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1 **Charlie W. Gordon**
2 **GREENE & COOPER LLP**
3 **2210 Green Way**
4 **P.O. Box 20067**
5 **Louisville, KY 40250-0067**
6 **Tel: 502-495-6500**

7 **Indiana Address:**
8 **P.O. Box 398**
9 **Jeffersonville, IN 47131-0398**
10 **Tel: 812-283-1335**

11 **Attorney for Plaintiff**
12 **J & J Sports Productions, Inc.**

13 **UNITED STATES DISTRICT COURT**
14 **FOR THE**
15 **SOUTHERN DISTRICT OF INDIANA**
16 **INDIANAPOLIS DIVISION**

17 **J & J SPORTS PRODUCTIONS, INC.,**

17 **Case No.: 1:13-cv-1789**

18 **Plaintiff,**

18 **COMPLAINT**

19 **vs.**

20 **JOSEPH M. HUBBARD, individually and**
21 **d/b/a WING'N IT; and ALISON KAY, LLC,**
22 **an unknown business entity d/b/a WING'N**
23 **IT,**

24 **Defendants.**

25 **PLAINTIFF ALLEGES:**

26 **JURISDICTION**

27 1. Jurisdiction is founded on the existence of a question arising under particular statutes. This
28 action is brought pursuant to several federal statutes, including the Communications Act of 1934,
as amended, Title 47 U.S.C. 605, *et seq.*, and The Cable & Television Consumer Protection and
Competition Act of 1992, as amended, Title 47 U.S. Section 553, *et seq.*

2. This Court has jurisdiction of the subject matter of this action pursuant to 28 U.S.C.

1 Section 1331, which states that the District Courts shall original jurisdiction of all civil actions
2 arising under the Constitution, laws, or treaties, of the United States. This Court has subject matter
3 jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367 (supplemental jurisdiction).

4 3. This Court has personal jurisdiction over the parties in this action as a result of the
5 Defendants' wrongful acts hereinafter complained of which violated the Plaintiff's rights as the
6 exclusive commercial domestic distributor of the televised fight *Program* hereinafter set forth at
7 length. The Defendants' wrongful acts consisted of the interception, reception, publication,
8 divulgence, display, exhibition, and tortious conversion of said property of Plaintiff within the
9 control of the Plaintiff in the State of Indiana.

10
11 **VENUE**

12 4. Pursuant to Title 47 U.S.C. Section 605, venue is proper in the District of Indiana, because
13 a substantial part of the events or omissions giving rise to the claim occurred in this District.

14
15 **INTRADISTRICT ASSIGNMENT**

16 5. Assignment to the Indianapolis Division of the District of Indiana is proper because a
17 substantial part of the events or omissions giving rise to the claim occurred in Marion County
18 and/or the United States District Court for the District of Indiana has decided that suits of this
19 nature, and each of them, are to be heard by the Courts in this particular Division.

20
21 **THE PARTIES**

22 6. Plaintiff, J & J Sports Productions, Inc. is, and at all relevant times mentioned was, a
23 California corporation with its principal place of business located at 2380 South Bascom Avenue,
24 Suite 200, Campbell, California 95008.

25 7. Defendant Joseph M. Hubbard is a managing member of Alison Kay, LLC, which owns
26 and operates the commercial establishment doing business as Wing'n It. Wing'n It operates at
27 7834 North Michigan Road, Indianapolis, Indiana 46268.

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1 8. Defendant Joseph M. Hubbard is also an individual specifically identified on the Indiana
2 Alcohol & Tobacco Commission license issued for Wing'n It (Permit Number RR49-92173).

3 9. Plaintiff is informed and believes, and alleges thereon that on November 12, 2011 (the
4 night of the *Program* at issue herein, as more specifically defined in paragraph 16), Defendant
5 Joseph M. Hubbard had the right and ability to supervise the activities of Wing'n It, which included
6 the unlawful interception of Plaintiff's *Program*.

7 10. Plaintiff is informed and believes, and alleges thereon that on November 12, 2011 (the
8 night of the *Program* at issue herein, as more specifically defined in paragraph 16), Defendant
9 Joseph M. Hubbard, as an individual specifically identified on the liquor license for Wing'n It, had
10 the obligation to supervise the activities of Wing'n It, which included the unlawful interception of
11 Plaintiff's *Program*, and, among other responsibilities, had the obligation to ensure that the liquor
12 license was not used in violation of law.

13 11. Plaintiff is informed and believes, and alleges thereon that on November 12, 2011 (the
14 night of the *Program* at issue herein, as more specifically defined in paragraph 16), Defendant
15 Joseph M. Hubbard specifically directed the employees of Wing'n It to unlawfully intercept and
16 broadcast Plaintiff's *Program* at Wing'n It or that the actions of the employees of Wing'n It are
17 directly imputable to Defendants Joseph M. Hubbard by virtue of their acknowledged
18 responsibility for the actions of Wing'n It.

19 12. Plaintiff is informed and believes, and alleges thereon that on November 12, 2011,
20 Defendant Joseph M. Hubbard as a managing member of Alison Kay, LLC and as an individual
21 specifically identified on the liquor license for Wing'n It, had an obvious and direct financial
22 interest in the activities of Wing'n It, which included the unlawful interception of Plaintiff's
23 *Program*.

24 13. Plaintiff is informed and believes, and alleges thereon that the unlawful broadcast of
25 Plaintiff's *Program*, as supervised and/or authorized by Defendant Joseph M. Hubbard resulted in
26 increased profits for Wing'n It.
27
28

1 14. Plaintiff is informed and believed, and alleges thereon that Defendant, Alison Kay, LLC is
2 an owner, and/or operator, and/or licensee, and/or permittee, and/or person in charge, and/or an
3 individual with dominion, control, oversight and management of the commercial establishment
4 doing business as Wing'n It operating at 7834 North Michigan Road, Indianapolis, Indiana 46268.

5 **COUNT I**

6 **(Violation of Title 47 U.S.C. Section 605)**

7 15. Plaintiff J & J Sports Productions, Inc., hereby incorporates by reference all of the
8 allegations contained in paragraphs 1-14, inclusive, as though set forth herein at length.

9 16. Pursuant to contract, Plaintiff J & J Sports Productions, Inc., was granted the exclusive
10 nationwide commercial distribution (closed-circuit) rights to *Manny Pacquiao v. Juan Manuel*
11 *Marquez, WBO Welterweight Championship Fight Program*, telecast nationwide on Saturday,
12 November 12, 2011 (this included all under-card bouts and fight commentary encompassed in the
13 television broadcast of the event, hereinafter referred to as the "*Program*").

14 17. Pursuant to contract, Plaintiff J & J Sports Productions, Inc., entered into subsequent
15 sublicensing agreements with various commercial entities throughout North America, including
16 entities within the State of Indiana, by which it granted these entities limited sublicensing rights,
17 specifically the rights to publicly exhibit the *Program* within their respective commercial
18 establishments in the hospitality industry (i.e., hotels, racetracks, casinos, bars, taverns, restaurants,
19 social clubs, etc.).

20 18. As a commercial distributor and licensor of sporting events, including the *Program*,
21 Plaintiff J & J Sports Productions, Inc., expended substantial monies marketing, advertising,
22 promoting, administering, and transmitting the *Program* to its customers, the aforementioned
23 commercial entities.

24 19. With full knowledge that the *Program* was not to be intercepted, received, published,
25 divulged, displayed, and/or exhibited by commercial entities unauthorized to do so, each and every
26 one of the above named Defendants, either through direct action or through actions of employees
27 or agents directly imputable to Defendants (as outlined in paragraphs 7-14 above), did unlawfully
28 intercept, receive, publish, divulge, display, and/or exhibit the *Program* at the time of its

1 transmission at their commercial establishment in Indianapolis, Indiana located at 7834 North
2 Michigan Road, Indianapolis, Indiana 46268.

3 20. Said unauthorized interception, reception, publication, exhibition, divulgence, display,
4 and/or exhibition by each of the Defendants was done willfully and for purposes of direct and/or
5 indirect commercial advantage and/or private financial gain.

6 21. Title 47 U.S.C. Section 605, *et seq.*, prohibits the unauthorized publication or use of
7 communications (such as the transmission of the *Program* for which Plaintiff J & J Sports
8 Productions, Inc., had the distribution rights thereto).

9
10 22. By reason of the aforesaid mentioned conduct, the aforementioned Defendants, and each of
11 them, violated Title 47 U.S.C. Section 605, *et seq.*

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13 23. By reason of the Defendants' violation of Title 47 U.S.C. Section 605, *et seq.*, Plaintiff J &
14 J Sports Productions, Inc., has the private right of action pursuant to Title 47 U.S.C. Section 605.

15 24. As the result of the aforementioned Defendants' violation of Title 47 U.S.C. Section 605,
16 and pursuant to said Section 605, Plaintiff J & J Sports Productions, Inc., is entitled to the
17 following from each Defendant:

- 18
19 (a) Statutory damages for each willful violation in an amount to
20 \$100,000.00 pursuant to Title 47 U.S.C. 605(e)(3)(C)(ii), and also
21
22 (b) the recovery of full costs, including reasonable attorneys' fees,
23 pursuant to Title 47 U.S.C. Section 605(e)(3)(B)(iii).

24 **WHEREFORE, Plaintiff prays for judgment as set forth below.**

25 **COUNT II**

26 **(Violation of Title 47 U.S.C. Section 553)**

27 25. Plaintiff's hereby incorporates by reference all of the allegations contained in paragraphs 1-
28 24, inclusive, as though set forth herein at length.

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2 26. The unauthorized interceptions, reception, publication, divulgence, display, and/or
3 exhibition of the *Program* by the above named Defendants was prohibited by Title 47 U.S.C.
4 Section 553, *et seq.*

5 27. By reason of the aforesaid mentioned conduct, the aforementioned Defendants, and each of
6 them, violated Title 47 U.S.C. Section 553, *et seq.*

7 28. By reason of the Defendants' violation of Title 47 U.S.C. Section 553, *et seq.*, Plaintiff J &
8 J Sports Productions, Inc., has the private right of action pursuant to Title 47 U.S.C. Section 553.

9 29. As the result of the aforementioned Defendants' violation of Title 47 U.S.C. Section 553,
10 Plaintiff J & J Sports Productions, Inc., is entitled to the following from each Defendant:
11

12 (a) Statutory damages for each violation in an amount to
13 \$10,000.00 pursuant to Title 47 U.S.C. § 553(c)(3)(A)(ii); and also

14 (b) Statutory damages for each willful violation in an amount to
15 \$50,000.00 pursuant to Title 47 U.S.C. § 553(c)(3)(B); and also

16 (c) the recovery of full costs pursuant to Title 47 U.S.C. Section 553
17 (c)(2)(C); and also

18 (d) and in the discretion of this Honorable Court, reasonable attorneys' fees,
19 pursuant to Title 47 U.S.C. Section 553 (c)(2)(C).
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21
22 **WHEREFORE, Plaintiff prays for judgment as set forth below.**

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24 **COUNT III**
25 **(Conversion)**
26

27 30. Plaintiff's hereby incorporates by reference all of the allegations contained in paragraphs 1-
28 29, inclusive, as though set forth herein at length.

1 31. By their aforesaid acts of interception, reception, publication, divulgence, display, and/or
2 exhibition of the *Program* at their commercial establishment at the above-captioned address, the
3 aforementioned Defendants, and each of them, tortuously obtained possession of the *Program* and
4 wrongfully converted same for their own use and benefit.

5 32. The aforesaid acts of the Defendants were willful, malicious, egregious, and intentionally
6 designed to harm Plaintiff J & J Sports Productions, Inc., by depriving Plaintiff of the commercial
7 license fee to which Plaintiff was rightfully entitled to receive from them, and in doing so, the
8 Defendants subjected the Plaintiff to severe economic distress and great financial loss.

9 33. Accordingly, Plaintiff J & J Sports Productions, Inc., is entitled to both compensatory, as
10 well as punitive and exemplary damages, from aforementioned Defendants as the result of the
11 Defendants' egregious conduct, theft, and conversion of the *Program* and deliberate injury to the
12 Plaintiff.

13
14 **WHEREFORE, Plaintiff prays for judgment as set forth below.**

15 **As to the First Count:**

- 16
17 1. For statutory damages in the amount of \$110,000.00 against the Defendants,
18 and each of them, and
19 2. For reasonable attorneys' fees as mandated by statute, and
20 3. For all costs of suit, including but not limited to filing fees, service of
21 process fees, investigative costs, and
22 4. For such other and further relief as this Honorable Court may deem just
23 and proper;

24 **As to the Second Count:**

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26 1. For statutory damages in the amount of \$60,000.00 against the Defendants,
27 and each of them, and;

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2. For reasonable attorneys' fees as may be awarded in the Court's discretion pursuant to statute, and;
3. For all costs of suit, including but not limited to filing fees, service of process fees, investigative costs, and;
4. For such other and further relief as this Honorable Court may deem just and proper.

As to the Third Count:

1. For compensatory damages in an amount according to proof against the Defendants, and each of them, and;
2. For exemplary damages against the Defendants, and each of them, and;
3. For punitive damages against the Defendants, and each of them, and;
4. For reasonable attorneys' fees as may be awarded in the Court's discretion pursuant to statute, and;
5. For all costs of suit, including but not limited to filing fees, service of process fee, investigative costs, and;
6. For such other and further relief as this Honorable Court may deem just and proper.

Respectfully submitted,

Date: November 8, 2013

/s/ Charlie W. Gordon
GREENE & COOPER LLP
By: Charlie W. Gordon
Attorneys for Plaintiff
J & J Sports Productions, Inc.