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7 **UNITED STATES DISTRICT COURT**
 8 **DISTRICT OF ARIZONA**

9 JENNA MASSOLI p/k/a JENNA JAMESON,
 10 Plaintiff,
 11 v.
 12 “REGAN MEDIA,” JUDITH REGAN, as an
 individual,
 13 Defendants.

CV 05-0854 PHX EHC

**REPLY TO SECOND
 AMENDED COUNTERCLAIM**

*(Assigned to the Honorable
 Earl H. Carroll)*

14 REGAN MEDIA, INC., a New York corporation,
 15 and JUDITH REGAN, an individual,
 16 Defendants/Counterclaimants,

17 v.
 18 JENNA MASSOLI, p/k/a JENNA JAMESON, an
 individual,
 19 Plaintiff/Counterdefendant,
 20 and
 21 JAY GRDINA, an individual, and DOLCE
 22 AMORE, INC., a Colorado corporation,
 23 Counterdefendants.

24 Plaintiff Jenna Massoli, pka Jenna Jameson and counterdefendants John G. “Jay”
 25 Grdina and Dolce Amore, Inc. (collectively, “Plaintiffs”) by and through their counsel
 26

1 undersigned, hereby submit this Reply to the Second Amended Counterclaim (the
2 “Counterclaim”) filed by defendants Judith Regan and Regan Media, Inc. (collectively,
3 “Defendants”).

- 4 1. Plaintiffs admit the allegations set forth in paragraph 1 of the Counterclaim.
- 5 2. Plaintiffs admit the allegations set forth in paragraph 2 of the Counterclaim.
- 6 3. Plaintiffs admit the allegations set forth in paragraph 3 of the Counterclaim.
- 7 4. Plaintiffs admit the allegations set forth in paragraph 4 of the Counterclaim.
- 8 5. Plaintiffs admit the allegations set forth in paragraph 5 of the Counterclaim.
- 9 6. Plaintiffs admit the allegations set forth in paragraph 6 of the Counterclaim.
- 10 7. Plaintiffs admit the allegations set forth in paragraph 7 of the Counterclaim.

11
12 **FACTS**
The April 1, 2004 Agreement

13 8. Plaintiffs are without knowledge or information sufficient to form a belief as to
14 the truth of the allegations contained in paragraph 8 of the Counterclaim and therefore deny
15 those allegations.

16 9. Plaintiffs admit that plaintiff Jenna Massoli (“Massoli”) entered into the
17 Agreement described in paragraph 9 of the Counterclaim (the “Agreement”). Plaintiffs
18 affirmatively assert, however, that Massoli did not execute the Agreement on April 1, 2004 as
19 alleged, but executed it sometime after April 14, 2004. As to the remaining allegations
20 contained in paragraph 9, Plaintiffs affirmatively assert that the Agreement speaks for itself.
21 To the extent that paragraph 9 seeks to characterize or interpret the Agreement, Plaintiffs
22 deny those characterizations or interpretations.

23 10. With respect to paragraph 10 of the Counterclaim, Plaintiffs affirmatively
24 assert that except for its date, the Agreement speaks for itself. To the extent that paragraph 10
25 seeks to characterize or interpret the Agreement, Plaintiffs deny those characterizations or
26 interpretations.

1 11. With respect to paragraph 11 of the Counterclaim, Plaintiffs affirmatively
2 assert that except for its date, the Agreement speaks for itself. To the extent that paragraph 11
3 seeks to characterize or interpret the Agreement, Plaintiffs deny those characterizations or
4 interpretations.

5 12. With respect to paragraph 12 of the Counterclaim, Plaintiffs affirmatively
6 assert that except for its date, the Agreement speaks for itself. To the extent that paragraph 12
7 seeks to characterize or interpret the Agreement, Plaintiffs deny those characterizations or
8 interpretations.

9 13. With respect to paragraph 13 of the Counterclaim, Plaintiffs affirmatively
10 assert that except for its date, the Agreement speaks for itself. To the extent that paragraph 13
11 seeks to characterize or interpret the Agreement, Plaintiffs deny those characterizations or
12 interpretations.

13 14. With respect to paragraph 14 of the Counterclaim, Plaintiffs affirmatively
14 assert that except for its date, the Agreement speaks for itself. To the extent that paragraph 14
15 seeks to characterize or interpret the Agreement, Plaintiffs deny those characterizations or
16 interpretations.

17 15. With respect to paragraph 15 of the Counterclaim, said paragraph asserts a legal
18 conclusion which is incapable of admission or denial. To the extent that paragraph 15 does
19 contain allegations against Plaintiffs, Plaintiffs deny those allegations.

20 16. With respect to paragraph 16 of the Counterclaim, said paragraph asserts a legal
21 conclusion which is incapable of admission or denial. To the extent that paragraph 16 does
22 contain allegations against Plaintiffs, Plaintiffs deny those allegations.

23 17. With respect to paragraph 17 of the Counterclaim, Plaintiffs affirmatively
24 assert that except for its date, the Agreement speaks for itself. To the extent that paragraph 17
25 seeks to characterize or interpret the Agreement, Plaintiffs deny those characterizations or
26 interpretations.

1 25. With respect to paragraph 25 of the Counterclaim, Plaintiffs affirmatively
2 assert that except for its date, the Agreement speaks for itself. To the extent that paragraph 25
3 seeks to characterize or interpret the Agreement, Plaintiffs deny those characterizations or
4 interpretations.

5 26. With respect to paragraph 26 of the Counterclaim, Plaintiffs affirmatively
6 assert that except for its date, the Agreement speaks for itself. To the extent that paragraph 26
7 seeks to characterize or interpret the Agreement, Plaintiffs deny those characterizations or
8 interpretations.

9 27. With respect to paragraph 27 of the Counterclaim, Plaintiffs affirmatively
10 assert that except for its date, the Agreement speaks for itself. To the extent that paragraph 27
11 seeks to characterize or interpret the Agreement, Plaintiffs deny those characterizations or
12 interpretations.

13 28. With respect to paragraph 28 of the Counterclaim, Plaintiffs affirmatively
14 assert that except for its date, the Agreement speaks for itself. To the extent that paragraph 28
15 seeks to characterize or interpret the Agreement, Plaintiffs deny those characterizations or
16 interpretations.

17 29. With respect to paragraph 29 of the Counterclaim, Plaintiffs admit that had the
18 reality show contemplated by the A&E Contract been produced, Grdina would have had
19 executive producer credits, but Regan would not. Plaintiffs further admit that neither Regan
20 nor Regan Media are mentioned anywhere in the A&E Contract. Plaintiffs affirmatively
21 assert, however, that A&E has made a determination not to telecast or otherwise distribute the
22 reality show, and that Regan and Regan Media were advised prior to the filing of their Second
23 Amended Counterclaim that A&E had elected not to exercise its option to telecast either the
24 pilot or series described in paragraph 4(d) of the A&E Contract. Plaintiffs deny any
25 remaining allegations contained in paragraph 29.

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1 30. With respect to paragraph 30 of the Counterclaim, Plaintiffs affirmatively
2 assert that the Artist's Letter of Inducement attached to the A&E Contract speaks for itself.
3 To the extent that paragraph 30 seeks to characterize or interpret the Artist's Letter of
4 Inducement, Plaintiffs deny those characterizations or interpretations.

5 31. With respect to paragraph 31 of the Counterclaim, Plaintiffs affirmatively
6 assert that the Artist's Letter of Inducement speaks for itself. To the extent that paragraph 31
7 seeks to characterize or interpret the Artist's Letter of Inducement, Plaintiffs deny those
8 characterizations or interpretations.

9 32. With respect to paragraph 32 of the Counterclaim, said paragraph asserts a legal
10 conclusion which is incapable of admission or denial. To the extent that paragraph 32 does
11 contain allegations against Plaintiffs, Plaintiffs deny those allegations. Plaintiffs
12 affirmatively assert that the legal conclusions stated in paragraph 32 are frivolous.

13 33. Plaintiffs deny each and every allegation contained in paragraph 33 of the
14 Counterclaim.

15 34. Plaintiffs deny each and every allegation contained in paragraph 34 of the
16 Counterclaim.

17 35. Plaintiffs deny each and every allegation contained in paragraph 35 of the
18 Counterclaim.

19 36. With respect to paragraph 36 of the Counterclaim, Plaintiffs admit that nothing
20 contained with the A&E Contract provides for any credits, compensation, or benefit to Regan
21 or Regan Media. Plaintiffs deny that the exclusion of Defendants from the A&E Contract is a
22 violation of any right afforded to Defendants under the April 2004 Agreement or otherwise.
23 Plaintiffs deny any remaining allegations contained in paragraph 36.

24 37. Plaintiffs deny each and every allegation contained in paragraph 37 of the
25 Counterclaim.

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1 38. Plaintiffs deny each and every allegation contained in paragraph 38 of the
2 Counterclaim.

3
4 **COUNT ONE (Breach of Contract)**
5 **Regan Media v. Massoli**

6 39. With respect to paragraph 39 of the Counterclaim, Plaintiffs incorporate by
7 reference their responses to paragraphs 1-38 of the Counterclaim as if fully set forth herein.

8 40. Plaintiffs deny each and every allegation contained in paragraph 40 of the
9 Counterclaim.

10 41. Plaintiffs deny each and every allegation contained in paragraph 41 of the
11 Counterclaim.

12 42. Plaintiffs deny each and every allegation contained in paragraph 42 of the
13 Counterclaim.

14 43. Plaintiffs deny each and every allegation contained in paragraph 43 of the
15 Counterclaim.

16 44. Plaintiffs deny each and every allegation contained in paragraph 44 of the
17 Counterclaim.

18 45. Plaintiffs deny each and every allegation contained in paragraph 45 of the
19 Counterclaim.

20 46. Plaintiffs deny each and every allegation contained in paragraph 46 of the
21 Counterclaim.

22 47. Plaintiffs deny each and every allegation contained in paragraph 47 of the
23 Counterclaim.

24 **COUNT TWO (Breach of Contract/Third Party Beneficiary)**
25 **Regan v. Massoli**

26 48. With respect to paragraph 48 of the Counterclaim, Plaintiffs incorporate by
reference their responses to paragraphs 1-47 of the Counterclaim as if fully set forth herein.

1 60. Plaintiffs deny each and every allegation contained in paragraph 60 of the
2 Counterclaim.

3 61. Plaintiffs deny each and every allegation contained in paragraph 61 of the
4 Counterclaim.

5 62. Plaintiffs deny each and every allegation contained in paragraph 62 of the
6 Counterclaim.

7

**COUNT FOUR (Declaratory Judgment)
Regan and Regan Media v. Massoli**

8

9 63. With respect to paragraph 63 of the Counterclaim, Plaintiffs incorporate by
10 reference their responses to paragraphs 1-62 of the Counterclaim as if fully set forth herein.

11 64. With respect to paragraph 64 of the Counterclaim, Plaintiffs admit that there is
12 an actual dispute regarding whether the A&E Project is subject to the April 2004 Agreement.
13 Plaintiffs deny that Defendants are entitled to any relief under the facts and contracts at issue,
14 and further deny that an actual dispute exists with respect to the claims of Judith Regan for
15 declaratory judgment, if any. Plaintiffs deny any remaining allegations contained in paragraph
16 64.

17

**COUNT FIVE (Intentional Interference with Contract)
Regan and Regan Media v. Dolce Amore**

18

19 65. With respect to paragraph 65 of the Counterclaim, Plaintiffs incorporate by
20 reference their responses to paragraphs 1-64 of the Counterclaim as if fully set forth herein.

21 66. With respect to paragraph 66 of the Counterclaim, Plaintiffs admit that Dolce
22 Amore was aware of the April 2004 Agreement as of November 2004, but no earlier.

23 67. With respect to paragraph 67 of the Counterclaim, Plaintiffs admit that after
24 Dolce Amore learned of the April 2004 Agreement, it understood Massoli's obligations to
25 Regan and Regan Media under that Agreement. Plaintiffs affirmatively assert that Massoli had
26 no obligation to Defendants with respect to the A&E Contract. Plaintiffs further affirmatively

1 assert that Plaintiffs had a prior and continuing relationship with A&E involving the
2 production of a reality TV series featuring Jenna Jameson of which Defendants were aware
3 prior to and after the formation of the April 2004 Agreement. Plaintiffs deny any remaining
4 allegations contained in paragraph 67.

5 68. With respect to paragraph 68 of the Counterclaim, Plaintiffs admit that Dolce
6 Amore entered into a contract with A&E as described in paragraph 68. Plaintiffs affirmatively
7 assert that said contract was cancelled by A&E prior to the filing of the Second Amended
8 Counterclaim, and that Defendants were aware of that cancellation prior to the filing of the
9 Second Amended Counterclaim. Plaintiffs deny any remaining allegations contained in
10 paragraph 68.

11 69. Plaintiffs deny each and every allegation contained in paragraph 69 of the
12 Counterclaim.

13 70. Plaintiffs deny each and every allegation contained in paragraph 70 of the
14 Counterclaim.

15 71. Plaintiffs deny each and every allegation contained in paragraph 71 of the
16 Counterclaim.

17 72. With regard to paragraph 72 of the Counterclaim, Plaintiffs admit that Dolce
18 Amore has received payment from A&E under the terms of the A&E Contract with respect to
19 a pilot.

20 73. Plaintiffs deny each and every allegation contained in paragraph 73 of the
21 Counterclaim.

22
23 **COUNT SIX (Intentional Interference with Contract)**
Regan and Regan Media v. Grdina

24 74. With respect to paragraph 74 of the Counterclaim, Plaintiffs incorporate by
25 reference their responses to paragraphs 1-73 of the Counterclaim as if fully set forth herein.

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1 75. With respect to paragraph 75 of the Counterclaim, Plaintiffs admit that Grdina
2 had knowledge and information regarding the April 2004 Agreement as of November 2004,
3 but no earlier. Plaintiffs deny any remaining allegations contained in paragraph 75.

4 76. With respect to paragraph 76 of the Counterclaim, Plaintiffs admit that after
5 Grdina learned of the existence of the April 2004 Agreement, he understood the obligations
6 of Massoli under the Agreement. Plaintiffs affirmatively assert that at all times material to
7 the April 2004 Agreement, Defendants had actual knowledge that Grdina was actively engaged
8 in negotiations with A&E regarding a reality TV series, and that Jenna Massoli's agent,
9 Endeavor LA, was representing Massoli in those negotiations. Plaintiffs further affirmatively
10 assert that at all times material hereto, Defendants had actual knowledge that they were neither
11 authorized or permitted to contact A&E regarding any aspect of a reality TV show. Plaintiffs
12 deny any remaining allegations contained in paragraph 76.

13 77. With respect to paragraph 77 of the Counterclaim, Plaintiffs admit that Dolce
14 Amore entered into a contract with A&E in January 2005. Plaintiffs deny any remaining
15 allegations contained in paragraph 77.

16 78. Plaintiffs deny each and every allegation contained in paragraph 78 of the
17 Counterclaim.

18 79. Plaintiffs deny each and every allegation contained in paragraph 79 of the
19 Counterclaim.

20 80. Plaintiffs deny each and every allegation contained in paragraph 80 of the
21 Counterclaim.

22 81. Plaintiffs deny each and every allegation contained in paragraph 81 of the
23 Counterclaim.

24 82. Plaintiffs deny each and every allegation contained in paragraph 82 of the
25 Counterclaim.

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1 **COUNT SEVEN (Unjust Enrichment)**
2 **Regan and Regan Media v. Dolce Amore**

3 83. With respect to paragraph 83 of the Counterclaim, Plaintiffs incorporate by
4 reference their responses to paragraphs 1-82 of the Counterclaim as if fully set forth herein.

5 84. With respect to paragraph 84 of the Counterclaim, said paragraph asserts a legal
6 conclusion which is incapable of admission or denial. To the extent that paragraph 84 does
7 contain allegations against Plaintiffs, Plaintiffs deny those allegations. Plaintiffs
8 affirmatively assert that Massoli performed each and every obligation under the April 2004
9 Agreement prior to its abandonment by Defendants. Plaintiffs deny any remaining allegations
10 contained in paragraph 84.

11 85. Plaintiffs deny each and every allegation contained in paragraph 85 of the
12 Counterclaim.

13 86. Plaintiffs deny each and every allegation contained in paragraph 86 of the
14 Counterclaim.

15 87. Plaintiffs deny each and every allegation contained in paragraph 87 of the
16 Counterclaim.

17 88. Plaintiffs deny each and every allegation contained in paragraph 88 of the
18 Counterclaim.

19 89. Plaintiffs deny each and every allegation contained in paragraph 89 of the
20 Counterclaim.

21 90. Plaintiffs deny each and every allegation contained in paragraph 90 of the
22 Counterclaim.

23 **COUNT EIGHT (Alter Ego Liability)**
24 **Reagan and Regan Media v. Dolce Amore, Massoli and Grdina**

25 91. With respect to paragraph 91 of the Counterclaim, Plaintiffs incorporate by
26 reference their responses to paragraphs 1-90 of the Counterclaim as if fully set forth herein.

1 5. Any alleged breach of contract was induced by Defendants' own words and
2 conduct;

3 6. Defendants have failed to mitigate their damages, if any;

4 7. By words and conduct, Plaintiffs and Defendants have cancelled the April 2004
5 Agreement by mutual consent;

6 8. Defendant Regan lacks standing to assert any claim for damages arising out of
7 any agreement with Massoli, as the parties had no intent to confer any direct financial benefit
8 upon Regan;

9 9. Dolce Amore had a prior and continuing relationship with A&E of which
10 Defendants were fully informed. Dolce Amore was therefore privileged to compete with
11 Defendants regarding the acquisition of the A&E Contract;

12 10. The execution of the April 2004 Agreement was concealed from Grdina, by
13 Defendants, under circumstances where Defendants had actual knowledge that Grdina was in a
14 prior and continuing business relationship with A&E regarding a reality based television
15 series, but nevertheless importuned Massoli to sign the Agreement;

16 11. The execution of the April 2004 Agreement was concealed from Grdina, by
17 Defendants, under circumstances where Defendants had actual knowledge that Massoli does
18 not review or execute any contract without Grdina's knowledge and consent, but nevertheless
19 importuned Massoli to sign the Agreement;

20 12. Defendants' claims are barred by their fraudulent inducement of the Agreement
21 and by unclean hands;

22 13. Grdina was actively engaged with A&E in the negotiation of a contract for a
23 reality television series with the Defendants' full knowledge. Defendants therefore
24 acquiesced to the activities of Grdina and Dolce Amore with respect to A&E. Grdina was
25 privileged to act on behalf of Massoli and Dolce Amore and to compete with Defendants with
26 respect to A&E;

1 14. Defendants have failed to perform any duty, service, or obligation under the
2 April 2004 Agreement with respect to A&E;

3 15. Defendants have failed to exploit the rights claimed to have been granted under
4 the Agreement, and abandoned such rights by their inaction;

5 16. Defendants have knowingly waived any claim to compensation arising out of the
6 A&E contract and are estopped from claiming damages thereunder.

7 RESPECTFULLY SUBMITTED this 2nd day of November, 2005.

8 RENAUD COOK DRURY MESAROS, PA

9

10 By: /s/ Roger W. Hall, #013727
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15 Phoenix, AZ 85004-4417
16 *Attorneys for Plaintiff/Counterdefendants*

15 The foregoing filed electronically this
16 2nd day of November, 2005.

17 COPY of the foregoing hand-delivered
18 to the Honorable Earl H. Carroll this 2nd day
19 of November, 2005.

18 COPY of the foregoing hand-delivered
19 this 2nd day of November, 2005, to:

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