

1 Gary Kurtz, Esq. SBN 128295
2 Law Office of Gary Kurtz
3 A Professional Law Corporation
4 [Redacted]

5 Telephone: [Redacted]
6 Telefax: [Redacted]
7 E-Mail: [Redacted]

8 Attorneys for Plaintiff Philip Markowitz

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90046
FILED
Los Angeles Superior Court

MAY 28 2010

John A. Clarke, Executive Officer/Clerk
By *[Signature]*, Deputy
DOROTHY SWAIN

9 SUPERIOR COURT OF CALIFORNIA

10 COUNTY OF LOS ANGELES

11 BC438688

12 PHILIP MARKOWITZ,

13 Plaintiff,

14 vs.

15 BEYONCE KNOWLES, KLEINER &
16 COMPANY, LLC dba KLEINER INC.; DINA
17 CICCOTELLO; BAGS AND BOARDS; AND
18 DOES 1 to 25, Inclusive,

18 Defendants.

) Case No.
)
) COMPLAINT FOR DAMAGES FOR:
)
) 1. Private Nuisance; and
) 2. Trespass

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21 For his complaint for damages, Plaintiff Philip Markowitz alleges as follows:

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23 1. Plaintiff Philip Markowitz is an individual residing directly
24 video shoot for the Beyonce Knowles song "Why Don't You Love Me."
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CITY/COUNTY: BC438688 LEA/DEF#: [Redacted]
RECEIPT #: CR118782025
DATE: 05/28/10 12:45:08 PM
PAYMENT: \$395.00
RECEIVED: [Redacted]
CHECK: 355.00
CASH: [Redacted]
CHANGE: [Redacted]
CASH: [Redacted]

Complaint for Damages

Law Office of Gary Kurtz, A P.L.C.

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[Handwritten signatures and notes]

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2. Defendant Beyonce Knowles is an entertainer, who Plaintiff is informed and believes and based thereon alleges resides in the county of Los Angeles, State of California.

3. Defendant Kleiner & Company, LLC is a California limited liability company that does business as Kleiner Inc., located at 1030 5th Street Suite E, Santa Monica, CA 90403.

4. Defendant Bags and Boards is a California corporation, located at 15227 Hartsook Street, Sherman Oaks, California 91403

5. Defendant Dina Coccotello is an individual who resides and/or works at 15227 Hartsook Street, Sherman Oaks, California 91403. Coccotello is and was at all relevant times associated with and/or an agent of Defendants Kleiner & Company, LLC and Bags and Boards.

6. The true names and capacities, whether individual, corporate, associate or otherwise, of Defendants herein named as Does 1 through 50, inclusive, are unknown to Plaintiff, who, therefore, sues said Defendants by such fictitious names. Plaintiff will seek to amend this complaint to state the true names and capacities of these Doe Defendants when they have been ascertained. At the time of the wrongful acts described in this complaint, all named Defendants and Does 1 through 50, participated in some or all of the acts herein alleged, whether as principal, agent, alter ego, employer, employee, or representative of some or all of the other Defendants, acting within the course and scope of said agency and employment.

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Background Factual Allegations

7. The location at issue is within the exclusive Mt. Olympus community in the Hollywood Hills. Houses in that community range in value, all in the millions of dollars. People in that community, including without limitation Mr. Markowitz, pay for and reasonably expect some level of peace and privacy in and around their homes.

8. Mr. Markowitz's reasonable expectations were shattered on March 26, 2010, when a film crew organized and engaged by Defendants invaded his neighborhood and his property to do still photography and a video for Beyonce Knowles. In doing so, Defendants and/or their agents acting within the scope of their authority blocked Plaintiff's ingress and egress from his home, unreasonably restricting access. A representative picture follows:



The chronology of events is as follows:

2025 RELEASE UNDER E.O. 14176

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8.1. At about just after 7 a.m. Mr. Markowitz was awakened by his dog barking from crew in his driveway. This was the first invasion of his peace and privacy, as he keeps late hours and would normally be asleep at that time of day.

8.2. At about 7:30 a.m., Mr. Markowitz received a call from a neighbor to move a car that was not his. This was the second invasion of his peace and privacy, as it made it impossible to for him to go back to sleep.

8.3. At about 9 a.m. Mr. Markowitz left his house and attempted to drive away. His path was obstructed by Defendants' camera crew placing objects that blocked his driveway and cluttered the street. He had to wait while the clutter was moved out of his way, and he had to be guided out of his driveway. This was the third invasion of his peace and privacy, as he has a reasonable expectation of free egress from his property.

8.4. When he returned home approximately 20 minutes later, Mr. Markowitz was again blocked by production equipment blocking his driveway. He had to wait until your company's crew moved the obstructions out of his way. This was the fourth invasion of his peace and privacy, as he has a reasonable expectation of free ingress to his property.

8.5. Mr. Markowitz again attempted to leave his house at about 10:30 a.m., and your company's crew again had things blocking his path out of his driveway. An off-duty police officer had to guide him past to obstructions. This was the fifth invasion of his peace and privacy.

8.6. Mr. Markowitz returned about 10:45 a.m. to find that his driveway was blocked again, and there was standing traffic in front of his house while photographs were being shot. He had to drive around the block a several times before a path could be cleared

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for his entry to his home. Members of the crew then moved some dolly's and miscellaneous equipment out of the way so he could pull into his garage. This was the sixth invasion of his peace and privacy.

8.7. At approximately 11:30 a.m., Mr. Markowitz again wanted to leave his house, but he was again completely blocked in by crew and reflectors set up on his property and driveway. At this time he complained to the production coordinator "Dina" who was later determined to be Defendant Dina Coccotello. He demanded compensation for the trespass on his property and the inconvenience and delay he had already suffered. Mr. Markowitz told Ms. Coccotello that he had been able to receive upwards of \$10,000 for the use of his property, and the production company needed to pay him for what they were doing without his consent or permission (namely, the obstruction and trespass). Ms. Coccotello agreed to the payment in concept but claimed the production company had "no money" in the budget and it was a "student," low budget film shoot. That claim lacked credibility, as the event was for Beyonce, the R&B super star, the production included 2 LAPD officers for security, LAFD, oversight personal from Film LA, a crew of at least 30, plus catering. Nevertheless, budgeting oversights do not absolve the production company and Beyonce from their responsibilities to the neighborhood or its residents.

9. The photo and video shoot and clean-up lasted until nearly 11:00 p.m., meaning Mr. Markowitz had to suffer from the noise, obstructions, crowds, lack of ingress and egress, and uncompensated inconvenience for an unreasonably long period of time. He spends most of his time in an office in the front of the house, which has his home theater equipment and computer. His office window, where he was sleeping on the couch, is only 3 feet from his driveway. Thus, he disturbed all day with noise and his dog barking at the

1 crew while they trespassed on his driveway. Countless cars used Mr. Markowitz's driveway
2 to turn around mid-block, which was also disturbing. He was unable to leave when he
3 wanted to, as the crew was blocking his driveway. He missed several business calls while
4 arguing calmly in his driveway.
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6 10. Filming Permits arranged by Film L.A. Inc. Indicate that the photo and video
7 shoot was a joint project by Bag and Boards and Kleiner Inc. The permits also contain
8 restrictions and limitations to protect residents, such as Plaintiff, which restrictions and
9 limitations were flagrantly violated by the Defendants. Dina Coccotello has taken
10 production credit for the video and was supervising the project on the date at issue. Film
11 L.A. Inc. had personnel on site to monitor the shoot but did nothing to minimize or mitigate
12 the problems set forth herein.
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14
15 **First Cause of Action**

16 **Nuisance**

17 [By Plaintiff Against All Defendants]
18

19 11. Plaintiff realleges the allegations set forth in paragraphs 1 through 4, above,
20 and incorporates them by this reference.
21

22 12. In doing the acts set forth above, and in particular as contained in paragraph
23 8 and its subsections, Defendants, and each of them, intentionally interfered with the use
24 and enjoyment of Mr. Markowitz's real property.

25 13. Defendants' interference with Mr. Markowitz's use and enjoyment of his
26 home was unreasonable, both subjectively and objectively. Subjectively, Defendants'
27 interference was an unreasonable limitation of Mr. Markowitz' ability to leave and return to
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1 his home, his ability to rest at his home, his ability to enjoy the facilities of his home, and his
2 ability to productively use his home office. Objectively, Defendants' interference was
3 unreasonable because the industry standard is to negotiate permission and/or
4 compensation for engaging in the acts alleged herein.
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6 14. Defendants' interference with Mr. Markowitz's use and enjoyment of his
7 home was the legal cause of substantial harm, depriving him of a day in his life. As a further
8 direct and proximate result of Defendants' conduct, Plaintiff has suffered personal losses,
9 including being subjected to inconvenience, annoyance, ridicule, scorn, embarrassment,
10 humiliation, and hurt feelings, and he has sustained emotional trauma and distress,
11 depression, and lost sleep.
12

13 15. Further, in doing the things alleged above, Defendants have been guilty of
14 oppression, fraud and malice, so Defendants' conduct, constitutes malice and oppression
15 sufficient to justify an award of punitive damages. As a direct and proximate result of
16 Defendants' conduct, as alleged above, Mr. Markowitz has sustained damages, and is
17 entitled to punitive damages in and amount exceeding the jurisdictional minimum of this
18 Court.
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21 **Second Cause of Action**

22 **Trespass**

23 **[By Plaintiff Against All Defendants]**
24

25 16. Plaintiff realleges the allegations set forth in paragraphs 1 through 4, above,
26 and incorporates them by this reference.
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1 17. As the owner of the residence and property across from the video and photo
2 shoot at issue, Mr. Markowitz had the the right to sole and exclusive possession of the
3 subject residence and the establish the terms, if any, for others to enter on to said property.
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5 18. Defendants, either personally or through their authorized agents acting
6 within the scope of their authority, intentionally and willfully entered onto Mr. Markowitz's
7 property, without his consent or permission and, therefore engaged in a trespass onto said
8 property. One aspect of this trespass is demonstrated by the following picture:



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20 In addition, persons working for Defendants used Mr. Markowitz's fence walls as tables for
21 plates of food and beverages and used his lawn as a receptacle for garbage (much of which
22 was cleaned at night). Further, Defendants used a machine to generate smoke for the video,
23 and that smoke invaded the interior of Mr. Markowitz's home.
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25 19. Defendants' trespass was the legal cause of substantial harm, depriving him
26 of a day in his life. As a further direct and proximate result of Defendants' conduct, Plaintiff
27 has suffered personal losses, including being subjected to inconvenience, annoyance,
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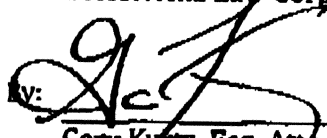
ridicule, scorn, embarrassment, humiliation, and hurt feelings, and he has sustained emotional trauma and distress, depression, and lost sleep.

20. Further, in doing the things alleged above, Defendants have been guilty of oppression, fraud and malice, so Defendants' conduct, constitutes malice and oppression sufficient to justify an award of punitive damages. As a direct and proximate result of Defendants' conduct, as alleged above, Mr. Markowitz has sustained damages, and is entitled to punitive damages in an amount exceeding the jurisdictional minimum of this Court.

WHEREFORE, Plaintiff prays for a judgment against Defendants, and each of them, as follows:

1. For compensatory damages according to proof;
2. For general damages according to proof at trial;
3. For exemplary and punitive damages according to proof at trial.
4. For costs of suit;
5. For interest as provided by law; and
6. For all further and additional relief as the Court deems just and proper.

LAW OFFICE OF GARY KURTZ
A Professional Law Corporation

By: 

Gary Kurtz, Esq. Attorney for
Plaintiff Phillip Markowitz

Dated: May 26, 2010

Law Office of Gary Kurtz, A PLLC.

2010-05-26 10:10 AM