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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THE POKÉMON COMPANY
INTERNATIONAL, INC., a Delaware
corporation,

Plaintiff,

v.

JOHN/JANE DOES 1–3,

Defendants.

No. 19-1911
COMPLAINT
WITH JURY DEMAND

Plaintiff The Pokémon Company International, Inc. (“Plaintiff” or “TPCi”), by and through its undersigned attorneys, for its Complaint against Defendants John/Jane Does 1–3 (“Defendants”), whose true names are currently unknown, hereby alleges and avers as follows:

INTRODUCTION

1. TPCi brings this action against Defendants to protect its valuable trade secrets. Defendants stole trade secrets from TPCi by taking illicit pictures of pages from an unreleased strategy guide created to accompany the release of two highly anticipated video games, Pokémon Sword and Pokémon Shield. The pictures revealed never-before-seen Pokémon and evolutions of Pokémon that TPCi and its partners intended to keep secret until the games’ release on

1 November 15, 2019. Over the course of 15 hours on November 1 and 2, 2019, Defendants
2 disseminated TPCi's trade secrets on the Internet, causing TPCi harm.

3 2. Trade secrets are a form of intellectual property that provide legal protection for
4 commercially valuable business and technical information that: (a) has been the subject of
5 reasonable efforts to maintain its secrecy, and (b) derives independent economic value from not
6 being generally known or readily ascertainable. Both the Defend Trade Secrets Act ("DTSA")
7 and the Washington Uniform Trade Secrets Act ("WUTSA") protect trade secrets from
8 misappropriation, which is the unauthorized acquisition, use, or disclosure of a trade secret.

9 3. TPCi owns valuable trade secrets in the images and content of the unreleased
10 strategy guide for Pokémon Sword and Pokémon Shield. Before TPCi and its partners release a
11 new game, they keep key components of that game—including certain of the new and returning
12 Pokémon—secret.

13 4. There is value in this secrecy. The videogame industry is highly competitive with
14 thousands of new games released annually. To maximize consumer interest and excitement in
15 new Pokémon games, TPCi and its partners carefully time announcements about new Pokémon,
16 features and functionality. When individuals disclose these details without TPCi's or its
17 partners' consent (commonly called "leaks" or "spoilers") they threaten this value and undermine
18 the carefully cultivated excitement and interest TPCi and its partners have worked so hard to
19 generate. It also ruins the surprise for hundreds of thousands of Pokémon fans who are eagerly
20 anticipating the release of the new game.

21 5. TPCi seeks to hold Defendants responsible for their misappropriation of TPCi's
22 confidential and trade secret information, and requests all appropriate relief including but not
23 limited to injunctive and monetary relief, damages, an accounting, and attorneys' fees.

24 PARTIES

25 6. TPCi is a Delaware corporation with its principal place of business at 10400 NE
26 4th Street, Suite 2800, Bellevue, Washington, 98004.

1 7. On information and belief, Defendants John/Jane Does 1–3 are individuals
2 residing in the United States. TPCi will amend this Complaint once it learns Defendants’
3 identities.

4 **JURISDICTION AND VENUE**

5 8. This Court has jurisdiction over the subject matter of Plaintiff’s federal claim
6 under 28 U.S.C. § 1331 and 18 U.S.C. § 1836(c) because the claims arise under the DTSA, 18
7 U.S.C. §§ 1832, *et seq.* This Court has supplemental jurisdiction over Plaintiff’s related state
8 law claim under 28 U.S.C. § 1367(a).

9 9. Personal jurisdiction over Defendants is proper in this Court. As more fully set
10 forth below, Defendants misappropriated TPCi’s valuable trade secrets and exposed those trade
11 secrets on the Internet, undermining their inherent economic value. Defendants directed their
12 actions to Washington. Defendants knew or should have known that the impact of their
13 intentional acts would cause harm in this state, where TPCi is headquartered.

14 10. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because a
15 substantial part of the events or omissions giving rise to the claims occurred in this judicial
16 district and has harmed TPCi in this judicial district.

17 **FACTS AND BACKGROUND**

18 **A. The Pokémon Franchise**

19 11. TPCi is an internationally renowned media franchise centered on fictional
20 Pokémon characters featured in video games, trading cards, animated television shows, movies,
21 comic books, toys, apparel, and accessories (collectively the “Pokémon Universe”).

22 12. A key part of the Pokémon Universe is the Pokémon video game series, a group
23 of role-playing games that challenges players to capture, train, battle and trade Pokémon with the
24 goal of becoming a champion Pokémon Trainer.
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1 13. New generations of Pokémon characters are introduced through the release of
2 video games in the series. When new video games are launched, they feature new Pokémon,
3 characters, landscape, and gameplay that define the generation.

4 14. The first generation of Pokémon launched in 1996 with Pokémon Red and
5 Pokémon Blue, developed by GAME FREAK and published by Nintendo. TPCi worked on later
6 games including the games in the seventh and most recent generation, Pokémon Sun and
7 Pokémon Moon, launched in 2016. The games in this series are wildly popular and have been
8 played by millions worldwide.

9 15. In early 2019, TPCi's partners announced that the eighth generation of Pokémon
10 would begin in late 2019 with the launch of two new games, Pokémon Sword and Pokémon
11 Shield. Pokémon Sword and Pokémon Shield were released simultaneously worldwide on
12 November 15, 2019.

13 16. To create excitement and engagement surrounding the release and maximize
14 interest in Pokémon Sword and Pokémon Shield, the timing of the announcements and ultimate
15 release were carefully planned. For example, to encourage fan engagement around and interest
16 in the games, teasers were released in the summer and fall of 2019 that described several of the
17 new Pokémon available exclusively in Pokémon Sword and Pokémon Shield.

18 17. Among the most exciting parts of Pokémon Sword and Pokémon Shield are the
19 new landscapes, features, and Pokémon available in the games. The games chronicle the main
20 character's journey through the Galar region, a new Pokémon setting inspired by the United
21 Kingdom. The player aims to gain prominence by collecting, trading, and battling Pokémon.
22 The player's goal is to defeat the reigning champion trainer and seize that title for him or herself.

23 18. Pokémon Sword and Pokémon Shield introduce several highly anticipated new
24 features. These include functions known as Dynamax and Gigantamax that increase the size
25 (Dynamax) and change form (Gigantamax) of Pokémon to make them stronger for battle. While
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1 all Pokémon can be Dynamaxed, only certain Pokémon can be Gigantamaxed and they can be
2 found only through certain events in Galar.

3 19. The game also introduces the “Wild Area” that permits the player to explore
4 freely while controlling the camera, which enables optimal movement. Players in the Wild Area
5 can band together to defeat powerful Pokémon, a feature called co-op battling. Players can also
6 join together in Pokémon camps, where, among other things, they interact with each other’s
7 Pokémon.

8 20. Pokémon Sword and Pokémon Shield introduce new species of Pokémon that
9 players can collect, train, and deploy in battles against competitors. Discovering new Pokémon
10 in the Galar region is part of the thrill of the games.

11 **B. The Pokémon Sword and Pokémon Shield Strategy Guide**

12 21. TPCi developed an official strategy guide to accompany the release of Pokémon
13 Sword and Pokémon Shield, called *Pokémon Sword & Pokémon Shield: The Official Galar*
14 *Region Strategy Guide* (“Strategy Guide”). The Strategy Guide includes tips and tricks on how
15 to play the game as well as images of Galar Pokémon. There is also a collector’s edition of the
16 Strategy Guide. The collector’s edition of the Strategy Guide is shown below:



23 22. The Strategy Guide is available for purchase on November 22, 2019, one week
24 after TPCi and its partners released Pokémon Sword and Pokémon Shield.
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1 **C. The Unreleased Strategy Guide Contains TPCi's Trade Secrets**

2 23. The Strategy Guide contains components of Pokémon Sword and Pokémon Shield
3 that TPCi worked diligently to keep secret prior to the games' launch. This includes images and
4 descriptions of Pokémon released for the first time in Pokémon Sword and Pokémon Shield. It
5 also includes images of new evolutions for existing Pokémon, that is, forms the Pokémon assume
6 as they gain experience and strength.

7 24. The Strategy Guide also reveals which Pokémon can be Gigantamaxed and where
8 in Galar players can deploy this feature. This enables players who purchase the Strategy Guide
9 to collect and train Pokémon they know can grow to become powerful in battle.

10 25. The Strategy Guide collector's edition contains bonus features such as exclusive
11 artwork and images of Galar Pokémon.

12 26. Prior to the official release of Pokémon Sword and Pokémon Shield, information
13 about the games' content is treated with utmost secrecy. For example, TPCi performs
14 background checks on employees, stores game content files on secure computers, restricts access
15 to game working files to a limited number of individuals (who can only gain access to files by
16 entering a username and password), allows those individuals to transfer game files using only
17 secured methods, uses digital measures to trace and mark files to prevent unauthorized access,
18 and requires users with access to game files to sign non-disclosure agreements. Additionally,
19 access to TPCi's offices are restricted by key card.

20 27. These measures also apply to the Strategy Guide. In addition, TPCi requires
21 contractors who work on Strategy Guide content to sign non-disclosure agreements. This
22 includes contractors who work where any Strategy Guides are stored.

23 28. TPCi does not allow copies or proofs of the Strategy Guide to be printed at its
24 offices. Physical copies of the Strategy Guide are created during the production process, which
25 is handled by vendors. Each production vendor must sign a non-disclosure agreement and
26 provide an elevated security plan. Printed copies of the Strategy Guide are kept in secure areas

1 with limited access where the books are concealed under tarps. Only production facility
 2 employees with proper security clearance have access to the Strategy Guide during the
 3 production process. Those with permission to access the secured areas are not permitted to bring
 4 in cellular phones or cameras.

5 29. TPCi derives significant economic value from maintaining the secrecy of details
 6 of Pokémon Sword and Pokémon Shield and the Strategy Guide prior to the games' release. The
 7 company's and its partners' carefully planned and timed publicity strategy stokes a swell of
 8 media interest and fan enthusiasm that results in a substantial number of players purchasing the
 9 games. For example, TPCi partner GAME FREAK released a 16-minute video on June 6 that
 10 teases key features of Pokémon Sword and Pokémon Shield. The video has more than 4.2
 11 million views and 125,000 likes on YouTube.¹ An earlier video that announced Pokémon Sword
 12 and Pokémon Shield and promised their release in late 2019 garnered nearly 6 million views and
 13 more than 180,000 likes.

14 **D. Defendants Stole Trade Secrets from the Strategy Guide and Leaked Them on the**
 15 **Internet**

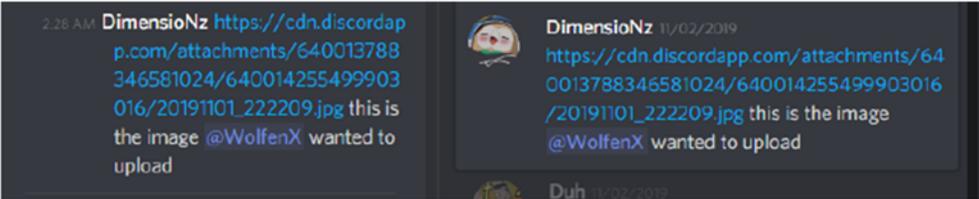
16 30. On or about November 1, 2019, Defendants began releasing pictures of TPCi's
 17 unreleased Strategy Guide that disclosed numerous never-before-seen Pokémon, including their
 18 special forms and attributes.

19 31. At approximately 7:28 p.m. (PDT),² Defendants worked together to post the first
 20 leaked picture of a new Pokémon, Gigantamax Machop, on Discord, a free platform that
 21 provides text, image, video, and audio communications between users in a chat channel. A
 22 screenshot of the message with the first Discord Strategy Guide leak is attached as Exhibit 1, and
 23 the image that appears after clicking the .jpg hyperlink in the message is attached as Exhibit 2.

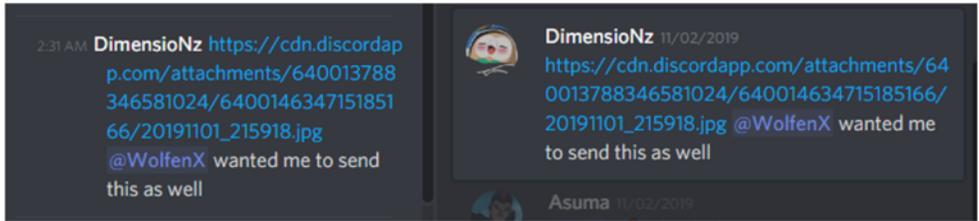
24
 25 ¹ <https://www.youtube.com/watch?v=PpjVUOJkX-s&list=PL2JiZAV5BmDXWAFfFoDmnBipVPC-wuoVP&index=7&t=0s>.

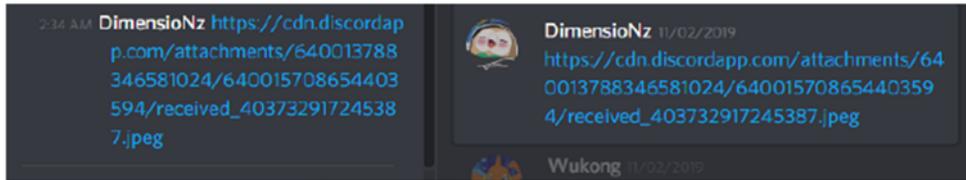
26 ² The screenshots of the Discord posts contain time stamps that are shown in Universal Time Coordinated ("UTC"). PDT is 7 hours behind UTC.

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32. Over the course of the next 15 hours, Defendants posted an additional 18 pictures from the unreleased Strategy Guide on Discord. These 18 posts are attached as Exhibits 3-38. The following are select examples of the Discord messages, with the corresponding images immediately below:





33. Several of the images Defendants leaked are present only in the collector's edition of the Strategy Guide. *See* Exs. 8, 14, 32.

34. Discord enables its users to post anonymously. Discord users need only an email address to create an account and they create usernames to communicate on the platform. A user can change the username associated with their account at any time, making it more difficult to track a specific Discord user.

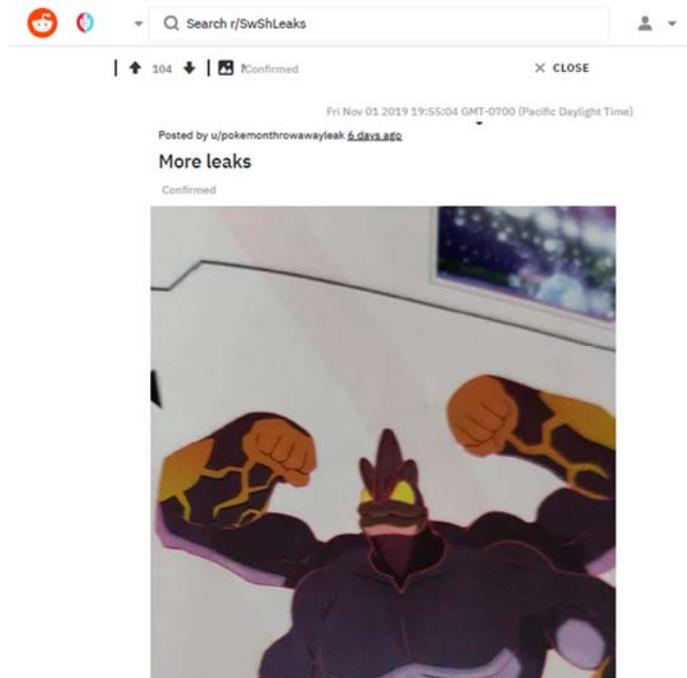
35. Once posted on Discord, the leaked pictures rapidly spread across the Internet. Within minutes of the first post for each picture, the picture was re-posted on 4chan (an Internet

1 forum where users can post and comment on images anonymously) and then on a dedicated
 2 forum on Reddit for leaked information regarding Pokémon Sword and Pokémon Shield.

3 36. For example, 17 minutes after Defendants leaked the first picture on Discord, it
 4 was posted on 4chan:³



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 9 37. And within 27 minutes of Defendants’ original Discord post, the picture was
 10 already on Reddit:⁴



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 22 38. From there, the pictures quickly reached a worldwide audience across the
 23 Internet.

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 26 ³ Like the Discord posts, the 4chan post time stamp is on UTC.

⁴ The screenshot of the Reddit post contains a time stamp shown in PDT, which is 7 hours behind UTC.

1 39. TPCi reacted swiftly. It identified over 300 URLs on dozens of platforms that
2 linked to websites containing the leaked Strategy Guide pictures. The leaked pictures appeared
3 on mainstream social media platforms such as Facebook, Twitter, and Imgur, as well as popular
4 video game news outlets such as Polygon and Dot Esports, and numerous Nintendo-focused
5 forums and blogs.

6 40. In an effort to mitigate the damage caused by Defendants' leaks, TPCi submitted
7 takedown requests to the platforms to remove the leaked images.

8 41. Through these posts, Defendants disclosed images of multiple Pokémon, the
9 Gigantamax form for certain Pokémon, and the attributes (such as type and weaknesses) for
10 others. This information had previously never been revealed to the public—TPCi kept it secret
11 to build anticipation for the release of Pokémon Sword and Pokémon Shield.

12 42. Defendants' trade secret theft and subsequent leak harmed TPCi by disrupting its
13 ability to market Pokémon Sword and Pokémon Shield and the Strategy Guide, reducing the fan
14 interest and engagement TPCi and its partners generate by keeping key elements of the games
15 secret, and disclosing certain of the contents of the unreleased Strategy Guide, which gamers
16 purchase to obtain the information Defendants leaked.

17 **FIRST CAUSE OF ACTION**
18 **(Violation of the Defend Trade Secrets Act, 18 U.S.C. §§ 1832, *et seq.*)**

19 43. TPCi repeats, realleges, and incorporates herein by reference the allegations in the
20 foregoing paragraphs as if fully set forth herein.

21 44. TPCi owns and/or possesses certain confidential and trade secret information
22 relating to the Pokémon Sword and Pokémon Shield video games, including non-public
23 information concerning new characters, developments, features, and functionality in Pokémon
24 Sword and Pokémon Shield.

1 45. TPCi's confidential and trade secret information relates to products and services
2 that are used, sold, shipped and/or ordered in, or that are intended to be used, sold, shipped
3 and/or ordered in, interstate or foreign commerce.

4 46. TPCi and its partners have taken reasonable steps to protect the secrecy of its
5 confidential and trade secret information, including the secrecy of the information Defendants
6 misappropriated. For example, TPCi conducts background checks on employees, stores game
7 content files on secure computers, restricts access to game working files to a limited number of
8 individuals (who can only gain access to files by entering a username and password), allows
9 those individuals to transfer game files using only secured methods, uses digital measures to
10 trace and mark files to prevent unauthorized access, and requires users with access to game files
11 to sign non-disclosure agreements. Additionally, access to TPCi's offices are restricted by key
12 card.

13 47. Further, TPCi requires contractors who work on the Strategy Guide content to
14 sign non-disclosure agreements. This includes contractors who work where any Strategy Guides
15 are stored.

16 48. TPCi's confidential and trade secret information derives independent economic
17 value from not being generally known to, and not being readily ascertainable through proper
18 means by, another person who can obtain economic value from the disclosure or use of the
19 information.

20 49. Defendants have misappropriated TPCi's confidential and trade secret
21 information by, *inter alia*, acquiring it, using it, and disclosing it to third parties without TPCi's
22 consent. This includes taking surreptitious pictures of the Strategy Guide and working together
23 to disseminate that confidential information over the Internet to a wide audience of would-be
24 customers.

25 50. Defendants' conduct has caused and, unless enjoined by this Court, will continue
26 to cause irreparable injury to TPCi.

1 51. Defendants' misappropriation of TPCi's confidential and trade secret information
2 has also caused and will continue to cause TPCi substantial injury, including, *inter alia*, actual
3 damages, lost profits, harm to reputation, competitive harm, and diminution in value of its trade
4 secrets. Defendants' misappropriation was also willful and malicious.

5 52. As a result of the foregoing, TPCi has been damaged and is entitled to damages in
6 an amount to be proven at trial, as well as injunctive relief and an award of exemplary damages
7 and attorneys' fees pursuant to 18 U.S.C. § 1836(b)(3)(C)-(D).

8 **SECOND CAUSE OF ACTION**
9 **(Violation of the Washington Uniform Trade Secrets Act, RCW 19.108.010 *et seq.*)**

10 53. TPCi repeats, realleges, and incorporates herein by reference the allegations in the
11 foregoing paragraphs as if fully set forth herein.

12 54. TPCi owns and/or possesses certain confidential and trade secret information
13 relating to the Pokémon Sword and Pokémon Shield video games, including non-public
14 information concerning new characters, developments, features, and functionality in Pokémon
15 Sword and Pokémon Shield.

16 55. TPCi's confidential and trade secret information derives independent economic
17 value, actual or potential, from not being generally known to, and not being readily ascertainable
18 by proper means by, other persons who can obtain economic value from its disclosure or use.

19 56. TPCi and its partners have taken steps reasonable under the circumstances to
20 protect the secrecy of its confidential and trade secret information, including the secrecy of the
21 information Defendants misappropriated. For example, TPCi conducts background checks on
22 employees, stores game content files on secure computers, restricts access to game working files
23 to a limited number of individuals (who can only gain access to files by entering a username and
24 password), allows those individuals to transfer game files using only secured methods, uses
25 digital measures to trace and mark files to prevent unauthorized access, and requires users with
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1 access to game files to sign non-disclosure agreements. Additionally, access to TPCi's offices
2 are restricted by key card.

3 57. Further, TPCi requires contractors who work on the Strategy Guide content to
4 sign non-disclosure agreements. This includes contractors who work where any Strategy Guides
5 are stored.

6 58. Defendants misappropriated TPCi's confidential and trade secret material by
7 acquiring TPCi's trade secrets through improper means, including by improperly gaining access
8 to a copy of the unreleased Strategy Guide and photographing it without TPCi's consent.
9 Defendants worked together to widely disclose TPCi's trade secrets without TPCi's express or
10 implied authorization by posting images of the Strategy Guide on the Internet. At the time of
11 this disclosure, Defendants knew or had reason to know that the unreleased Strategy Guide
12 images were trade secrets.

13 59. Defendants' conduct has caused, and unless enjoined by this Court, will continue
14 to cause irreparable injury to TPCi.

15 60. Defendants' misappropriation of TPCi's confidential and trade secret information
16 has also caused and will continue to cause TPCi substantial injury, including, *inter alia*, actual
17 damages, lost profits, harm to reputation, competitive harm, and diminution in value of its trade
18 secrets. Defendants' misappropriation was also willful and malicious.

19 61. As a result of the foregoing, TPCi has been damaged and is entitled to damages in
20 an amount to be proven at trial, as well as injunctive relief and an award of attorneys' fees
21 pursuant to RCW 19.108.040.

22 **JURY DEMAND**

23 Pursuant to Federal Rule of Civil Procedure 38(b), plaintiff demands a trial by jury as to
24 all issues so triable in this action.
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PRAYER FOR RELIEF

WHEREFORE, plaintiff The Pokémon Company International, Inc., prays for the following relief:

- A. For compensatory damages for all losses caused by Defendants’ wrongful conduct;
- B. For monetary relief, including actual damages and equitable relief due to Defendants’ wrongful conduct pursuant to 18 U.S.C. § 1836(b)(3)(B)(i) and RCW 19.108.030;
- C. For punitive and exemplary damages pursuant to 18 U.S.C. § 1836(b)(3)(C);
- D. For reasonable attorneys’ fees and costs pursuant to 18 U.S.C. § 1836(b)(3)(D) and RCW 19.108.040;
- E. For permanent injunctive relief to prevent Defendants from making any further use, disclosure or other misappropriation of TPCi’s confidential and trade secret information;
- F. For an award of prejudgment interest and costs of suit to the extent permitted by law; and
- G. For such other relief as the Court may deem just and proper.

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DATED this 22nd day of November, 2019

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s/ Lauren Watts Staniar
Lauren W. Staniar, WSBA No. 48741
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