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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

J & J SPORTS PRODUCTIONS, INC.,

Plaintiff,

vs.

**SAMUEL BARRERA, INDIVIDUALLY
AND D/B/A TAQUERIA JALISCO,
BENITO BRITO FLORES,
INDIVIDUALLY AND D/B/A TAQUERIA
JALISCO, AND REST MEX, INC., AN
UNKNOWN BUSINESS ENTITY, D/B/A
TAQUERIA JALISCO,**

Defendants.

Case No.: 1:16-cv-970

COMPLAINT

PLAINTIFF ALLEGES:

JURISDICTION

1. Jurisdiction is founded on the existence of a question arising under particular statutes. This 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.*

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

3. This Court has personal jurisdiction over the parties in this action as a result of the Defendants' wrongful acts hereinafter complained of which violated the Plaintiff's rights as the exclusive commercial domestic distributor of the televised fight *Program* hereinafter set forth at

1 length. The Defendants' wrongful acts consisted of the interception, reception, publication,
2 divulgence, display, exhibition, and tortious conversion of said property of Plaintiff within the
3 control of the Plaintiff in the State of Indiana.

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5 **VENUE**

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

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9 **INTRADISTRICT ASSIGNMENT**

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

14 **THE PARTIES**

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

18 7. Defendants Samuel Barrera and Benito Brito Flores are officers of Rest Mex, Inc which
19 owns and operates the commercial establishment doing business as Taqueria Jalisco. Taqueria
20 Jalisco operates at 3648 North High School Road, Indianapolis IN 46224.

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22 8. Plaintiff is informed and believes, and alleges thereon that on May 3, 2014 (the night of the
23 *Program* at issue herein, as more specifically defined in paragraph 16), Defendants Samuel Barrera
24 and Benito Brito Flores had the right and ability to supervise the activities of Rest Mex, Inc., which
25 included the unlawful interception of Plaintiff's *Program*.

26 9. Plaintiff is informed and believes, and alleges thereon that on May 3, 2014 (the night of the
27 *Program* at issue herein, as more specifically defined in paragraph 16), Defendants Samuel Barrera
28 and Benito Brito Flores specifically directed the employees of Taqueria Jalisco to unlawfully

1 intercept and broadcast Plaintiff's *Program* at Taqueria Jalisco or that the actions of the employees
2 of Taqueria Jalisco are directly imputable to Defendants Samuel Barrera and Benito Brito Flores
3 by virtue of their acknowledged responsibility for the actions of Taqueria Jalisco and Rest Mex
4 Inc.

5 10. Plaintiff is informed and believes, and alleges thereon that on May 3, 2014, Defendants
6 Samuel Barrera and Benito Brito Flores as managing members of Rest Mex, Inc., had an obvious
7 and direct financial interest in the activities of Taqueria Jalisco, which included the unlawful
8 interception of Plaintiff's *Program*.

9 11. Plaintiff is informed and believes, and alleges thereon that the unlawful broadcast of
10 Plaintiff's *Program*, as supervised and/or authorized by Defendants Samuel Barrera and Benito
11 Brito Flores resulted in increased profits for Taqueria Jalisco.

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13 **COUNT I**

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

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

18 13. Pursuant to contract, Plaintiff J & J Sports Productions, Inc., was granted the exclusive
19 nationwide commercial distribution (closed-circuit) rights to "*Floyd Mayweather, Jr vs. Marcos*
20 *Rene Maidana, WBC Welterweight Championship Fight Program*" telecast nationwide on
21 Saturday, May 3, 2014 (this included all under-card bouts and fight commentary encompassed in
22 the television broadcast of the event but not limited to *WBA Super World Welterweight Title: Amir*
23 *Kahn vs. Luis Callazo* that was observed at Taqueria Jalisco, hereinafter referred to as the
24 "*Program*").

25 14. Pursuant to contract, Plaintiff J & J Sports Productions, Inc., entered into subsequent
26 sublicensing agreements with various commercial entities throughout North America, including
27 entities within the State of Indiana, by which it granted these entities limited sublicensing rights,
28 specifically the rights to publicly exhibit the *Program* within their respective commercial

1 establishments in the hospitality industry (i.e., hotels, racetracks, casinos, bars, taverns, restaurants,
2 social clubs, etc.).

3 15. As a commercial distributor and licensor of sporting events, including the *Program*,
4 Plaintiff J & J Sports Productions, Inc., expended substantial monies marketing, advertising,
5 promoting, administering, and transmitting the *Program* to its customers, the aforementioned
6 commercial entities.

7 16. With full knowledge that the *Program* was not to be intercepted, received, published,
8 divulged, displayed, and/or exhibited by commercial entities unauthorized to do so, each and every
9 one of the above named Defendants, either through direct action or through actions of employees
10 or agents directly imputable to Defendants (as outlined in paragraphs 7-14 above), did unlawfully
11 intercept, receive, publish, divulge, display, and/or exhibit the *Program* at the time of its
12 transmission at their commercial establishment in Indianapolis, located at 3648 North High
13 School Road, Indianapolis IN 46224.

14 17. Said unauthorized interception, reception, publication, exhibition, divulgence, display,
15 and/or exhibition by each of the Defendants was done willfully and for purposes of direct and/or
16 indirect commercial advantage and/or private financial gain.

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

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

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24 20. By reason of the Defendants' violation of Title 47 U.S.C. Section 605, *et seq.*, Plaintiff
25 J & J Sports Productions, Inc., has the private right of action pursuant to Title 47 U.S.C. Section
26 605.

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

- 4 (a) Statutory damages for each willful violation in an amount to
5 \$100,000.00 pursuant to Title 47 U.S.C. 605(e)(3)(C)(ii), and also
6
7 (b) the recovery of full costs, including reasonable attorneys' fees,
8 pursuant to Title 47 U.S.C. Section 605(e)(3)(B)(iii).

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

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11 **COUNT II**

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

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15 22. Plaintiff's hereby incorporates by reference all of the allegations contained in paragraphs 1-
16 24, inclusive, as though set forth herein at length.

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

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

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

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

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- (a) Statutory damages for each violation in an amount to \$10,000.00 pursuant to Title 47 U.S.C. § 553(c)(3)(A)(ii); and also
- (b) Statutory damages for each willful violation in an amount to \$50,000.00 pursuant to Title 47 U.S.C. § 553(c)(3)(B); and also
- (c) the recovery of full costs pursuant to Title 47 U.S.C. Section 553 (c)(2)(C); and also
- (d) and in the discretion of this Honorable Court, reasonable attorneys' fees, pursuant to Title 47 U.S.C. Section 553 (c)(2)(C).

WHEREFORE, Plaintiff prays for judgment as set forth below.

COUNT III
(Conversion)

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

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

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

30. Accordingly, Plaintiff J & J Sports Productions, Inc., is entitled to both compensatory, as well as punitive and exemplary damages, from aforementioned Defendants as the result of the

1 Defendants' egregious conduct, theft, and conversion of the *Program* and deliberate injury to the
2 Plaintiff.

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

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6 **As to the First Count:**

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- 8 1. For statutory damages in the amount of \$110,000.00 against the Defendants,
9 and each of them, and
 - 10 2. For reasonable attorneys' fees as mandated by statute, and
 - 11 3. For all costs of suit, including but not limited to filing fees, service of
12 process fees, investigative costs, and
 - 13 4. For such other and further relief as this Honorable Court may deem just
14 and proper;

15 **As to the Second Count:**

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- 17 1. For statutory damages in the amount of \$60,000.00 against the Defendants,
18 and each of them, and;
 - 19 2. For reasonable attorneys' fees as may be awarded in the Court's
20 discretion pursuant to statute, and;
 - 21 3. For all costs of suit, including but not limited to filing fees, service
22 of process fees, investigative costs, and;
 - 23 4. For such other and further relief as this Honorable Court may deem just
24 and proper.

25 **As to the Third Count:**

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- 27 1. For compensatory damages in an amount according to proof against the
28 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;

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- 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: April 29, 2016

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