 Discovery and necessary for continued production of the Program. Although not
25 ascertainable at the present time, the value of the *Killer Confessions Detained*
26 *Program Deliverables* is no less than \$2 million.

1 seasons one and two of *7 Little Johnstons*, masters completed through July 2, 2016 for
2 seasons one and two of *7 Little Johnstons*, rough cuts, fine cuts, and locked cuts
3 completed through July 2, 2016 delivered on HDCAM-SR for seasons one and two of
4 *7 Little Johnstons*, graphics master(s) for seasons one and two of *7 Little Johnstons*,
5 source tape logs for seasons one and two of *7 Little Johnstons*, music cue sheets for
6 masters for seasons one and two of *7 Little Johnstons*, EDL's for uncompleted
7 projects for seasons one and two of *7 Little Johnston*, any additional program content
8 for seasons one and two of *7 Little Johnstons*, the US Labor Report for seasons one
9 and two of *7 Little Johnstons*, the cost report as of July 2, 2016 for seasons one and
10 two of *7 Little Johnstons*, and all Program Deliverables identified on Program
11 Deliverables exhibit as of July 2, 2016 for seasons one and two of *7 Little Johnstons*.

12 290. The *7 Little Johnstons* Detained Program Deliverables are valuable to
13 Discovery and necessary for continued production of the Program. The value of the *7*
14 *Little Johnstons* Detained Program Deliverables is no less than \$2 million and likely
15 well in excess of that amount.

16 291. Upon information and belief, Discovery alleges that the *7 Little*
17 *Johnstons* Detained Program Deliverables are located at the LMNO Defendants'
18 offices at 15821 Ventura Boulevard, Suite 320, Encino, California, 91436, except
19 those Detained Program Deliverables which have been moved to other locations
20 without Discovery's knowledge.

21 292. Despite the terms of the January 28, 2004 Master and the *7 Little*
22 *Johnstons* Season Two Agreement, and notwithstanding Discovery's June 17 Notice
23 of Termination and Discovery's June 23 Letter, the LMNO Defendants have refused
24 to deliver the *7 Little Johnstons* Detained Program Deliverables to Discovery, and all
25 such Detained Program Deliverables remain unjustly and wrongfully in the LMNO
26 Defendants' possession.

1 result of these unlawful, unfair and fraudulent business practices, Discovery is entitled
2 to restitution in the form of an assignment of all rights in the Co-Produced Programs,
3 which Discovery would have owned pursuant to a Commission Agreement or any
4 other agreement by which it funded 100% of the budget for such shows.

5 **SEVENTEENTH CLAIM FOR RELIEF**
6 **Accounting for Certain Programs against LMNO**

7 300. Discovery repeats and realleges each of the allegations set forth in
8 paragraphs 1 through 299, above, as though set forth in full herein.

9 301. LMNO has not accounted to Discovery for the amount of royalties due to
10 Discovery under the Adjusted Gross Revenues provisions relating to *The Little*
11 *Couple, Unusual Suspects, Hollywood & Crime, Killer Confessions, and Murder*
12 *Book*, and has actively blocked, frustrated, and refused to honor Discovery’s
13 contractually provided rights (which it invoked) to audit LMNO’s books regarding the
14 same, including Discovery’s right to “verify[] the payments made to [Discovery]”
15 under the Adjusted Gross Revenue provisions. LMNO is contractually obligated to
16 provide an accounting to Discovery under the Adjusted Gross Revenue provisions
17 relating to *The Little Couple, Unusual Suspects, Hollywood & Crime, Killer*
18 *Confessions, and Murder Book*, which provide that “[LMNO] shall render to
19 [Discovery] periodic statements prepared by an authorized agent of [LMNO] showing,
20 in summary form, the calculation of all Adjusted Gross Revenues”

21 302. Providing an accurate accounting related to the Adjusted Gross Revenue
22 provisions is sufficiently complicated—particularly in light of the alleged
23 unavailability, incompleteness and inaccuracy of LMNO’s books and records—that it
24 merits the relief afforded by this claim.

25 303. LMNO has not accounted to Discovery for the amount of Additional
26 Funding received by LMNO and payable to Discovery for *The Little Couple* and 7
27

1 *Little Johnstons*, and has actively blocked, frustrated, and refused to honor
2 Discovery’s contractually provided rights (which it invoked) to audit LMNO’s books
3 regarding the same. LMNO is contractually obligated to provide an accounting to
4 Discovery in connection with Additional Funding received for these two Programs.
5 *The Little Couple* Agreement provides that “[LMNO] shall remit to [Discovery] a pro
6 rata portion of the Additional Funding amounts received by [LMNO] that is equal to
7 the percentage [Discovery] contributes to the Production Budget.” The *7 Little*
8 *Johnstons* Agreement provides that “[i]f [LMNO] is successful in securing Additional
9 Funding, [LMNO] shall remit to [Discovery] all Additional Funding amounts received
10 by [LMNO].” Providing an accurate accounting related to the Additional Funding is
11 sufficiently complicated—particularly in light of the alleged unavailability,
12 incompleteness and inaccuracy of LMNO’s books and records—that it merits the
13 relief afforded by this claim.

14 304. LMNO has not accounted to Discovery for the amount of overpayments
15 made by Discovery to LMNO in funding the Programs, and has actively blocked,
16 frustrated, and refused to honor Discovery’s contractually provided rights (which it
17 invoked) to audit LMNO’s books regarding the same. Providing an accurate
18 accounting related to Discovery’s overpayments is sufficiently complicated—
19 particularly in light of the alleged unavailability, incompleteness and inaccuracy of
20 LMNO’s books and records—that it merits the relief afforded by this claim.

21 305. Discovery is entitled to and seeks such accountings.

22 **EIGHTEENTH CLAIM FOR RELIEF**

23 **Declaratory Judgment of Ownership of the Co-Produced Programs**

24 306. Discovery repeats and realleges each of the allegations set forth in
25 paragraphs 1 through 305, above, as though set forth in full herein.

1 307. There is an actual and justiciable controversy between Discovery, on the
2 one hand, and LMNO, on the other, as to whether LMNO’s failure to perform its
3 material obligations under the Co-Production Master Agreements, Attachments, and
4 Amendments thereto—including, without limitation, its failure to finance its portion
5 of the production costs for the Co-Produced Programs—has resulted in Discovery
6 owning all rights throughout the world, in perpetuity, to any episodes and seasons of
7 the Co-Produced Programs in which LMNO has submitted fraudulent budgets
8 designed to induce Discovery to pay all production costs and hide the fact that LMNO
9 failed to contribute any portion of the production costs.

10 308. As set forth above, Discovery contends that as a result of LMNO’s
11 failure to finance its contractually required portion of the costs for the Co-Produced
12 Programs, Discovery “owns all rights” to any episodes and seasons of the Co-
13 Produced Programs for which LMNO has failed to finance its portion of the
14 production costs “throughout the world, in perpetuity” as reflected in and based upon,
15 among other things, Section 2.5 to Exhibit C of the 2013 Master Amendment; Section
16 7(f) of *The Little Couple* Attachment; Section 8(e) of the *Unusual Suspects*
17 Attachment; Section 8(d) of the *Hollywood & Crime* Attachment; Section 7.D of the
18 *Baby Genius* Attachment dated April 5, 2010; Section 8.E of the *Bear Whisperer*
19 Attachment dated June 16, 2008; Section 7.D of the *Bipolar Mysteries* Attachment
20 dated January 29, 2010; Section 8.D of the *Cheating Vegas* Attachment dated March
21 8, 2012; Section 7.F of the *Housebound* Attachment dated February 9, 2010; Section
22 7.C of the *Insane Bathrooms* Attachment dated November 28, 2012; Section 8.E of
23 the *Meteorite Men* Attachment; Section 7.D of the *NICU Diaries* Attachment dated
24 January 29, 2010; and Section 7.C of the *Surreal Estate* Attachment dated November
25 28, 2012.

1 connection thereto. Discovery intends to continue to preserve and maintain its rights
2 with respect to Discovery's Marks.

3 315. LMNO has used Discovery's Marks in commerce in a number of ways,
4 including, but not limited to, on information and belief, procuring and offering for sale
5 apparel bearing the mark THE LITTLE COUPLE.

6 316. On information and belief, consumers who purchase apparel from LMNO
7 are not aware that Discovery did not approve, endorse, or license the products and that
8 LMNO is no longer affiliated with Discovery.

9 317. LMNO's unauthorized and intentional use of Discovery's Marks in
10 connection with entertainment services and related merchandise infringes on
11 Discovery's exclusive rights in its federally registered mark and in its common law
12 rights, and is likely to cause confusion, mistake or deception as to the source of the
13 services offered by LMNO. Such use is also likely to cause confusion as to whether
14 Discovery is sponsoring, has authorized or is somehow affiliated with LMNO's
15 productions or the sale of LMNO products.

16 318. On information and belief, LMNO has used and is using Discovery's
17 Marks to sell apparel.

18 319. On or about July 3, 2014, LMNO apparently applied for its own
19 registration for a stylized logo version of THE LITTLE COUPLE trademark, but in
20 International Class 25 for "T-shirts and sweatshirts; Hats." LMNO also applied to
21 register its mark in Class 16 for "Calendars" and "Greeting cards" but withdrew that
22 portion of the application after failing to produce specimens showing use of the
23 trademark on such goods. On or about July 14, 2015, the PTO issued a certificate of
24 registration for LMNO's logo version of THE LITTLE COUPLE mark for "clothing,
25 namely, T-shirts and sweatshirts; Hats" only, as U.S. Patent & Trademark Office Reg.
26 No. 4,774,145.

1 320. As part of the trademark prosecution process, LMNO represented to the
2 PTO that its use of the logo version of THE LITTLE COUPLE mark was designed to
3 create consumer associations with the program airing on TLC and not for apparel
4 generally by submitting specimens to demonstrate LMNO's use of the logo on
5 products that clearly relate to the show, including on a mug, a pillow, and pet clothing.
6 In fact, LMNO also submitted specimens that showed LMNO's use of the logo
7 version of THE LITTLE COUPLE mark and the same character names on a mug, a
8 pillow, and pet clothing. These specimens confirm that the only purpose of LMNO's
9 registration was communicate to consumers that the goods that bear the logo that is
10 the subject of the registration are affiliated with, connected to, and associated with
11 *The Little Couple* program. Discovery did not approve LMNO's separate registration
12 of a logo version the mark THE LITTLE COUPLE by LMNO.

13 321. LMNO's unauthorized use of Discovery's Marks in connection with
14 LMNO's goods are likely to cause consumer confusion with respect to Discovery's
15 sponsorship, relationship or affiliation.

16 322. LMNO's actions have caused, and will continue to cause, irreparable
17 harm to Discovery and an incalculable loss of goodwill and damages.

18 323. LMNO's unauthorized and intentional use of the registered THE LITTLE
19 COUPLE trademark in connection with its production and apparel constitutes
20 trademark infringement in violation of Sections 32(1) and 43(a) of the Lanham Act,
21 15 U.S.C. §§ 1114(1), 1125(a).

22 324. LMNO's infringement has damaged Discovery in an amount to be
23 determined at trial.

24 325. LMNO's infringement has caused and unless restrained by this Court will
25 continue to cause Discovery irreparable injury.

1 to distinguish Discovery's products and services from those of others and has diluted
2 the distinctive quality of Discovery's famous and nationally recognized trademarks.

3 333. LMNO's use of Discovery's Marks also constitutes dilution by
4 tarnishment. LMNO was recently raided by the FBI, which received widespread
5 attention in the media and industry press. In the context of the raid and now public
6 allegations of criminality, this perceived association between Discovery and LMNO
7 arising from LMNO's use of Discovery's Marks harms the reputation of Discovery's
8 Marks.

9 334. Discovery has been, and absent injunctive relief, will continue to be
10 irreparably harmed by LMNO's actions.

11 335. Discovery has no adequate remedy at law for LMNO's dilution of THE
12 LITTLE COUPLE mark.

13 **TWENTY-FIRST CLAIM FOR RELIEF**

14 **Trademark Dilution Under California Business and Professions Code § 14247**
15 **against LMNO**

16 336. Discovery repeats and realleges each of the allegations set forth in
17 paragraphs 1 through 335, above, as though set forth in full herein.

18 337. LMNO's acts as described above dilute and detract from the
19 distinctiveness of Discovery's Marks, resulting in damage to Discovery and the
20 substantial business and goodwill symbolized by Discovery's Marks in violation of
21 California's anti-dilution statute, Cal. Business and Professions Code § 14247.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Discovery Communications, LLC, demands judgment against
24 LMNO Cable Group, Inc. (on its First through Sixth, Eighth through Eleventh, and
25 Thirteenth through Twenty-First Claims For Relief) and LMNO Entertainment Group,
26 LLC (on its Seventh, Twelfth, Thirteenth, and Fifteenth Claims for Relief) as follows:
27

- 1 1. That Discovery be awarded compensatory and consequential damages
2 according to proof on its First through Thirteenth Claims for Relief
3 (Breach of Written Contract, Breach of Implied Covenant of Good Faith
4 and Fair Dealing, and Fraud) in an amount to be proven at trial.
- 5 2. That Discovery be awarded immediate possession of the *Killer*
6 *Confessions* Detained Program Deliverables before judgment in this
7 action as well as final judgment for possession on its Fourteenth Claim
8 for Relief (Recovery for Personal Property/ Claim and Delivery).
- 9 3. That Discovery be awarded immediate possession of the *7 Little*
10 *Johnstons* Detained Program Deliverables before judgment in this action
11 as well as final judgment for possession on its Fifteenth Claim for Relief
12 (Recovery for Personal Property/ Claim and Delivery).
- 13 4. For restitution on its Sixteenth Claim for Relief (California Unfair
14 Competition Law) in the form of an assignment of all rights in the Co-
15 Produced Programs, which Discovery would have owned pursuant to a
16 Commission Agreement or any other agreement by which it funded
17 100% of the budget for such shows.
- 18 5. For an accounting on its Seventeenth Claim for Relief (Accounting) for
19 (i) the amount of royalties due to Discovery under the Adjusted Gross
20 Revenues provisions relating to *The Little Couple*, *Unusual Suspects*,
21 *Hollywood & Crime*, *Killer Confessions*, and *Murder Book*; (ii) the
22 amount of Additional Funding received by LMNO and payable to
23 Discovery for *The Little Couple* and *7 Little Johnstons*; and (iii) the
24 amount of overpayments made by Discovery to LMNO in funding the
25 Programs.

- 1 6. For a determination and order on its Eighteenth Claim for Relief
2 (Declaratory Judgment) that Discovery owns all rights throughout the
3 world, in perpetuity, to any episodes and seasons of the Co-Produced
4 Programs—including *The Little Couple*, *Killer Confessions*, *Murder*
5 *Book*, *Unusual Suspects*, *Hollywood & Crime*, *Baby Genius*, *Bear*
6 *Whisperer*, *Bipolar Mysteries*, *Cheating Vegas*, *Housebound*, *Insane*
7 *Bathrooms*, *Meteorite Men*, *NICU Diaries*, and *Surreal Estate*—in which
8 LMNO has failed to finance its portion of the production costs.
- 9 7. That Discovery be awarded trebled damages for its Nineteenth
10 (Trademark Infringement) Claim for Relief, and the costs of prosecuting
11 that Claim for Relief, including its reasonable attorneys’ fees, pursuant to
12 applicable law, including 15 U.S. C. § 1117.
- 13 8. For a preliminary and permanent injunction for its Twentieth (Trademark
14 Dilution) and Twenty-First (Trademark Dilution under California
15 Business and Professions Code) Claims for Relief enjoining LMNO and
16 its officers, directors, partners, agents, subcontractors, employees,
17 representatives, licensees, and related companies or entities, and all
18 others acting in concert or participation with it from:
- 19 a. directly or indirectly selling or offering for sale any product or
20 service bearing Discovery’s Marks (specifically, the words “The
21 Little Couple”) or any terms confusingly similar to Discovery’s
22 Marks;
- 23 b. infringing, or causing any other entity to infringe Discovery’s
24 Marks;
- 25 c. diluting, by blurring or tarnishment, or causing any other entity to
26 dilute Discovery’s Marks;
- 27
- 28

- d. unfairly competing with Discovery in any manner whatsoever; and
- e. making any use of Discovery’s Marks and/or terms confusingly similar thereto unless specifically authorized by Discovery.

9. Cancelling LMNO’s trademark registration with the PTO (U.S. Reg. No. 4,774,145);

10. For such other and further relief as the Court deems proper, just, and equitable.

Dated: August 1, 2016

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DEMAND FOR JURY TRIAL

Discovery hereby demands a trial by jury to decide all issues so triable in this case.

Dated: August 1, 2016

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Scott A. Edelman

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EXHIBIT A

United States of America

United States Patent and Trademark Office

THE LITTLE COUPLE

Reg. No. 4,062,239

Registered Nov. 29, 2011

Int. Cl.: 41

SERVICE MARK

PRINCIPAL REGISTER

DISCOVERY COMMUNICATIONS, LLC (DELAWARE LIMITED LIABILITY COMPANY)
ONE DISCOVERY PLACE
SILVER SPRING, MD 20910

FOR: ENTERTAINMENT AND EDUCATIONAL SERVICES IN THE NATURE OF TELEVISION AND MULTIMEDIA PROGRAM SERIES FEATURING SUBJECTS OF GENERAL HUMAN INTEREST DISTRIBUTED VIA VARIOUS PLATFORMS ACROSS MULTIPLE FORMS OF TRANSMISSION MEDIA; PROVIDING ENTERTAINMENT INFORMATION TO OTHERS VIA A GLOBAL COMPUTER NETWORK, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 5-26-2009; IN COMMERCE 5-26-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 85-133,912, FILED 9-20-2010.

TIMOTHY FINNEGAN, EXAMINING ATTORNEY



David J. Kyfos

Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.



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THE LITTLE COUPLE

Word Mark	THE LITTLE COUPLE
Goods and Services	IC 041. US 100 101 107. G & S: Entertainment and educational services in the nature of television and multimedia program series featuring subjects of general human interest distributed via various platforms across multiple forms of transmission media; providing entertainment information to others via a global computer network. FIRST USE: 20090526. FIRST USE IN COMMERCE: 20090526
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85133912
Filing Date	September 20, 2010
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	September 13, 2011
Registration Number	4062239
Registration Date	November 29, 2011
Owner	(REGISTRANT) Discovery Communications, LLC LIMITED LIABILITY COMPANY DELAWARE One Discovery Place Silver Spring MARYLAND 20910
Attorney of Record	Anthony V. Lupo
Type of Mark	SERVICE MARK

Register PRINCIPAL
Live/Dead Indicator LIVE

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