



which, upon information and belief, reached hundreds of thousands of viewers per day for several weeks:



2. By use of the Billboard, the Defendants falsely have conveyed to the public that Mr. Baron Cohen has endorsed their products and is affiliated with their business. To the contrary, Mr. Baron Cohen never has used cannabis in his life. He never would participate in an advertising campaign for cannabis, for any amount of money. Mr. Baron Cohen never has been involved in advertising any commercial products or services anywhere in the United States or the United Kingdom, despite countless opportunities to do so.

3. The Defendants knowingly misappropriated Mr. Baron Cohen's portrait, picture, image, likeness, and persona to increase the Defendants' sales revenues, which, upon information and belief, are approximately \$26 million per year. Upon information and belief, the Defendants believed Mr. Baron Cohen would not learn about the Billboard, so they took a gamble, guessing they could copy and use Mr. Baron Cohen's image without ever having to pay for it. In this action, Mr. Baron Cohen seeks market value compensation, statutory treble damages, and punitive and other damages, estimated to be in a total amount of at least \$9 million.

## BACKGROUND

4. Mr. Baron Cohen is an internationally renowned actor, comedian, writer and producer. He is a 2021 winner of two Golden Globe Awards in relation to “Borat: Subsequent Moviefilm,” for “Best Performance by an Actor,” and as a producer for “Best Motion Picture – Musical or Comedy.” He has been Nominated for three Academy Awards and three Primetime Emmy Awards. Mr. Baron Cohen has used the comedic devices of satire and parody in his films and television series, and through the characters he has developed and portrayed in them, to reach and educate people around the world on important social issues, including ethnocentrism, proliferation of guns, racism, holocaust denial, homophobia, sexism, and anti-Semitism.

5. Mr. Baron Cohen helped organize the Stop Hate for Profit campaign, which has been successful in holding social media companies accountable for spreading hate and lies on their platforms. Mr. Baron Cohen is a leading advocate of this campaign.

6. Mr. Baron Cohen is highly protective of his image and persona, and those of his characters. Mr. Baron Cohen is very careful with the manner in which he uses his persona and his characters to interact with his fans and the general public.

7. The reason why Mr. Baron Cohen never has used cannabis is that he does not believe it is a healthy choice. With his “Ali G” character, portrayed by Mr. Baron Cohen in the HBO television series *Da Ali G Show*, Mr. Baron Cohen has spent much of his career making a mockery of “stoner” culture – a culture which the Defendants’ Billboard overtly celebrates. In addition, Mr. Baron Cohen was born into an Orthodox Jewish family; he is an Observant Jew; and he is proud of his cultural heritage. He does not wish to be involved in the heated controversy among the Orthodox Jewish community about whether cannabis can be used under Jewish traditions, customs, and rules – a controversy in which many rabbinical leaders have stated that cannabis use is a violation of Jewish law.

8. Moreover, the sale and distribution of cannabis remains a federal crime everywhere in the United States, including Massachusetts. United States citizens continue to be prosecuted and imprisoned by federal law enforcement agents and courts for selling or using the products that the Defendants are advertising and selling. Most recently, this year the Biden Administration terminated a number of White House staffers simply because they once used cannabis.

9. For all of the above reasons, cannabis remains a controversial product that Mr. Baron Cohen has no interest in endorsing, promoting, or advertising. He would be appalled if his young children were to discover, mistakenly or otherwise, that he was associated with the promotion of cannabis.

10. Mr. Baron Cohen has turned down countless opportunities to license his name and/or likeness for other commercial advertising in the United States. He believes such advertising would weaken his credibility as an actor and as a serious social activist. In one situation, Mr. Baron Cohen turned down a \$4 million offer to appear in a car commercial. Mr. Baron Cohen and his company PYCT never have allowed their "Borat" character to be used for advertising or marketing of any product or service anywhere, other than television series or films involving Borat.

11. The measure of damages in a situation like this one typically is the amount of money the defendant company would have to pay for the same or another celebrity -- one who has reached similar stature in terms of professional achievement and commercial and critical success -- if that celebrity would have been willing to allow the use, and if the defendant company would have been willing to pay the market price.

12. The fact that the Defendants did not and do not want to pay Mr. Baron Cohen any amount or might not have paid any other celebrity any amount, is irrelevant. The legal test involves "a willing buyer." The fact is that the Defendants knowingly used Mr. Baron

Cohen's image and likeness and the copyright-protected Borat character without permission. They now must pay the reasonably established value of that use, which would have been paid by a willing buyer, as determined by expert testimony and other evidence.

13. This action is occurring in an environment where companies are willing to pay extraordinary sums to be associated with celebrities. For example, upon information and belief, celebrity Kim Kardashian is paid \$300,000 per tweet for simply mentioning brand names on Twitter. Upon information and belief, a jury awarded \$8.9 million to basketball star Michael Jordan against a grocery company for a magazine advertisement that included Mr. Jordan's image without his permission. In the advertisement, there was no endorsement by Mr. Jordan, only a congratulatory message to him, which reached a smaller audience than the audience for the Billboard here.

14. In situations like this one, where the Defendants have misappropriated not only the likeness of Mr. Baron Cohen, but also the copyright-protected character of Borat, they also are required to pay damages to the owner of copyright in the character. In the entertainment industry, the payment to the copyright owner typically is on an MFN (most favored nations) basis, such that the Defendants are obligated to pay the copyright holder the same amount (at a minimum) that they would be required to pay the celebrity. Because Mr. Baron Cohen's company, plaintiff PYCT, is the owner of all applicable copyright and other intellectual property interests in the Borat character, the Defendants are obligated to compensate both Mr. Baron Cohen and PYCT.

15. Mr. Baron Cohen played the character of Borat in the 2006 movie, *Borat: Cultural Learnings of America For Make Benefit Glorious Nation of Kazakhstan* ("Borat Movie") and its 2020 sequel, *Borat Subsequent Moviefilm: Delivery of Prodigious Bribe To American Regime For Make Benefit Once Glorious Nation Of Kazakhstan* ("Borat Subsequent Moviefilm") (collectively, the "Borat Films").

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