

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FOUNDATION FOR LOST BOYS AND)	
GIRLS OF SUDAN, INC., NATHANIEL)	CIVIL ACTION FILE NO.
CHOL NYOK, BOL DENG BOL, GAM)	
DAY AWINO, EMMANUEL GAI)	_____
SOLOMON, STEPHEN AKECH KUOL,)	
LUKA THIIK YAI, GABRIEL GAI)	
MAGOK, MAKUR MAKUEI ABIAR,)	
JAMES CHIER MALUAL, ANDREW)	
MAJOK MARIER, ANGELO AGANY)	
AKOT, MOSES MATUR CHOL, JAMES)	
CHOL ACHIBER, MAROL DENG DEU,)	
KUIR GARANG MARIER, JOHN NUAI)	
WOUR, JACOB AWENG DEU, JOHN)	
GARANG DAU, ABRAHAM CHIER)	
AROP, NGOR KUR MONYOL, PETER)	
MALOU JOK, DENG MANYANG RIAK,)	
SANTINO ACHIEK AYOL, DAU GOI)	
LEEK, ERNEST AKUEI MADUT, JAMES)	
AJANG YAI, JACOB NYANG ALIER,)	
GABRIEL GARANG THUCH, JACOB)	
AKOL KUANY, JACOB DENG MACH,)	
VICTOR DUANG DENG, ABRAHAM)	
CHOL MACHOL, ABRAHAM LAAT)	
DENG, JOHN MANYOK ANYIETH,)	
DAVID DENG ANYIETH, JOHN)	
MADING JOK, ABRAHAM GARANG)	
MAJAK, SANTINO DUT MONYNHIAL,)	
ABRAHAM BOL KUANY, PETER KUOL)	
MADING, DENG MACHOT DENG,)	
MARKO AGUER AYII, MAYOM LAT)	
MAWUT, SIMON AYUEL DENG,)	
WILLIAM LUAL DENG, PHILEMON)	
JUAC GOR, PETER M. ADOL, JAMES)	
BOL MALIET, ABRAHAM MAJOK)	

DENG, ABRAHAM YEL NHIAL,)
SARAH ABIEI SOLOMON, and)
ABRAHAM MACH NYOK,)
)
Plaintiffs,)
)
v.)
)
ALCON ENTERTAINMENT, LLC,)
IMAGINE ENTERTAINMENT, LLC,)
GOOD LIE PRODUCTIONS LLC,)
BLACK LABEL MEDIA, LLC, RELIANCE)
BIG ENTERTAINMENT (US), INC.,)
OUTLAW PRODUCTIONS, DEBORAH)
JELIN NEWMYER, as executrix of the)
Estate of Robert Newmyer, JEFFREY)
SILVER, and MARGARET NAGLE,)
)
Defendants.)

COMPLAINT

COME NOW Plaintiffs Foundation for Lost Boys and Girls of Sudan, Inc. (the “Foundation”) and Nathaniel Chol Nyok, Bol Deng Bol, Gam Day Awino, Emmanuel Gai Solomon, Stephen Akech Kuol, Luka Thiik Yai, Gabriel Gai Magok, Makur Makuei Abiar, James Chier Malual, Andrew Majok Marier, Angelo Agany Akot, Moses Matur Chol, James Chol Achiber, Marol Deng Deu, Kuir Garang Marier, John Nuai Wour, Jacob Aweng Deu, John Garang Dau, Abraham Chier Arop, Ngor Kur Monyol, Peter Malou Jok, Deng Manyang Riak, Santino Achiek Ayol, Dau Goi Leek, Ernest Akuei Madut, James Ajang Yai, Jacob Nyang

Alier, Gabriel Garang Thuch, Jacob Akol Kuany, Jacob Deng Mach, Victor Duang Deng, Abraham Chol Machol, Abraham Laat Deng, John Manyok Anyieth, David Deng Anyieth, John Mading Jok, Abraham Garang Majak, Santino Dut Monynhial, Abraham Bol Kuany, Peter Kuol Mading, Deng Machot Deng, Marko Aguer Ayii, Mayom Lat Mawut, Simon Ayuel Deng, William Lual Deng, Philemon Juac Gor, Peter M. Adol, James Bol Maliet, Abraham Majok Deng, Abraham Yel Nhial, Sarah Abiei Solomon, and Abraham Mach Nyok (collectively, the “Contributing Lost Boys” or “the refugees”), and file this Complaint against Defendants Alcon Entertainment, LLC (“Alcon”), Imagine Entertainment, LLC (“Imagine”), Good Lie Productions, LLC (“GLP”), Black Label Media, LLC (“Black Label Media”), Reliance Big Entertainment (US), Inc. (“Reliance”), Outlaw Productions, Deborah Jelin Newmyer as executrix of the Estate of Robert Newmyer (the “Estate”), Jeffrey Silver (“Silver”), and Margaret Nagle (“Nagle,” collectively, “Defendants”), as follows.

INTRODUCTION

1. Defendants used the life stories of fifty-four Sudanese refugees of genocide to produce the recently released film *The Good Lie*. *The Good Lie* is an A-list production by Academy Award winning producer Ron Howard starring Academy Award winner Reese Witherspoon. The refugees partnered with

Defendants to create *The Good Lie*'s script, in part, based upon their promise that a non-profit foundation organized and run by the refugees would be the sole beneficiary of any fundraising efforts associated with *The Good Lie*. It was expected that *The Good Lie* would increase public awareness of the plight of Sudanese refugees and lead to multiple ongoing and continuous fundraising opportunities to help this worthy cause. The Foundation was formed to use the proceeds of the movie's fundraising efforts to fund schools and other philanthropic causes in South Sudan. However, neither the refugees nor their Foundation have been compensated in any fashion for sharing their traumatic personal stories and assisting with the creation of the script for *The Good Lie*. When confronted during a videotaped meeting on April 15, 2013, Molly Smith, of Black Label Media, LLC, said, "The most important thing that was said here today was you asked a question, 'Do you feel you should be compensated for your story?' And, the answer I can say, because it's my company and my studio, is absolutely." Defendants have broken their promises to these refugees.

PARTIES, JURISDICTION, AND VENUE

2. The Foundation is a non-profit corporation incorporated in and maintaining its principal place of business in the State of Georgia.

3. Each of the Contributing Lost Boys is a resident of the State of Georgia.

4. Alcon is a Delaware limited liability company with its principal place of business in California. Alcon may be served with a copy of the summons and complaint in this action at the office of its registered agent, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

5. Imagine is a Delaware limited liability company with its principal place of business in California. Imagine may be served with a copy of the summons and complaint in this action at the office of its registered agent, The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801.

6. GLP is a Delaware limited liability company with its principal place of business in California. GLP is registered to do business in Georgia. GLP may be served with a copy of the summons and complaint in this action at the office of its registered agent, National Corporate Research, LTD, 900 Old Roswell Lakes Parkway, Suite 310, Roswell, Georgia 30076.

7. Black Label Media is a Delaware limited liability company with its principal place of business in California. Black Label may be served with a copy of the summons and complaint in this action at the office of its registered agent,

Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

8. Reliance is a Delaware corporation with its principal place of business in Delaware. Reliance may be served with a copy of the summons and complaint in this action at the office of its registered agent, Paracorp Incorporated, 2140 S. Dupont Highway, Camden, Delaware 19934.

9. Outlaw Productions is California partnership with its principal place of business at 11054 Cashmere Street, Los Angeles, California 90049. Outlaw Productions may be served with a copy of the summons and complaint in this action at its principal business address.

10. Silver is a partner in Outlaw. Silver is a resident of the state of California. Silber may be served with a copy of the summons and complaint in this matter at Outlaw Productions principal place of business located at 11054 Cashmere Street, Los Angeles, California 90049.

11. The Estate is a partner in Outlaw Productions. The Estate is resident of the state of California. The Estate may be served with a copy of the summons and complaint in this action at 11054 Cashmere Street, Los Angeles, California 90049.

12. Nagle is a resident of California. Upon information and belief, Nagle's attorney, David Matlof at Hirsch Wallerstein Hayum Matlof and Fishman, LLP, 10100 Santa Monica Boulevard, Suite 1700, Los Angeles, California 90067, has been authorized to accept service of process on Nagle's behalf.

13. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1332 because there is complete diversity of citizenship between opposing parties and the amount in controversy exceeds \$75,000.00.

14. This Court also has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a), and § 1338(b) because this action arises under the Copyright Act, 17 U.S.C. §§ 101, et seq.

15. Each Defendant is subject to personal jurisdiction in this Court pursuant to the provisions of Georgia's Long-Arm Statute, O.C.G.A. § 9-10-91(1)-(3), and because each Defendant has established sufficient minimum contacts within the State of Georgia such that maintenance of the suit does not violate due process protections. The contracts at issue in this matter were made in Georgia, the interviews at issue in this matter occurred in Georgia, and the movie *The Good Lie* was filmed in Georgia and included some of the Plaintiffs as extra actors.

16. Venue is proper pursuant to 28 U.S.C. §§ 1391(a)(2)-(3), 28 U.S.C. §§ 1391(b)(2)-(3).

FACTS

The History of Lost Boys of Sudan

17. The Republic of Sudan (“Sudan”) and South Sudan are independent nations located on the African continent just south of Egypt. Both share a tumultuous history, including two recent civil wars spanning thirty-eight of the last fifty-nine years.

18. Previously under British control, Sudan and South Sudan were administered as separate provinces of the same colony from 1899 until 1946 when the British integrated the two areas.

19. A united Sudan gained independence on January 1, 1956. However, the nation remained far from unified as religion, culture, industry, politics, and language continued to divide the northern and southern regions.

20. The First Sudanese Civil War, between the north and south, began in 1955 and continued through 1972. The treaty that ended the First Sudanese Civil War in 1972 failed to completely dispel the religious and ethnic tensions that had originally caused it.

21. The unresolved tensions ignited the Second Sudanese Civil War, which began in 1983 and continued until 2005.

22. During the Second Sudanese Civil War, the predominantly Muslim Northern Sudanese enlisted the help of Muslim militia from Darfur in jihad against the Southern Sudanese, who were predominantly Christian or followed ancient beliefs.

23. With help from Northern Sudan, Darfurians pillaged Southern Sudan. The Darfurians raided villages for cattle and goods. They enslaved the Southern Sudanese women and girls. They slaughtered Southern Sudanese men and boys.

24. The Southern Sudanese population primarily lives in rural, tribal villages. When militiamen raided these villages, they targeted grass-roofed huts with fires that easily spread from hut to hut. As a result, villagers were forced out of their burning village and into the militia's trap. Females were captured, raped, and enslaved. Males were slaughtered.

25. The militia's method of attack became predictable. Because males were targeted for killing by the militia, the Southern Sudanese told their boys to flee the village at the first signs of an attack while the adult men sacrificed themselves to allow their families to escape. Boys escaped to the surrounding bush, only to watch their village burn and families die.

26. The traumatized boys fled from the genocidal attackers coming from Darfur. Along the way, many boys, and occasionally girls, joined together in the wilderness. Together, some of the boys overcame their trauma, starvation, dehydration, and frequent animal attacks.

27. Loose hierarchies emerged amongst the bands of boys. The oldest boys, some only ten or eleven years old, became the group elders. Children as young as seven or eight years old were parents to the younger boys. When weakness or exhaustion overtook the youngest children, the older boys picked them up and carried them.

28. Many did not survive the dangers of the African wilderness. Many boys died from starvation, disease, attacks from wild animals and enemy militias. The fallen were buried by their young friends.

29. Many of the boys walked for months until they reached refugee camps in neighboring Ethiopia, where they remained for about four years. However, after civil war broke out in Ethiopia, the boys left the refugee camps and again began walking back through a war-torn Southern Sudan towards the Kakuma Refugee Camp in Kenya.

30. Aid workers named the boys the “Lost Boys of Sudan” after the fictional lost boys in *Peter Pan*. Most of the Lost Boys are orphans from the

various tribes of Southern Sudan. Approximately 26,000 Sudanese boys were forced by violence from their Southern Sudan villages in the late 1980s.

31. Approximately 2.5 million Sudanese people were killed as a result of the genocide and fighting during the Second Sudanese Civil War, and millions, including thousands of Lost Boys, were displaced.

32. Thousands of Lost Boys and Lost Girls of Sudan were granted entry into the United States via a lottery system. After they arrived in the United States, the penniless orphans created communities, educated themselves, found employment, and tried to achieve the American Dream.

33. While many of the Lost Boys and Girls have permanently settled in the United States, they continue to help their homeland through charitable donations and humanitarian aid and support. Others are returning to South Sudan to help rebuild their war-torn country.

34. The Foundation is comprised of Lost Boys living in and around Atlanta, Georgia and works to improve conditions in South Sudan by, among other things, fostering education in South Sudan.

**Fifty-Four Lost Boys Partner with Nagle and Outlaw Productions to
Create a Screenplay**

35. While the Lost Boys share a common background, each Lost Boy has his own story of the trials faced during his journey – stories filled with the sorrow of loss, the power of friendship, and the will to survive.

36. In 2002, Lost Boys Gam Day Awino, Gabriel Gai Magok, Nathaniel Chol Nyok, and three others were hired to work on the movie *Tears of the Sun* starring Bruce Willis. After filming *Tears of the Sun* in Hawaii, Mr. Awino, Mr. Magok, and Mr. Nyok traveled through Los Angeles, California where they were introduced to Robert a/k/a “Bobby” Newmyer (“Newmyer”), a film producer and partner at Outlaw Productions.

37. Newmyer asked Mr. Awino, Mr. Magok, and Mr. Nyok where they were from and how they arrived in Atlanta. Mr. Awino, Mr. Magok, and Mr. Nyok told Newmyer about some of their experiences in South Sudan and how they arrived in Atlanta as refugees. When Newmyer said, “We can make this into a movie,” Mr. Awino, Mr. Magok, and Mr. Nyok told Newmyer to contact Mary Williams, founder of the Lost Boys Foundation¹ (“LBF”). Newmyer agreed to travel to Atlanta, Georgia to meet with members of the Lost Boys’ community.

¹ The Lost Boys Foundation was a 501(c)(3) organization established in 2001. This foundation is not affiliated with the plaintiff Foundation.

38. Outlaw Productions solicited Nagle, a screenwriter whose works include *Boardwalk Empire*, to write the script incorporating the Lost Boys' stories.

39. While some common elements of the Lost Boys' story were publically available, Newmyer and Nagle wanted to create a movie with real, personal and emotional details otherwise unavailable to the public at large. Newmyer and Nagle needed the details from the Lost Boys' personal stories and permission to use those details in a screenplay and subsequent film.

40. In 2003, Nagle and Newmyer traveled to meet with and interview a number of Lost Boys of Sudan at the LBF's Center in Atlanta.

41. Mr. Awino was initially not invited to the meeting, but he attended anyway. The interview process had already just begun when Mr. Awino arrived. Mr. Awino interrupted and asked to speak. He asked Nagle and Newmyer what the arrangements were for compensating the Contributing Lost Boys for their assistance in creating the script for a movie. Mr. Awino insisted that the interviews cease until an agreement could be reached.

42. The other Contributing Lost Boys agreed that they would not continue the interviews without reaching an agreement as to compensation for their assistance in writing the script.

43. At that point, Newmyer and Nagle left the room to discuss the demand for compensation. Upon their return, they offered to pay the Contributing Lost Boys \$55,000 immediately and that they would not allow the script to be used for a film unless and until the Contributing Lost Boys consented after reaching an agreement as to compensation with the future filmmakers/studios.

44. Newmyer and Nagle further promised that they would facilitate using the telling of the Contributing Lost Boys' stories as a catalyst to raise funds for a new foundation to be organized and operated by the Contributing Lost Boys, *i.e.*, the Foundation.

45. Newmyer and Nagle expressly promised to the Contributing Lost Boys, prior to the continuation of the interviews, that the proceeds of any fundraising efforts associated with the script and the movie would be contributed solely to a non-profit foundation organized and operated by the Contributing Lost Boys.

46. At the time, the parties did not know if, how, or when the movie would be produced. Newmyer and Nagle explained that it was impossible to agree on the ultimate compensation from the profits of the movie unless and until the details of the movie's production were known. Newmyer indicated that he likewise

did not know his own compensation details at this stage because the script was still being written and they had not shopped the concept to any studios.

47. It was further explained and understood that just as a movie could not be produced from the script without the consent of Newmyer and Nagle, that a movie would not be produced from the script without the consent of the Contributing Lost Boys.

48. However, Newmyer and Nagle further promised that 100% of all charitable donations and funds raised from the script and movie would be directed solely to a non-profit foundation organized and operated by the Contributing Lost Boys.

49. The Contributing Lost Boys accepted this offer and fully performed their end of the bargain by continuing the interviews and assisting with the creation of the script.

50. Nagle and Outlaw Productions, through Newmyer, partnered with the Contributing Lost Boys to create the script and to sell the script to a studio to produce a movie from the script (the "Joint Venture").

51. Outlaw Productions, Newmyer, and Nagle agreed to the following terms governing the Joint Venture: (1) the Contributing Lost Boys would share their life stories with Nagle and Newmyer via a series of interviews; (2) Nagle

would use the Contributing Lost Boys' stories and interviews to create a screenplay about the Lost Boys of Sudan; (3) Outlaw Productions, Newmyer, and Nagle would pay the Contributing Lost Boys \$55,000 for their life stories; (4) no film would be produced from the screenplay unless and until the Contributing Lost Boys consented after agreeing on the compensation arrangement with the producers/studios; and (5) 100% of all charitable donations and funds raised from the script and movie would be directed solely to a non-profit foundation organized and operated by the Contributing Lost Boys (the "Joint Venture Agreement").

52. The Joint Venture intended to negotiate payment for the completed script with studios, producers, and/or filmmakers after the script was completed. The Contributing Lost Boys agreed to create a committee to negotiate their compensation if and when the screenplay was made into a film.

53. The Contributing Lost Boys further agreed to create a non-profit 501(c)(3) foundation upon release of the movie to receive and administer 100% of all charitable donations and funds raised from the script and movie if and when the screenplay was made into a film.

54. Outlaw Productions, Newmyer, and Nagle understood and agreed that all payments to the Contributing Lost Boys, and charitable funds raised, pursuant to the Joint Venture and Joint Venture Agreement would go directly to a non-profit

foundation founded, owned, operated, and managed by the Contributing Lost Boys for charitable works in South Sudan.

55. Outlaw Productions, Newmyer, and Nagle “sold” their promises of compensation and exclusive fundraising beneficiary status to the Contributing Lost Boys by emphasizing the positive publicity that a movie would bring to the cause of South Sudanese refugees. They told the refugees that any studio would support significant charitable fundraising in connection with such a movie and would likely provide “seed money” for such fundraising.

56. Outlaw Productions, Newmyer, and Nagle further understood and agreed with the Contributing Lost Boys that any charitable fundraising associated with the film would not be directed to any third party charities, regardless of their purported or actual devotion to or track record with South Sudanese humanitarian efforts. It was very important to the Contributing Lost Boys that they be able to direct and control the use of funds derived from their life stories and contributions to the script.

57. In total, Nagle and Newmyer interviewed each of the fifty-four Contributing Lost Boys during their trip to Atlanta in 2003 (the “Interviews”). Each of the Interviews was recorded by audio or video recording. Newmyer and/or Nagle retained the audio and video recordings of the Interviews.

58. Upon information and belief, though it is possible that Nagle and Newmyer spoke to other Sudanese refugees, or did other research for the script, they did not make similar, or any, promises of compensation and exclusive fundraising rights with respect to a movie to any other person, organization, or foundation.

59. Nagle used original material from the Interviews to write a screenplay about the Lost Boys of Sudan (the “Screenplay”).

60. As she wrote the Screenplay, Nagle and Newmyer continued to contact some of the Contributing Lost Boys to obtain additional details about their life stories.

61. For example, Newmyer spoke with Gam Awino three times after the initial interviews. Mr. Awino escaped with a few other Lost Boys, but the Darfurians came upon them in the Sudanese bush. One of Mr. Awino’s friends lied to the would-be-captors and said he was alone to save Mr. Awino and the other friends. Indeed, upon information and belief, the title for the film *The Good Lie* refers to this lie that saved Mr. Awino’s life. On a second occasion, Newmyer contacted Mr. Awino to learn more about his hospitalization. Newmyer and Nagle incorporated these details into the Screenplay.

62. The parties met several times to discuss the logistics of the Joint Venture's compensation arrangement with prospective studios, and charitable fundraising efforts, if and when the Screenplay was to be made into a film. Outlaw Productions paid the costs, including air travel and hotel costs, for the Contributing Lost Boys' representatives to attend a meeting in Kansas City in 2003. Discussions were reconvened at the Lost Boys Center for Leadership Development (formerly, the Arizona Lost Boys Center) in Phoenix, Arizona in 2004.

63. Moses Matur Chol, another Contributing Lost Boy, was elected Chairman of the Lost Boys National Foundation, and, in 2005, was designated as the Contributing Lost Boys' representative to discuss with Newmyer and Nagle the amount of compensation necessary to obtain their consent to produce a film from the Screenplay and the details of the film's fundraising efforts on behalf of the Foundation.

64. Although the parties did not agree on a dollar amount for selling the script or making the movie during their discussions in 2003, 2004, and 2005, Newmyer and Nagle reiterated their commitment to the Joint Venture Agreement and insisted that the Contributing Lost Boys would be paid an agreed upon amount before the movie was produced. They further promised that 100% of all charitable

fundraising, foundation seed money, and positive publicity to the South Sudanese cause would be directed exclusively to the Foundation.

65. On approximately December 12, 2005, Newmyer unexpectedly died of a heart attack, and his Estate assumed his professional responsibilities.

66. The Contributing Lost Boys and their representatives continued discussing promotion of the script with the Estate, Mike Glassman, Newmyer's assistant, and Nagle, but these discussions were not fruitful.

The Screenplay is tabled until 2013

67. Outlaw Productions was the original producer of the Screenplay.

68. In the film industry, it is common for multiple producers to work on the same project. Outlaw Productions and Nagle knew that they needed more producers or a larger production company to make the Screenplay into a feature film.

69. Without the Contributing Lost Boys' knowledge or consent, Nagle and Outlaw Productions entered into a contract with Paramount Pictures Corporation ("Paramount") in which Paramount purchased production rights in the Screenplay. Upon information and belief, Paramount paid Nagle for the rights to the Screenplay and paid Outlaw Productions for its contributions to production of the Screenplay. Mr. Awino then made Paramount aware of the Joint Venture

Agreement, but the Contributing Lost Boys were never compensated for their original contributions to the Screenplay.

70. Sometime thereafter, Reliance and Imagine purchased all of Paramount's rights, including production rights, to the Screenplay.

71. Paramount had not obtained any rights from the Contributing Lost Boys and therefore had no right to produce a movie from the Screenplay.

72. Upon information and belief, Alcon Entertainment, Black Label Media, and GLP then acquired Outlaw Productions and Nagle's limited rights in the Screenplay in conjunction with Reliance and Imagine. No one purchased, or had, any right to produce a movie from the Screenplay without the Contributing Lost Boys' consent.

73. Upon information and belief, Reliance, Imagine, Alcon Entertainment, Black Label and GLP (the "Production Team") were aware of and assumed the responsibilities and obligations under the Joint Venture Agreement during the various transfers of ownership and production interests in the Screenplay.

74. Upon information and belief, Outlaw Productions and Nagel assigned their interest in the Joint Venture to the Production Team.

75. Upon information and belief, Imagine put the Screenplay through a film lab in which a team of producers, actors, and directors worked with Nagle to revise the Screenplay.

76. Upon information and belief, the Production Team began filming *The Good Lie* (the “Movie”) in Atlanta, Georgia in early 2013.

The Lost Boys learn about the Movie

77. Just as Nagle wanted to create an authentic script, the Production Team wanted to film an authentic movie. The Production Team contacted the International Rescue Committee (“IRC”) to solicit Lost Boys living in metro-Atlanta to work as extras in the Movie.

78. IRC contacted Emmanuel Solomon, president of the United Sudanese and South Sudanese, and asked him to help recruit Lost Boys as extras for the Movie and offered to pay each extra \$200 to \$250 per day. Mr. Solomon agreed and recruited many extras for the Movie and put them in touch with the film’s producers.

79. Mr. Solomon later learned that the producers reneged on the promised payment amount and had offered only \$8.00 to \$10.00 per hour to the Lost Boys to be extras. Many Lost Boys work in low-income positions, and the promise of earning \$8.00 to \$10.00 per hour as an extra was an attractive offer.

80. Mr. Solomon discovered this bait and switch and forced the Movie's producers to pay the originally offered \$200 to \$250 per day before the Lost Boys would perform as extras.

81. The Lost Boys working on the Movie soon recognized Nagle's script, now entitled *The Good Lie*, and brought the script to the Contributing Lost Boys.

82. After reading the script, the Contributing Lost Boys discovered that it was the same story Nagle had written years earlier using their life stories. The Contributing Lost Boys were shocked that their story was being produced because they trusted Nagle to keep her promise and comply with the terms of the Joint Venture Agreement.

83. Neither Nagle nor anyone else contacted the Contributing Lost Boys to discuss the logistics of their compensation, including charitable fundraising opportunities, prior to filming the Movie in Atlanta in 2013.

The April 15, 2013 Meeting

84. The Contributing Lost Boys contacted the Movie's director Philippe Falardeau and producers Molly Smith of Black Label Media and Karen Sherwood of Imagine Entertainment.

85. On April 15, 2013, Ms. Smith and Ms. Sherwood, on behalf of the Production Team, met with representatives for the Contributing Lost Boys and the

Foundation. During the videotaped meeting, Ms. Smith and Ms. Sherwood confirmed that the screenplay for *The Good Lie* was a revised version of the Screenplay and included the Contributing Lost Boys' life stories. Ms. Sherwood told the Lost Boys, "Margaret [Nagle] told me at that conference it was agreed that a scholarship donation would be made from the film to the Lost Boys."

86. Ms. Smith further said, "If the movie ever got made, in the budget of the film, a portion of that would go to a scholarship fund. Which, and just speaking from our profession, is a very unusual thing because that never happens on a film. But, because of the message of the film, it was very important, and we would like to honor that."

87. During the meeting, Ms. Smith addressed the Contributing Lost Boys' concerns and said, "The most important thing that was said here today was you asked a question, 'Do you feel we should be compensated for your story?' And, the answer I can say, because it's my company and my studio, is absolutely."

88. At the end of the April 15, 2013 meeting, Ms. Smith and Ms. Sherwood acknowledged their assumption and adoption of the Joint Venture Agreement, agreed to compensate the Contributing Lost Boys for their contribution to *The Good Lie* by making a donation to the Contributing Lost Boys' Foundation, and agreed to further negotiate in good faith the exact dollar amount for the

donation. The parties exchanged contact information and discussed other opportunities to help each other.

89. Upon information and belief, the Production Team knew that Nagle, Newmyer, and Outlaw Productions did not have the right to unilaterally sell or license the Screenplay.

The Production Team does not Negotiate in Good Faith

90. A few weeks after the April meeting, Ms. Smith called Moses Matur Chol and offered \$1,000,000 to satisfy and comply with the Joint Venture Agreement. Mr. Chol indicated that he did not have authority to accept or reject the offer and that he would respond after consulting with the other Contributing Lost Boys and the Foundation.

91. The Foundation, through its attorney Craig Lerman, forwarded its initial proposal to Black Label Media and Imagine Entertainment as requested during the April 15, 2013 meeting.

92. On May 16, 2013, counsel for Alcon, Black Label Media and Good Lie Productions rejected the Foundation's efforts to negotiate stating, "Our clients have never agreed to pay any law firm, Lost Boy, or organization for Black Label Media's own copyrighted work."

93. The Foundation wrote counsel for Alcon, Black Label Media and Good Lie Productions requesting mediation on July 18, 2013.

94. On July 26, 2013, counsel for Alcon, Black Label Media and Good Lie Productions denied the Foundation's request to mediate, denied the existence of any agreement with the Contributing Lost Boys or the Foundation, and denied that Ms. Smith acknowledged that *The Good Lie* used the Contributing Lost Boys' life stories.

95. Realizing that litigation would likely be required to enforce the Joint Venture Agreement, each of the Contributing Lost Boys irrevocably assigned all intellectual property rights in his story and his claims against the Defendants to the Foundation.

The Movie is Released and Includes Many of Plaintiffs' Stories

96. The Movie's trailer was released in June, 2014.

97. Although the trailer is just over two minutes in length, the Movie clips in the trailer include material from the Interviews.

98. After viewing the trailer, Nathaniel Chol Nyok, one of the Contributing Lost Boys, noted that the first scene of the attack on the village with boys on the trees came directly from his story. In his interview, Nagle asked what he was doing on the day the fighting began. Mr. Nyok answered, "We boys were

doing different things – fishing, playing games, on trees eating fruits while the rest looked after the cows.” The scene shown in the Movie’s trailer copies Mr. Nyok’s story.

99. In addition to using the Contributing Lost Boys’ stories in her script, Nagle took their jokes and casual conversations and used them in her script. When Nagle was at the LBF’s Center in Atlanta, Mr. Nyok showed Nagle the great white cow he was molding and suggested that Nagle could be nicknamed Yaardit, meaning great white cow in Dinka. The trailer shows a similar scene in which Jerimiah, played by Ger Duany, gives Carrie Davis, played by Reese Witherspoon, the nickname “Yaardit.”

100. After the release of the movie, the Contributing Lost Boys recognized numerous more stories, anecdotes, plot devices, character traits, etc. taken from the stories they told Nagle and Newmyer.

101. For example, Plaintiff Abraham Chier Arop emigrated to Atlanta in 2001 and met with Nagle and Newmyer in 2003 in Atlanta and told the following story:

Shortly after Sadiq Al Mahdi became the Prime Minister of Sudan, the government forces came out to my village of Pariang. They burnt down the village, killed women, children and elderly. I

was able to escape. On my way eastward I met other boys who were displaced from their villages. We walked together for several days. About a week or two we arrived at Nasir, a town on Sobat River which was also attacked and destroyed by the government forces. The town was literally a ghost town; there were dead children, women and men on the grounds and vultures were circling over the town. We could not stand the stench of unburied, decaying bodies. The movie shows these same scenes in the first ten minutes of the film.

Seeing dead children, who were about my age, on the ground, I started breaking down. I was scared, and at the same time confused by the government forces' indiscriminate killing of my people. I could not understand why we were being targeted because of our, faith in Jesus Christ and African heritage. We did not bother Arabs because of their heritage and faith in Islam. This shared sentiment is demonstrated in the movie when children are left parentless after Jinjaweeds on horse backs and helicopter gunship indiscriminately massacred the villages, children and elderly. Orphaned children expressed their frustrations in song, as they walked towards Ethiopia.

102. For example, Plaintiff Peter Malou Jok emigrated to Atlanta in 2001 and met with Nagle and Newmyer in 2003 in Atlanta and told the following story:

I had seen cars and trucks at both Pinyidu and Kakuma refugee camps; which would bring UNHCR (United Nations High Commissioner Refugees) workers and food and clothing to the camps. However, I had never seen huge number of cars until I came to Atlanta. I had seen huge herds of Dinka cows, though. I was able to swing by several cows without being hurt or getting scared. But, swinging around speeding cars was a different story all together. One day, my roommates- David Geu, Abraham Majak and I went to Thriftown, a grocery store in Clarkston to buy some food and phone cards. Standing from our English Oaks Apt, you would see Thriftown, but the round trip took us 2 hours. As we tried to cross road, the cars would honk, BEEP, BEEP! We were confused and scared. The traffic light did not mean anything to us. Not knowing better, we thought our cowboy ways would serve us well. But we soon realized we were not in our villages anymore and were not dealing with cows. Almost this exact scene was duplicated in the script and movie when Paul (a character played by Emmanuel Jal) absentmindedly crossed a very

congested road and almost got hit. Paul thought he was still in the Dinka village

103. For example, Plaintiff Stephen Akech Kuol emigrated to Atlanta in 2001 and met with Nagle and Newmyer in 2003 in Atlanta and told the following story:

I was privileged to star in ‘Tears of the Sun’ and to meet with Late Bobby Newmyer in LA. Here is my contribution to the script: I was shot by government forces in the leg when they attacked my village in 1987. I was about 7 years old. One of the boys from my village, who saw me on the ground, picked me up and ran with me. I could not walk, my leg was totally broken. I told Deng Ayuen, the boy from my village, to leave me, but he insisted he would carry me until we find some help. After several weeks, we both arrived at a Refugee Camp where I was amputated. I was given crutches to get around. Life became so different; I could not play soccer any more. I could not participate in a lot of things my friends were part of. But, I appreciated being alive regardless of my limitation. Some of my playmates did not make it out of my village; they were killed. My story was used in the movie when boys from various villages

converged on the Sobat River and started talking about circumstances surrounding their escapes. In the same scene the wounded boy is carried by his friend.

In 1992, shortly after being forced of Ethiopia at gun point, we walked again across Desert of Kuothngor and mountainous region of Buma. I walked on crutches until I started bleeding from amputated leg. I took off my only T-shirt and tore it in to pieces and used it to stop the bleeding. Then I continue to walk; I did not want to remain in the desert for wild animals. About few weeks later, ICRC (International Committee for Red Cross) caught up with us in the middle of this hostile desert and trucked us in to Kakuma Refugee Camp. I was relief be to in safe place again. My story was used in the movie when boys arrived in the Kakuma Refugee Camp.

In 2001, I was resettled in US. Few months later, I started working at Saint Joseph Hospital as a food server. In my role, I would interact with patients on daily basis. The patients liked my attitude and service, but they were bothered by my name; it was difficult for them to pronounce. Some would call me African boy or by some butchered versions of my name. At first, I would politely correct

mispronunciation of my name, but I gave in when I realized the patients were incorrigible. One day, I was approached by a patient who told me at point blank that my name, Anyaak Kow Anyaak, was nuisance. He suggested that I take up American name so that I could get along with the patients. Not knowing better, I thought I would get in to trouble if I do not change my name. So, I decided to take Stephen as my American name. Since that day up to now, I go by Stephen.

104. For example, Plaintiff Santino Aciek Ayol emigrated to Atlanta in 2001 and met with Nagle and Newmyer in 2003 in Atlanta and told the following story:

In April, 2001, my friends and I arrived at Atlanta Airport. We were received by a caseworker from Christian Council and took us to Jubilee Partners in Comer Georgia. Jubilee Partners is a nonprofit, Christian organization that provides temporary accommodation to the immigrants and refugees while resettlement agencies are working on finding apartments and jobs. At Jubilee Partners immigrants and refugees are given life skill lessons and ESOL classes as a way to prepare them for new life in US. My story was used in the script and

movie when the caseworker picked up the boys at the airport and told them she would work with them in finding jobs. My story was also used in the script and movie when boys were given a crash course on how to present themselves at job interviews while they were at the ranch.

We arrived at Jubilee Partners in the evening. We could see animals by the car headlights. I turned to our caseworker and asked if there were lions. The caseworker laughed, but when he realized I was scared he reassured me that there were no lions. Lion had once attacked and ate my friend, Deng Wel in my presence. So, wherever I see huge trees, I ask to make sure that there are no lions. My story was used in the script and movie when Paul asked if there were lions at the ranch.

Shortly after I arrived here, I was hired by Kroger as a Courtesy Clerk; my duties included helping customers, running register, stocking shelves and cleaning and throwing out 'stale food'. I enjoyed every role that my job entailed, but one thing. Throwing out food was making me sick; just few months ago I barely had anything to eat in the Refugee camp. As I would throw out this so called stale food, I

would remember all my friends whom I left in the camp in Kenya and have nothing to eat; and I would break down. However, my bitterness was replaced by a joy when I discovered an African American single woman with her son who would come and ask me for 'stale food'. I would give them cake, vegetables and fruits that were meant for dumpster. Every time this woman and her son would receive food, they would beam while thanking me profusely. It was not long before I was upset again. One evening, while I was giving out food to the single woman with her son, the store manager saw me and came running. She took the food from this woman and threw it in to a dumpster and summoned me to her office. Seeing tears dropping down from this poor woman's cheeks, I became angry and grabbed the manager by collar of her shirt. With my heavily accented English, I demanded why she was being mean; I asked her if she would do the same to a white woman. The manager kept quiet and asked me to follow her to the office. At that point, I told her she was not my boss anymore since I was quitting. This incidence was my first encounter with coldhearted American, who would not sympathize with needy. The image of an American until that day was that one of

compassionate and caring; compassion and care that would cause Americans to send us yellow corns, oil and other good things. Sight of USAIDS meant life to us and compassion and caring for people of US. But, I was so upset by the action of this insensitive manager that I quitted my job. Although I was in need of money to pay my share of rent, traveling loan with US government, and to support my friends in the camp, I was proud of decision of quitting my job. My story was used in the script and movie when Jeremiah quit and his boss gave him lecture not to give out “expired food”.

105. For example, Plaintiff Victor Duang Deng emigrated to Atlanta in 2001 and met with Nagle and Newmyer in 2003 in Atlanta and told the following story:

One day in the evening, just few moments after we brought back our cattle from pastures, we saw a thick dust rising in the west. My father told my older cousin Anguk to run with me. He said the Janjaweed- government militias on the camels and horses were coming to raid our village. I insisted that my father come with us, but he said he would remain behind to defend our village and property. He said it was a duty of a male to defend his land and property and

that my time will come when I would do the same. He reassured me that he would be fine. With my cousin holding my hands we ran as fast as we could. The din from children crying and sounding of war drum compounded my anxiety. After reaching the outskirts of the village, Anguk said we would be safe there. From our hideout we hear gun shots and increasing wailing of women or men, who were either shot or giving morale. The war continued until 10 AM. My cousin left me in safe place and went back to see what had become of our village. Shortly he came back with gourds of water and cow medicines and a huge bewilderment on his face. I could not dare to ask since his face kind of told it all. He tried to utter words, but he was unable. But he managed to say the village was gone, cows were gone and men, children and women were killed. I asked him if he found my father, but he said he was fine and that he told us to continue running farther to the east for Janjaweed would come back. Per my father's advice, we continue going east and soon we met with several boys from other villages, who were told to go east to safety. We all continued going east. We all thought we would go for few days, but every village we came across in the east was smoldering; thus not safe. A journey of

days become weeks and weeks become months and before we knew it we were welcome by light skinned people who spoke strange language; later to be known as Ethiopians. While on this journey, many young children including myself became sick from mosquito bites, hunger and long distant walk. Not knowing what to do my cousin Anguk injected us with cow medicines which he brought from the village. Some of us positively responded to the medicine and became better; some unfortunately died. My story was used in the script and movie when Daniel becomes sick.

Just few days before we arrived in Ethiopia, we ran out of water and became thirsty. We dug out roots of trees we could lay our hands on; and chew them to quench our thirst. When I saw my cousin Anguk urinating, I ran with my gourd to collect his urine and drank it. The urine was bitter, but I did not want to die. Other boys followed my idea and started drinking urine from those who had water and could urinate. I could not imagine water I had taken for granted was so precious! My story was used in the script and movie when the boys drank urine.

106. For example, Plaintiff Awino Gam emigrated to Atlanta in 2001 and met with Nagle and Newmyer in 2003 in Atlanta and told the following story:

I was privileged to star in ‘Tears of the Sun’ and to meet with Late Bobby Newmyer in LA. Here is my contribution to the script: One day my friends – Mawei, Deng, and Wel- and I were playing Adaw (a traditional sport which resembles baseball, but we use rounded wood instead of ball and sticks instead of bats) at the village outskirts. The village was hidden from our view by tall tropical grasses, but we could hear people talking and women pounding grains on mortars and pestle. My team with Mawei was winning, I was overjoyed. At the peak of our game, we heard some gun shots coming from our village and commotion of fleeing villagers. Deng who was the oldest boy told us to hide among tall grass. Before he hid himself, the Arab soldiers caught up with him. They asked Deng of whereabouts of everybody and he told them he did not know. The soldiers took him away and we remained hiding. Deng’s lie saved us. Mawei, Deng’s younger brother was heartbroken and he cried so hard that we joined him. Deng was a good friend and brother to Mawei; both brothers were very close. Mawei, Wel and I decided to run

eastward for safety. We walked for two days before seeing huge number of boys from other villages crossing the river. We joined them and walked together until we arrived in Ethiopia. I took it as my responsibility to look out for Mawei whose older brother lied to save from us. He became my younger brother instead of a friend. We would cook and eat together. Hard life of refugee camp made us to be closer. I even made a promise to Mawei that I would die for him. My story was used in the script and movie when a boy surrendered to Arab soldiers and motioned the other boys to keep quiet.

In 1991 while being chased out of Ethiopia at gun point, young Mawei and I came to the border of Sudan and Ethiopia. The trees and grass were tall; you could not see beyond 10 feet ahead. Out of this grass jumped huge brown male lion and grabbed Mawei by left leg and tried to pull in to the bushes. At first I was scared and wanted to run then I remembered the promise I made to Mawei and how his brother lied to save my life. At that point I mustered all the courage I had and came charging at the lion with my hands rolled in to fists. The lion let go of Mawei and confronted me instead. The lion tore off a flesh on arm and knocked me down ready to finish me. However, the

boys who had heard Mawei crying for help came to my rescue me. Today when I see the scar, I remember my promise to Mawei. Mawei and I came to the US together and became roommates. My story was used in the script and movie when Paul narrated how he got the scar on his arms to his coworkers.

107. For example, Plaintiff Abraham Chol Machol emigrated to Atlanta in 2001 and met with Nagle and Newmyer in 2003 in Atlanta and told the following story:

The process of resettlement to US- which involved series of interviews with various sub agencies of INS (Immigration and Naturalization Services) and medical screening was long and unstructured. We had to stop going to school because interview notices were posted on the board which was located few miles away from our camp. So, we had to frequent the board to see if our names were posted for interviews or flight. The visits to the notice board were both exciting and discouraging depending on whether your name was posted or not . After making several of these discouraging visits to the notice board, I became totally hopeless of possibility of flying out of this godforsaken camp. I had concluded either my case had

fallen in to the crack or was rejected by the US government, which was not uncommon. But, one afternoon as I was getting ready to play soccer, my roommate came breathlessly running towards. He was so excited he could not speak; then he said names something... Before he could complete his statement, I figured out he wanted to say our names were posted for flight to US. I too got excited and joined him in celebration. My story was used in the script and movie when Jerimiah broke the news of their departure to Kansas City.

All we wanted more than anything was to get on the plane and get out of Kakuma. None of us had seriously thought of what a plane ride entails. Two days after the notice we were bused to the Kakuma airstrip. There were 46 of us; four were my roommates, but 41 were total strangers. We got distracted by the standbys- who had come to see us off to a foreign land – that we unknowing got on the plane. Plane attendants came around to help us buckle up and reassure everything we will be fine. All of us were so scared that you could see fear written all over our faces. When the plane took off we got more scared; we looked down underneath and could see building getting smaller. As we reached higher altitude, the flight attendant said on the

intercom that we could unbuckle if we wish and to relax. At that point one of my roommates, who is known among us as a comedian, found his voice and uttered a statement that caused the entire 45 passengers to curse him; he said what about if the plane crashed! Although he said what we were all thinking, we got upset that he said it. The thought of plane crushing preoccupied every single of us until we arrived at Atlanta Airport. My story was used in the movie.

108. For example, Plaintiff Chier Malual emigrated to Atlanta in 2001 and met with Nagle and Newmyer in 2003 in Atlanta and told the following story:

When I was a small boy in Akaar village, my father Malual would sit me down and teach me my genealogy. He would let me recite up to 18th generation. He would say a child who knows his genealogy would not commit an incest, an act considered abomination among the Dinkas; and that he would always find his way back to his people. I thought my father was tripping until I came to the Gilo River. Not knowing how to swim, I was stranded on the dangerous side of the infamously cursed Gilo River for hours; I had given up on hope of crossing the river until this nice man showed up. He looked me in the face and asked for my name. I told him I was Chier, son of

Malual Mayom Ruai. Up on hearing my name this nice man's face lit up and before I knew he ordered his people to ferry me across the river on their boat. He later told me he was my relative and that he commended me for stating my full name. Once on the safe side of Gilo River, I thanked my father for taking time to teach me my genealogy; for a simple lesson which I took for granted saved. Right then, I promised to teach my genealogy to my children if I had any in future. My story was used in the script and movie when the boys would recite their ancestors' names.

109. For example, Plaintiff Andrew Majok Marier emigrated to Atlanta in 2001 and met with Nagle and Newmyer in 2003 in Atlanta and told the following story:

I am a Deputy Chairperson of the Lost Boys and Girls of Georgia. Here is the story that I contributed: Looking back to the episodes of Gilo River, one would not help it but laugh of miracles that happened. While on the safe side of the river, I would watch boys going down in to the bottom of the river. I would see dead bodies floating on the river, and people crying with help. But, then I saw my friend Mawet, who was stranded on the other side of the river,

stepping on to floating bodies and balancing himself as he crossed the river. I was amazed by how he came to that decision, of using dead bodies to cross the river; it is one of the moments that make me laugh. My story was used in the script and movie when boys crossing the river where hiding behind floating corpses to avoid being shot.

110. For example, Plaintiff Garang Dua emigrated to Atlanta in 2001 and met with Nagle and Newmyer in 2003 in Atlanta and told the following story:

Few months after arriving in Atlanta, I asked my caseworker to take me to school, but he said I was too old for high school and that I was not prepared to go to college. He instead encouraged me to sign up for G.E.D. classes with IRC (International Rescue Committee). I signed up, but I could not understand American literature and language art. I was doing well in Math and Science, though. With my frustration I went back to my caseworker for advice; and again he found an American lady by name Rita Glaser. Rita would come to tutor me on Saturdays in my apartment in Clarkston. But, when Rita realized I needed more help than on one day, she decided to move me in to her house. Her family became my family and everyone got involve in preparing me for G.E.D. exams. Within a month after

moving in with Glasers, Rita asked local high school to allow me to enroll and luckily her plea was accepted; and I became student. I would go to school in the morning and in the evening I would help with various chores in and around the house; such as washing dishes, pulling trash and mowing lawns. The Glasers did not ask me to do any chore, but as a member of the family I wanted to be involved. Glasers would feed, clothe and take me to places. I owe all my success to the Glasers. My story was used in the script and movie when the caseworker takes in Abital.

111. For example, Plaintiff Bol Deng emigrated to Atlanta in 2001 and met with Nagle and Newmyer in 2003 in Atlanta and told the following story:

When my brother Akuei and I came back to the village in the evening, we found every hut burned down to ashes and dead bodies all over. As we ran around to see if we could find any trace of living soul, we came across a wounded old man holding a small baby on his lap. Makerdit, this wounded man told us to take the baby and to run to safety for Janjaweed, government militias on horses and camels would come any time . He said he was not able to run with us since he sustained a broken leg; but instead he asked my brother Akuei to get

him a stick which he would use to scare away hyenas which come to attack him. After my brother gave him the stick, we took off with the baby. My story was used in the script and movie when a wounded old man asked the boys to give him stick, to take the child and to run towards Kenya.

112. For example, Plaintiff Simon Deng emigrated to Atlanta in 2001 and met with Nagle and Newmyer in 2003 in Atlanta and told the following story:

Upon arriving in Atlanta on May 2nd, 2001, we were taken to Jubilee Partners. During our three-month stay at Jubilee Partners we were trained on how to turn on and off light switch, an experience which fascinated us ; in the camp we would use a can lamp to see at night, there were no electric light . We also attended ESOL and life skill classes. My story was used in the script and movie when the caseworker in the apartment gave the boys a crash course on how to turn the light on and off.

113. For example, Plaintiff Agany Akot emigrated to Atlanta in 2001 and met with Nagle and Newmyer in 2003 in Atlanta and told the following story:

When I was in Gokrial village, I was a goat herder. It was not easy job. Sometimes, the goats would stray in to other people's farms

and eat the crops; and the farmers would come out and beat us up. So, to avoid getting beaten we decided to hold hands to barricade goats from destroying people's farms. Handholding became part of us. In the wilderness on our way to Ethiopia, we would hold hands together to ensure we stay together. We continued to hold hands until American friend told us it was considered gay-like behavior. I miss it! My story was used in the script and movie when boys would sleep holding hands; and at the ranch when the boys asked to visit the cows.

114. For example, Plaintiff Luka Thiik emigrated to Atlanta in 2001 and met with Nagle and Newmyer in 2003 in Atlanta and told the following story:

Upon boarding plane in Nairobi, Kenya I was so happy. I knew I was finally going to America after long wait and anxiousness. It was an opportunity of life time! But, my happiness was short lived by sickness on the plane. Plane foods, chicken, broccoli, butter, were strange. Nothing resembled our meal of corns and beans. I decided not to eat, but the hunger became so unbearable that I asked flight attendant to give me something to eat. She came back with chicken, broccoli and butter. I started with butter, but it tasted salty and greasy; I put it down. I ate some chicken and broccoli. None tasted

like food. No sooner did I finish eating this strange food, than I became sick. I went to the restroom and threw up and all over the sudden I became unconscious. I stumbled back to my seat and remained unconscious for the remaining part of the trip. Upon landing at JFK airport was I rushed to the hospital where I was hooked to drip for 8 hours. My other friends were sick too, but less serious than I. My story was used in the script and movie when Paul ate butter and Jeremiah got sick on the ride to their apartment.

115. For example, Plaintiff Madau Goi emigrated to Atlanta in 2001 and met with Nagle and Newmyer in 2003 in Atlanta and told the following story:

One day in Duke in 1987, while playing soccer with friends the Arab soldiers sneaked on us. One of the men – I believe their commanding officer – asked us to stop playing and to listen. We stopped and gathered to listen; it was too late for us to run so we complied. He said the country was under attack from SPLA rebels and that It was a duty of every citizen to defend the country. And he singled me out since I was the tallest and most muscular boy. In my heart, I knew the rebels were not bad people; they were members of our communities who had rebelled against the government for the

right of my people. So, the idea of joining the government soldiers to fight against my people was unthinkable. For few minutes, I debated with myself whether I should run and risk being shot at or to give in to the soldiers' demand. I settled with running and risk being shot at. So, I ran off as fast my tiny legs could carry me. For whatever reason the soldiers did not shoot at me. After period of 2 hours all of my friends showed up unharmed. They told me the soldiers said they would come back for me in few days. Upon hearing this, I became uncomfortable and afraid. I spoke to my father and he advised running to the east to safety. Other boys who were grown and could be targeted for recruitment by Arab soldiers joined me and we all ran east. Few weeks later we caught up with boys who were displaced from their villages as well. We became thousands of boys and we all continued walking eastward to safety. After several weeks of hardship, we arrived at a refugee camp in Ethiopia. My story was used in the script and movie when boys from various villages met on the bank of Sobat River.

116. For example, Plaintiff Evangelist Abraham Garang Majak emigrated to Atlanta in 2001 and met with Nagle and Newmyer in 2003 in Atlanta and told the following story:

Before leaving my village of Anyidie, my uncle Rev. Ngang Akol introduced me to Jesus Christ. I would attend church service on Sundays and listen to sermons about Jesus and His disciples. My favorite book of the Bible was Matthews 5; it provides hope and salvation for poor people. It directly appealed and continues to, to the situation of my people. Other reason I was drawn to the Christian faith was how it transformed my uncle from being hostile to the most pristine man. I admired his role on pulpit so much that I would tell my mother I would be a preacher one day. From time to time, I would gather around my playmates and told them about Jesus who so loved mankind He died for them.

During our journey to Ethiopia, many a young men were full of bitterness and revenge and I saw it as an opportunity to preach word of God. Given my illiteracy, I could not use my Bible- which my uncle slipped in to my hand while leaving the village -to prepare my sermons. I only relied on what I heard from the sermons while I was

still at home. But, whatever I shared with my friends was positively received. I would tell them about a man known as Jesus Christ who came to the world to die for the mankind. And that He was sending his angels to guard us during our Journey; and that He would want us to forgive our enemies, the Arabs. The last part about forgiveness was not well received. The boys did not understand why a sworn enemy, who destroyed our villages, killed our people and displaced us, would be forgiven. I would tell them God would fight for us.

I continue to preach word of God up to day. I am an Evangelist at Saint Michael and Angels in Stone Mountain, Georgia. My knowledge of Bible is widened given my schooling at Point University (formerly known as Atlanta Christian College) where I subsequently graduated with degree in Psychology and Bible. My story was used in the script and movie when Jeremiah would carry and read Bible and preach at the church.

COUNT I: BREACH OF JOINT VENTURE AGREEMENT

Against Nagle, Outlaw Productions, the Estate and Silver

117. Plaintiffs reallege and restate the allegations contained in paragraphs 1 through 116 of this complaint against Defendants with the same force and effect as if they had been fully restated.

118. The Contributing Lost Boys entered into a binding contract to create a Joint Venture with Nagle, Newmyer, and Outlaw Productions, to wit, the Joint Venture Agreement.

119. Pursuant to the terms of the Joint Venture Agreement, the Contributing Lost Boys agreed to share their personal life stories in interviews with Nagle to be used in a screenplay written by Nagle and Outlaw Productions/Newmyer. Nagle, Newmyer, and Outlaw Productions agreed the Screenplay would not be produced into a movie without the consent of the Contributing Lost Boys. The parties understood that the Contributing Lost Boys would only consent to the making of the movie from the script they helped create if an agreement could be reached as to compensation for their contributions.

120. As partners in Outlaw Productions, the Estate and Silver are liable jointly and severally for all obligations of the partnership pursuant to Cal. Corp. Code § 16306.

121. Oral contracts are binding in Georgia. O.C.G.A. § 13-1-5(b).

122. The Contributing Lost Boys performed pursuant to the terms of the Joint Venture Agreement by participating in the Interviews with Nagle.

123. The Screenplay created pursuant to the terms of the Joint Venture Agreement was made into a film, to wit, *The Good Lie*, which was released on October 3, 2014.

124. Nagle, Outlaw Productions, the Estate, and Silver breached the Joint Venture Agreement governing the Joint Venture because they marketed, sold, and allowed the Screenplay to be made into a film without the Contributing Lost Boys' knowledge or consent.

125. The Contributing Lost Boys assigned all of their rights to bring claims against Nagle, Outlaw Productions, the Estate, and Silver to the Foundation.

126. Furthermore, the Foundation is an intended third-party beneficiary to the Joint Venture Agreement.

127. As a result of Nagle, Outlaw Productions, the Estate and Silver's breach of contract, the Foundation has been damaged in an amount to be proven at trial.

128. Nagle, Outlaw Productions, the Estate, and Silver have acted in bad faith, have been stubbornly litigious, and have caused the Foundation unnecessary trouble and expense so as to allow the Foundation to recover its reasonable

attorney's fees and expenses incurred in bringing this action pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, the Foundation requests this Court issue a judgment for damages in an amount to be proven at trial against Nagle, Outlaw Productions, the Estate and Silver for their breach of contract; requiring Nagle, Outlaw Productions, the Estate and Silver to pay the Foundation's attorneys' fees, costs, and expenses of litigation; and affording all further relief the Court deems just and appropriate.

COUNT II: DECLARATORY JUDGMENT

Against Nagle, the Estate, and Outlaw Productions

129. Plaintiffs reallege and restate the allegations contained in paragraphs 1 through 116 of this complaint against Defendants with the same force and effect as if they had been fully restated.

130. Under 17 U.S.C. § 101, a "joint work" is a "work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole."

131. The Contributing Lost Boys, Nagle and Newmyer agreed to meet with each other for the express purpose of conducting the Interviews. The express purpose of the Interviews was to provide Nagle with background, stories, facts, and material for the Screenplay.

132. The Contributing Lost Boys, Nagel and Newmyer agreed that the Screenplay would be property of the Joint Venture.

133. Works by multiple authors are considered a joint work when the contributions are inseparable rather than interdependent. “[I]f author B’s contribution when combined with author A’s contribution results in recasting, transforming or adapting A’s contribution, then the two contributions may be said to be inseparable. If the process is simply one of assembling into a collective whole A’s and B’s respective contributions, without thereby recasting A’s contribution, then the two contributions may be said to be interdependent.” *M.G.B. Homes, Inc. v. Ameron Homes, Inc.*, 903 F.2d 1486, 1493 (11th Cir. 1990) (quoting 1 Melville B. Nimmer & David Nimmer, *Nimmer on Copyright* § 6.04 at 6-11 (1989)).

134. The Contributing Lost Boys, Nagle, Newmyer, and Outlaw Productions agreed to make individualized contributions to the Interviews.

135. Their contributions merged into inseparable parts of a unitary whole (the Interviews), as Nagle and Newmyer’s contributions (the questions and the phrasing of such questions) when combined with The Contributing Lost Boys’ contribution (the answers to the questions) resulted in recasting The Contributing Lost Boys’ contribution.

136. The Interviews constitute a joint work pursuant to 17 U.S.C. § 101.

137. Copyright protection extends to “original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.” 17 U.S.C. § 102(a).

138. “Original” requires “independent creation plus a modicum of creativity.” *Feist Publications, Inc. v. Rural Tel. Serv. Co., Inc.*, 499 U.S. 340, 340 (1991).

139. A work is independently created when it is created “without copying that selection or arrangement from another work.” *Id.* at 358.

140. The Interviews were independently created by The Contributing Lost Boys, Nagle, Newmyer, and Outlaw Productions, as they did not result from any copying.

141. For a work to be original, “the requisite level of creativity is extremely low; even a slight amount will suffice.” *Id.* at 345.

142. The Interviews possessed a “modicum of creativity” through both the arrangement of questions and the answers based on individualized, personal experiences.

143. The Interviews constitute an “original work of authorship” pursuant to 17 U.S.C. § 102(a).

144. A copyrightable work must be “fixed in any tangible medium of expression . . . from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.” 17 U.S.C. § 102(a).

145. A taped interview is capable of being reproduced or communicated “with the aid of a machine or device.”

146. The Interviews between Nagle and The Contributing Lost Boys were preserved with a tape recording.

147. The Interviews were “fixed in any tangible medium of expression” pursuant to 17 U.S.C. § 102(a).

148. The Interviews constitute a copyrightable joint work.

149. The Contributing Lost Boys and Nagle are joint authors of the Interviews.

150. The authors of a joint work are co-owners of copyright in the work pursuant to 17 U.S.C. § 201(a).

151. The Contributing Lost Boys, Nagle, Newmyer, and Outlaw Productions are co-owners of the copyright in the Interviews.

152. Nagle, Newmyer, Outlaw Productions, and the Contributing Lost Boys share the exclusive rights granted works under 17 U.S.C. §§ 103, 106.

153. Nagle created a derivative work from the Interviews, to wit the screenplay for *The Good Lie*², which included the Contributing Lost Boys' individualized contributions.

154. As joint authors, the Contributing Lost Boys have rights including, but not limited to, the right to reproduce, prepare derivative works, distribute, perform, and display the Interviews; the right to participate in negotiations of exclusive licenses for the publication of the Interviews; and the right to receive royalties and profits from the exploitation of the Interviews.

155. However, joint authors do not have an unfettered license to use original material provided by other joint authors without consent.

156. Even though Nagle, Newmyer, and Outlaw Productions own a copyright in the Screenplay, that copyright is limited: the copyright in the derivative work "extends only to the material contributed by the author of such work, as distinguished from the preexisting material employed in the work, and does not imply any exclusive right in the preexisting material." 17 U.S.C. § 103. "The copyright in such work is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection in the preexisting material." 17 U.S.C. § 103

² Black Label Media registered a copyright for the motion picture *The Good Lie* on or about October 10, 2014.

157. Thus, Nagle, Newmyer, and Outlaw Productions' copyright in the Screenplay does not extend to any material in the Screenplay that was provided by the Contributing Lost Boys; their copyright protects solely their contributions to the Screenplay. The Contributing Lost Boys continue to own the copyright in the original stories that they contributed to the Interviews and Screenplay.

158. A movie based on the Screenplay would also be a derivative work of the Contributing Lost Boys' original stories. As a derivative work, a movie infringes the Contributing Lost Boys' copyright in their stories unless they grant the makers of the movie permission to use their original, copyrightable stories. *See* 1 M. NIMMER & D. NIMMER, NIMMER ON COPYRIGHT § 3.04 (2012); *Gilliam v. Am. Broad. Co., Inc.*, 538 F.2d 14 20 (2d Cir. 1976) (“One who obtains permission to use a copyrighted script in the production of a derivative work ... may not exceed the specific purpose for which permission was granted,” and “[s]ince the copyright in the underlying [work] survives intact despite the incorporation of that work into a derivative work, one who uses the [underlying work], even with the permission of the proprietor of the derivative work, may infringe the underlying copyright.”); *Russell v. Price*, 612 F.2d 1123, 1128 (9th Cir. 1979) (holding that the established doctrine that a derivative-work author cannot create additional derivative works that incorporate the original work

without the permission of the owner of the original work copyright “prevents unauthorized copying or other infringing use of the underlying work or any part of that work contained in the derivative product so long as the underlying work itself remains copyrighted”).

159. To determine whether the Contributing Lost Boys have granted Nagle, Newmyer, and Outlaw Productions permission to use the Interviews for future derivative works other than the Screenplay, such as a movie, the Court looks to the parties’ contract. *See* 1 NIMMER, *supra*, § 3.04 (“The rights between the underlying copyright owner and derivative owner should be determined by the contract between them.”).

160. The Joint Venture Agreement contains no language granting Nagle or Outlaw Productions any copyright in the Contributing Lost Boys’ original stories or granting Nagle or Outlaw Productions a license to use the underlying material from the Interviews to make a movie. To the contrary, the Joint Venture Agreement expressly provided that no film would be produced from the Screenplay unless and until the Contributing Lost Boys consented.

161. The Contributing Lost Boys have assigned all of their rights in the Interviews, and any derivatives thereof, to the Foundation.

162. The Foundation is entitled to a declaratory judgment that the Contributing Lost Boys are joint authors of the Interviews entitled to share all exclusive rights in the Interviews as tenants in common with its co-authors, Nagle, Newmyer, and Outlaw Productions.

163. The Foundation is entitled to a declaratory judgment that Nagle, Newmyer, and Outlaw Productions are not entitled to create derivative works, including but not limited to the Movie, from the Contributing Lost Boys' original contributions to the Interviews.

164. Nagle, Newmyer, and Outlaw Productions have acted in bad faith, have been stubbornly litigious, and have caused Plaintiffs unnecessary trouble and expense so as to allow Plaintiffs to recover their reasonable attorney's fees and expenses incurred in bringing this action pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, Plaintiffs request this Court issue a judgment declaring that the Contributing Lost Boys are joint authors of the Interviews; declaring that Nagle, Newmyer, and Outlaw Productions are not entitled to unilaterally create or license derivative works, including but not limited to the Movie, from the Contributing Lost Boys' original contributions to the Interviews; requiring Nagle, Newmyer, and Outlaw Productions to pay Plaintiffs' attorneys' fees, costs, and

expenses of litigation; and affording all further relief the Court deems just and appropriate.

COUNT III: INJUNCTIVE RELIEF AND SPECIFIC PERFORMANCE

Against Nagle, Outlaw Productions, the Estate and Silver

165. Plaintiffs reallege and restate the allegations contained in paragraphs 1 through 148 of this complaint against Defendants with the same force and effect as if they had been fully restated.

166. The Contributing Lost Boys, Nagle, Newmyer, and Outlaw Productions are co-owners of the copyright in the Interviews and in the Screenplay.

167. Nagle, Outlaw Productions, Newmyer, and the Contributing Lost Boys share the exclusive rights granted works under 17 U.S.C. §§ 103, 106.

168. Nagle created a derivative work from the Interviews and Screenplay, to wit the script for *The Good Lie*, which included the Contributing Lost Boys' individualized contributions.

169. The Contributing Lost Boys have assigned all of their rights in the Interviews, the Screenplay, and any derivatives thereof, to the Foundation.

170. "Any court having jurisdiction of a civil action arising under this title may . . . grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain infringement of a copyright." 17 U.S.C. §502(a).

171. The Foundation is entitled to injunctive relief to prohibit Nagle from copyright infringement of the Interviews, namely prohibiting Nagle and Outlaw Production's copyright registration of the Interviews or the Screenplay without giving credit to or obtaining permission from the Foundation.

172. The Foundation is entitled to injunctive relief to prohibit Nagle and Outlaw Productions from copyright infringement of the Screenplay without giving credit to or obtaining permission from the Foundation.

173. The Foundation cannot comply with the deposit requirements of 17 U.S.C. § 408(b) and apply to register the copyright for the Interviews because Nagle, Outlaw Productions, the Estate and/or Silver retained sole possession of the Interviews.

174. The Foundation is entitled to a mandatory injunction directing Nagle, Outlaw Productions, the Estate and/or Silver to provide the Foundation with copies of the Interviews and the Screenplay.

175. Pursuant to 17 U.S.C. § 411(a), the Foundation cannot seek civil remedies for copyright infringement of the Screenplay and/or the Interviews absent valid copyright registrations. The Foundation will be irreparably harmed unless Nagle, Outlaw Productions, the Estate and/or Silver provide the Foundation with

copies of the Screenplay and the Interviews allowing the Foundation to apply for copyright registrations.

WHEREFORE, Plaintiffs request this Court issue an injunction prohibiting Nagle, Outlaw Productions, the Estate and Silver from registering a copyright of the screenplay for *The Good Lie* without giving credit to the Contributing Lost Boys as co-authors or obtaining permission from the Foundation; requiring Nagle, Outlaw Productions, the Estate and Nagle to provide the Foundation with copies of the Interviews; requiring Nagle, Outlaw Productions, the Estate, and Silver to provide the Foundation with a copy of the Screenplay; requiring Nagle, Outlaw Productions, the Estate, and Silver to pay Plaintiffs' attorneys' fees, costs, and expenses of litigation; and affording all further relief the Court deems just and appropriate.

COUNT IV: BREACH OF FIDUCIARY DUTY

Against Nagle, Outlaw Productions, the Estate and Silver

176. Plaintiffs reallege and restate the allegations contained in paragraphs 1 through 116 of this complaint against Defendants with the same force and effect as if they had been fully restated.

177. Plaintiffs and Nagle, Outlaw Productions, the Estate and Silver entered a joint venture when they combined their labor and property in a joint

undertaking for profit with rights of mutual control, namely through creation of the Screenplay from the Interviews. *Kissun v. Humana, Inc.*, 267 Ga. 419, 420 (1997) (citing *Boatman v. George Hyman Constr. Co.*, 157 Ga. App. 120, 123 (276 S.E.2d 272) (1981)).

178. Under Georgia law, a joint venture is governed by the same rules as a partnership. Therefore, Plaintiffs are owed the same duties as if Plaintiffs and Nagle, Outlaw Productions, the Estate and Silver had entered a common law partnership. *Vitner v. Funk*, 182 Ga. App. 39, 42 (1987) (applying partnership rules of formation to a joint enterprise); see *Murphey, Taylor & Ellis v. Williams*, 223 Ga. 99, 102-103 (1967) (applying partnership agency principles to a joint venture).

179. Therefore, Nagle, Outlaw Productions, the Estate and Silver owe the highest fiduciary duty of loyalty to the Plaintiffs. These fiduciary duties forbid joint adventurers from (i) wasting business assets, (ii) engaging in self-dealing of any kind to the detriment of the joint venture or any joint adventurer, (iii) usurping joint venture opportunities for one's own benefit; or (iv) appropriating the assets and property of the business to the exclusion of the other joint adventurers. See *Vinter*, 182 Ga. App. at 42 (stating that the distinction between a joint venture and partnership is not crucial and the same general rules apply).

180. Nagle, Outlaw Productions, the Estate and Silver breached their fiduciary duties to Plaintiffs by, *inter alia*, (i) failing to properly account for profits; (ii) depriving Plaintiffs of a corporate opportunity for the joint venture, namely participation in the creation of the Movie; and (iii) appropriating the assets and property of the business, the Screenplay, to the exclusion of the Contributing Lost Boys.

181. By virtue of Nagle, Outlaw Productions, the Estate and Silver's breach of fiduciary duties, the Plaintiffs are entitled to damages in an amount to be proven with certainty at trial.

182. As partners in Outlaw Productions, the Estate and Silver are liable for all of Outlaw Productions' obligations pursuant to Cal. Corp. Code. § 16306.

183. Nagle, Outlaw Productions, the Estate and Silver have acted in bad faith, have been stubbornly litigious, and have caused the Plaintiffs unnecessary trouble and expense so as to allow the Plaintiffs to recover their reasonable expenses and attorney's fees pursuant to O.C.G.A. § 13-6-11.

184. Nagle, Outlaw Productions, the Estate and Silver's violations of their fiduciary duties to the Plaintiffs constituted willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care which would raise a presumption

of conscious indifference to consequences so as to authorize an award of punitive damages in order to deter such willful misconduct.

WHEREFORE, the Plaintiffs demand judgment against Nagle, Outlaw Productions, the Estate and Silver in an amount to be proven with certainty at trial, reasonable expenses and attorneys' fees pursuant to O.C.G.A. § 13-6-11, punitive damages in an amount to be determined by the enlightened conscience of an impartial jury, interest as provided by law and such other and further relief as this Court deems just and proper.

COUNT V: DEMAND FOR ACCOUNTING

Against Nagle, Outlaw Productions, the Estate and Silver

185. Plaintiffs reallege and restate the allegations contained in paragraphs 1 through 116 of this complaint against Defendants with the same force and effect as if they had been fully restated.

186. Plaintiffs and Nagle, Outlaw Productions, the Estate and Silver entered a joint venture when they combined their labor and property in a joint undertaking for profit with rights of mutual control, namely through creation of the Screenplay. *Kissun v. Humana, Inc.*, 267 Ga. 419, 420 (1997) (citing *Boatman v. George Hyman Constr. Co.*, 157 Ga. App. 120, 123 (276 S.E.2d 272) (1981)).

187. Under Georgia law, a joint venture is governed by the same rules as a partnership. Therefore, Plaintiffs are owed the same duties as if Plaintiffs and Nagle, Outlaw Productions, the Estate and Silver had entered a common law partnership. *Vitner v. Funk*, 182 Ga. App. 39, 42 (1987) (applying partnership rules of formation to a joint enterprise); *see Murphey, Taylor & Ellis v. Williams*, 223 Ga. 99, 102-103 (1967) (applying partnership agency principles to a joint venture).

188. As such, Plaintiffs have been wrongfully excluded from the joint venture business by Nagle, Outlaw Productions, the Estate and Silver, the joint adventurers, within the meaning of O.C.G.A. § 14-8-22(1); *see Vinter*, 182 Ga. App. at 42 (stating that the distinction between a joint venture and partnership is not crucial and the same general rules apply).

189. Pursuant to O.C.G.A. § 14-8-8, the Joint Venture owns all rights in the Screenplay.

190. Nagle, Outlaw Productions, the Estate and Silver sold the Screenplay without the Contributing Lost Boys knowledge or consent and without accounting to the Contributing Lost Boys for profits earned from the unauthorized sale.

191. Plaintiffs are entitled to a formal accounting as to joint venture affairs pursuant to O.C.G.A. § 14-8-22.

192. As partners in Outlaw Productions, the Estate and Silver are liable for all of Outlaw Productions' obligations pursuant to Cal. Corp. Code. § 16306.

193. Nagle, Outlaw Productions, the Estate and Silver have acted in bad faith, have been stubbornly litigious, and have caused Plaintiffs unnecessary trouble and expense so as to allow Plaintiffs to recover their reasonable expenses and attorney's fees pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, Plaintiffs request the Court order a formal accounting as to partnership affairs pursuant to O.C.G.A. § 14-8-22, and award Plaintiffs their reasonable expenses and attorney's fees pursuant to O.C.G.A. § 13-6-11, and for such other and further relief as the Court deems just and proper.

COUNT VI: CONVERSION OF PLAINTIFFS' IDEAS

Against Nagle, Outlaw Productions, the Estate and Silver

194. Plaintiffs reallege and restate the allegations contained in paragraphs 1 through 116 of this complaint against Defendants with the same force and effect as if they had been fully restated.

195. A conversion of idea claim in Georgia exists when a defendant wrongfully uses an idea shared by the plaintiff without permission or compensation.

196. To state a claim for conversion of idea, (1) the idea must be novel; (2) the disclosure of the idea must be made in confidence; (3) the idea must be adopted and made use of by the defendant; and (4) the idea must be sufficiently concrete in its development to be usable. *See Wilson v. Barton & Ludwig, Inc.*, 163 Ga. App. 721, 723 (1982). *See also Ctr. for Transp. & the Env't, Inc. v. Georgia Aquarium, Inc.*, 2006 WL 278389, at *3 (N.D. Ga. Feb. 1, 2006).

197. The Contributing Lost Boys shared novel ideas, the specific details of their life stories, with Defendants Nagle, Outlaw Productions, the Estate and Silver.

198. The Contributing Lost Boys shared the ideas with Defendants Nagle, Outlaw Productions, the Estate and Silver in confidence and with the understanding that the Contributing Lost Boys and the Foundation would receive some compensation for disclosure of the ideas.

199. Defendants Nagle, Outlaw Productions, the Estate and Silver used the ideas to create the screenplay for *The Good Lie*.

200. The Contributing Lost Boys assigned all of their rights to bring claims against Nagle, Outlaw Productions, the Estate, and Silver to the Foundation.

201. As a result of Nagle, Outlaw Productions, the Estate and Silver's conversion, the Foundation has been damaged in an amount to be proven at trial.

202. Nagle, Outlaw Productions, the Estate, and Silver have acted in bad faith, have been stubbornly litigious, and have caused the Foundation unnecessary trouble and expense so as to allow the Foundation to recover its reasonable attorney's fees and expenses incurred in bringing this action pursuant to O.C.G.A. § 13-6-11.

203. Nagle, Outlaw Productions, the Estate, and Silver's actions were committed maliciously, intentionally and with a willful and conscious disregard of the Contributing Lost Boys' rights, making an award of punitive damages appropriate in order to punish and deter Nagle, Outlaw Productions, the Estate, and Silver s from engaging in the conduct alleged.

WHEREFORE, the Foundation requests this Court issue a judgment for damages in an amount to be proven at trial against Nagle, Outlaw Productions, the Estate and Silver for their conversion; punitive damages in an amount to be determined by the enlightened conscience of an impartial jury; requiring Nagle, Outlaw Productions, the Estate and Silver to pay the Foundation's attorneys' fees, costs, and expenses of litigation; and affording all further relief the Court deems just and appropriate.

COUNT VII: BREACH OF CONTRACT

Against Alcon, Reliance, Imagine, Black Label Media, and GLP

204. Plaintiffs reallege and restate the allegations contained in paragraphs 1 through 116 of this complaint against Defendants with the same force and effect as if they had been fully restated.

205. The Contributing Lost Boys entered into a binding contract with Nagle, Newmyer, and Outlaw Productions, to wit, the Joint Venture Agreement.

206. Pursuant to the terms of the Joint Venture Agreement, the Contributing Lost Boys agreed to assist in the creation of a movie script by sharing their personal life stories in interviews with Nagle, Newmyer, and Outlaw Productions. Nagle, Newmyer, and Outlaw Productions agreed that no movie would be made from the script the Contributing Lost Boys helped create without their consent and that 100% of all charitable donations and funds raised from the script and movie would be directed solely to a non-profit foundation organized and operated by the Contributing Lost Boys

207. Alcon, Imagine, Reliance, Black Label Media, and GLP acknowledged, adopted and assumed Nagle, Newmyer, and Outlaw Productions' obligations under the Joint Venture Agreement.

208. In the April 15, 2013 meeting, the Contributing Lost Boys reiterated the exclusive ownership of their original stories, and the Production Team agreed to compensate the Contributing Lost Boys for their original stories.

209. Alcon, Reliance, Black Label Media, Imagine and GLP are third party beneficiaries of the Joint Venture Agreement.

210. Oral contracts are binding in Georgia. O.C.G.A. § 13-1-5(b).

211. Contracts to negotiate are binding in Georgia. The Eleventh Circuit has held, “In addition, as we understand the law, the parties to a contract can agree to bind themselves by that contract to negotiate in good faith and to work out—within an agreed framework—some terms that remain open. Of course, Georgia law imposes an implied duty of good faith and fair dealing for all parties in contracts. The parties made an enforceable contract although it remained executory in part.” *Bommer v. Reynolds*, 465 F. App’x 876, 879-80 (11th Cir. 2012).

212. The Contributing Lost Boys performed pursuant to the terms of the Joint Venture Agreement by participating in the Interviews with Nagle.

213. The Foundation performed pursuant to the terms of the Joint Venture Agreement by making efforts to negotiate in good faith, including, but not limited to, requesting mediation with Alcon, Reliance, Black Label Media, and GLP.

214. The Screenplay was made into the Movie, to wit, *The Good Lie*, which is scheduled for theatrical release on October 3, 2014.

215. Alcon, Reliance, Black Label Media, Imagine and GLP breached their agreements to the Contributing Lost Boys and to the Foundation because they produced the Movie from the script the Contributing Lost Boys helped create without their consent and without negotiating in good faith the terms of a compensatory donation to the Foundation and because all charitable donations and funds raised from the script and movie were directed to a non-profit foundation other than one organized and operated by the Contributing Lost Boys.

216. The Contributing Lost Boys assigned all of their rights to bring contractual and other claims against Alcon, Imagine, Reliance, Black Label Media and GLP to the Foundation.

217. Furthermore, the Foundation is an intended third-party beneficiary to the Joint Venture Agreement.

218. As a result of Alcon, Imagine, Black Label Media, Reliance and GLP's breach of contract, the Foundation has been damaged in an amount to be determined at trial.

219. Alcon, Imagine, Black Label Media, Reliance and GLP have acted in bad faith, have been stubbornly litigious, and have caused the Foundation

unnecessary trouble and expense so as to allow the Foundation to recover its reasonable attorney's fees and expenses incurred in bringing this action pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, the Foundation request this Court issue a judgment against Alcon, Imagine, Black Label Media, Reliance and GLP for all damages caused by their breach of contract; requiring Alcon, Imagine, Black Label Media, Reliance and GLP to pay the Foundation's attorneys' fees, costs, and expenses of litigation; and affording all further relief the Court deems just and appropriate.

COUNT VIII: COMMERCIAL APPROPRIATION

Against All Defendants

220. Plaintiffs reallege and restate the allegations contained in paragraphs 1 through 116 of this complaint against Defendants with the same force and effect as if they had been fully restated.

221. Georgia law recognizes four distinct types of privacy invasion encompassed under the common law tort of invasion of privacy, namely (1) intrusion upon the plaintiff's seclusion or solitude, or into his or her private affairs; (2) public disclosure of embarrassing private facts about the plaintiff; (3) publicity which places the plaintiff in a false light in the public eye; (4) appropriation, for the defendant's advantage, of the plaintiff's name or likeness.

222. “An appropriation of likeness claim in Georgia consists of the following elements: [1] the appropriation of another’s name and likeness . . . , [2] without consent, and [3] for the financial gain of the appropriator.” *Bullard v. MRA Holding, LLC*, 292 Ga. 748, 752 (2013) (internal quotations, ellipses, and citations omitted). “[W]e do not find any requirement in Georgia law that the plaintiff must have any inherent or preexisting commercial value in his or her name before a wrongful appropriation takes place in order to maintain a viable claim for appropriation.” *Id.*

223. Defendants appropriated the Contributing Lost Boys’ likenesses without consent for their commercial gain through the release of *The Good Lie*.

224. Defendants’ refusal to obtain the Contributing Lost Boys’ consent to use their likeness in *The Good Lie* constitutes an unwarranted intrusion in their privacy interests, of which there are not credible public interest exceptions.

225. Based on the Defendants’ commercial appropriation of the Contributing Lost Boys’ likeness, the Contributing Lost Boys have suffered irreparable harm and damages.

226. Defendants’ actions were committed maliciously, intentionally and with a willful and conscious disregard of the Contributing Lost Boys’ rights,

making an award of punitive damages appropriate in order to punish and deter Defendants from engaging in the conduct alleged.

227. Defendants have acted in bad faith, have been stubbornly litigious, and have caused the Contributing Lost Boys unnecessary trouble and expense so as to allow the Contributing Lost Boys to recover their reasonable expenses and attorney's fees pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, the Contributing Lost Boys demand judgment against Defendants in an amount to be proven with certainty at trial, reasonable expenses and attorneys' fees pursuant to O.C.G.A. § 13-6-11, punitive damages in an amount to be determined by the enlightened conscience of an impartial jury, interest as provided by law and such other and further relief as this Court deems just and proper.

**COUNT IX: BREACH OF THE COVENANT OF
GOOD FAITH AND FAIR DEALING**

Against Nagle, Outlaw Productions, the Estate, and Silver

228. Plaintiffs reallege and restate the allegations contained in paragraphs 1 through 116 of this complaint against Defendants with the same force and effect as if they had been fully restated.

229. In addition to the express written requirement of good faith in the Agreement, Georgia law implies a covenant of good faith and fair dealing in every contract.

230. Nagle, Outlaw Productions, the Estate, and Silver breached the Joint Venture Agreement and the covenant of good faith and fair dealing in the Joint Venture Agreement.

231. Nagle, Outlaw Productions, the Estate, and Silver's breach of the Joint Venture Agreement is not the result of an honest mistake, bad judgment or negligence, but rather a conscious, selfish, and deliberate act, which unfairly frustrates the agreed common purpose and disappoints the reasonable expectations of the Contributing Lost Boys, depriving the Contributing Lost Boys of the benefits of the Joint Venture Agreement.

232. The Contributing Lost Boys assigned all of their rights under the Joint Venture Agreement to the Foundation.

233. Nagle, Outlaw Productions, the Estate, and Silver have acted in bad faith, have been stubbornly litigious, and have caused the Foundation unnecessary trouble and expense so as to allow the Foundation to recover its reasonable attorney's fees and expenses incurred in bringing this action pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, the Foundation demands judgment against Nagle, Outlaw Productions, the Estate, and Silver in an amount to be proven at trial, post-judgment interest as allowed by law, its reasonable expenses and attorney's fees incurred in bringing this action, together with all costs, pursuant to O.C.G.A. § 13-6-11, and such other and further relief as this Court deems just and proper.

**COUNT X: BREACH OF THE COVENANT OF
GOOD FAITH AND FAIR DEALING**

Against Alcon, Reliance, Imagine, Black Label Media, and GLP

234. Plaintiffs reallege and restate the allegations contained in paragraphs 1 through 116 of this complaint against Defendants with the same force and effect as if they had been fully restated.

235. Georgia law implies a covenant of good faith and fair dealing in every contract.

236. In the April 15, 2013 meeting, the Contributing Lost Boys reiterated the exclusive ownership of their original stories, and the Production Team agreed to compensate the Contributing Lost Boys for their original stories and acknowledged and adopted the Joint Venture Agreement.

237. Alcon, Reliance, Black Label Media, Imagine and GLP breached the Joint Venture Agreement, and the covenants of good faith and fair dealing.

238. Alcon, Reliance, Black Label Media, Imagine and GLP's breach of the Joint Venture Agreement is not the result of an honest mistake, bad judgment or negligence, but rather a conscious, selfish, and deliberate act, which unfairly frustrates the agreed common purpose and disappoints the reasonable expectations of Plaintiffs, depriving Plaintiffs of the benefits of the Joint Venture Agreement.

239. Alcon, Reliance, Black Label Media, Imagine and GLP have acted in bad faith, have been stubbornly litigious, and have caused Plaintiffs unnecessary trouble and expense so as to allow Plaintiffs to recover their reasonable attorney's fees and expenses incurred in bringing this action pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, Plaintiffs demand judgment against Alcon, Reliance, Black Label Media, Imagine and GLP in an amount to be proven at trial, post-judgment interest as allowed by law, their reasonable expenses and attorney's fees incurred in bringing this action, together with all costs, pursuant to O.C.G.A. § 13-6-11, and such other and further relief as this Court deems just and proper.

ALTERNATE COUNT XI: UNJUST ENRICHMENT

Against Alcon, Reliance, Imagine, Black Label Media and GLP

240. Plaintiffs reallege and restate the allegations contained in paragraphs 1 through 116 of this complaint against Defendants with the same force and effect as if they had been fully restated.

241. The elements of an unjust enrichment claim are: (1) the plaintiff conferred a benefit on the defendant, and (2) equity requires the defendant to compensate the plaintiff. *See Chem-Nuclear Sys., Inc. v. Arivec Chemicals, Inc.*, 978 F. Supp. 1105, 1110 (N.D. Ga. 1997).

242. “The theory of unjust enrichment applies when there is no legal contract and when there has been a benefit conferred which would result in an unjust enrichment unless compensated.” *Cochran v. Ogletree*, 244 Ga. App. 537, 538 (2000).

243. The Contributing Lost Boys participated in the Interviews with Nagle. Nagle took the Contributing Lost Boys’ personal stories and used them to create the script for *The Good Lie*.

244. As producers, Alcon, Reliance, Imagine, Black Label Media and GLP will earn substantial revenues from *The Good Lie*.

245. At least a portion of revenue Alcon, Reliance, Imagine, Black Label Media and GLP earn for *The Good Lie* is directly attributable to the Contributing Lost Boys’ assistance with the script.

246. In the April 15, 2013 meeting, the Contributing Lost Boys reiterated the exclusive ownership of their original stories, and the Production Team agreed to compensate the Contributing Lost Boys for their original stories.

247. When confronted during a videotaped meeting on April 15, 2013, Molly Smith, of Black Label Media, LLC, said, “The most important thing that was said here today was you asked a question, ‘Do you feel we should be compensated for your story?’ And, the answer I can say, because it’s my company and my studio, is absolutely.”

248. The Contributing Lost Boys have not been compensated for their assistance with the script.

249. Equity requires that Alcon, Reliance, Imagine, Black Label Media and GLP compensate the Contributing Lost Boys for their assistance with *The Good Lie*.

250. Alcon, Reliance, Black Label Media, Imagine and GLP have acted in bad faith, have been stubbornly litigious, and have caused Plaintiffs unnecessary trouble and expense so as to allow Plaintiffs to recover their reasonable attorney’s fees and expenses incurred in bringing this action pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, The Contributing Lost Boys demand judgment against Alcon, Reliance, Black Label Media, Imagine and GLP in an amount to be proven at trial, post-judgment interest as allowed by law, their reasonable expenses and attorney’s fees incurred in bringing this action, together with all costs, pursuant to

O.C.G.A. § 13-6-11, and such other and further relief as this Court deems just and proper.

ALTERNATE COUNT XII: UNJUST ENRICHMENT

Against Nagel, Outlaw Productions, the Estate, and Silver

251. Plaintiffs reallege and restate the allegations contained in paragraphs 1 through 116 of this complaint against Defendants with the same force and effect as if they had been fully restated.

252. The elements of an unjust enrichment claim are: (1) the plaintiff conferred a benefit on the defendant, and (2) equity requires the defendant to compensate the plaintiff. *See Chem-Nuclear Sys., Inc. v. Arivec Chemicals, Inc.*, 978 F. Supp. 1105, 1110 (N.D. Ga. 1997).

253. “The theory of unjust enrichment applies when there is no legal contract and when there has been a benefit conferred which would result in an unjust enrichment unless compensated.” *Cochran v. Ogletree*, 244 Ga. App. 537, 538 (2000).

254. The Contributing Lost Boys participated in the Interviews with Nagle. Nagle took the Contributing Lost Boys’ personal stories and used them to create the script for *The Good Lie*.

255. Nagle, Outlaw Productions, the Estate, and Silver have earned and will earn substantial revenues from *The Good Lie*.

256. At least a portion of revenue Nagle, Outlaw Productions, the Estate, and Silver have earned and will earn for *The Good Lie* is directly attributable to the Contributing Lost Boys' assistance with the script.

257. The Contributing Lost Boys have not been compensated for their assistance with the script.

258. Equity requires that Nagle, Outlaw Productions, the Estate, and Silver compensate the Contributing Lost Boys for their assistance with *The Good Lie*.

259. Nagle, Outlaw Productions, the Estate, and Silver have acted in bad faith, have been stubbornly litigious, and have caused the Contributing Lost Boys unnecessary trouble and expense so as to allow the Contributing Lost Boys to recover their reasonable attorney's fees and expenses incurred in bringing this action pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, the Contributing Lost Boys demand judgment against Nagle, Outlaw Productions, the Estate, and Silver in an amount to be proven at trial, post-judgment interest as allowed by law, their reasonable expenses and attorney's fees incurred in bringing this action, together with all costs, pursuant to

O.C.G.A. § 13-6-11, and such other and further relief as this Court deems just and proper.

ALTERNATE COUNT XIII: QUANTUM MERUIT

Against Alcon, Reliance, Imagine, Black Label Media, and GLP

260. Plaintiffs reallege and restate the allegations contained in paragraphs 1 through 116 of this complaint against Defendants with the same force and effect as if they had been fully restated.

261. The elements of a claim for quantum meruit are: (1) Plaintiff's performance of services valuable to Defendant; (2) Either at the request of Defendant or knowingly accepted by Defendant; (3) Defendant's receipt of which without compensating Plaintiff would be unjust; and (4) Plaintiff's expectation of compensation at the time of the rendition of the services. *See Synergy Worldwide, Inc. v. Long, Haymes, Carr, Inc.*, 44 F. Supp. 2d 1348, 1358 (N.D. Ga. 1998).

262. By participating in the Interviews, the Contributing Lost Boys performed services valuable to Alcon, Reliance, Black Label Media, Imagine and GLP.

263. Alcon, Reliance, Black Label Media, Imagine and GLP knowingly accepted these services.

264. Alcon, Reliance, Black Label Media, Imagine and GLP have not paid the Contributing Lost Boys for their contributions to *The Good Lie* or their participation in the Interviews. Alcon, Reliance, Black Label Media, Imagine and GLP's receipt of the Contributing Lost Boys' services without payment is unjust.

265. Nagle and Outlaw Productions told the Contributing Lost Boys that they would be compensated for participation in the Interviews, and Alcon, Reliance, Black Label Media, Imagine and GLP assumed Nagle and Outlaw Productions' obligations to pay the Contributing Lost Boys.

266. When confronted during a videotaped meeting on April 15, 2013, Molly Smith, of Black Label Media, LLC, said, "The most important thing that was said here today was you asked a question, 'Do you feel we should be compensated for your story?' And, the answer I can say, because it's my company and my studio, is absolutely."

267. Alcon, Reliance, Black Label Media, Imagine and GLP have acted in bad faith, have been stubbornly litigious, and have caused the Contributing Lost Boys unnecessary trouble and expense so as to allow the Contributing Lost Boys to recover their reasonable attorney's fees and expenses incurred in bringing this action pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, the Contributing Lost Boys demand judgment against Alcon, Reliance, Black Label Media, Imagine and GLP in an amount to be proven at trial, post-judgment interest as allowed by law, their reasonable expenses and attorney's fees incurred in bringing this action, together with all costs, pursuant to O.C.G.A. § 13-6-11, and such other and further relief as this Court deems just and proper.

ALTERNATE COUNT XIV: QUANTUM MERUIT

Against Nagel, Outlaw Productions, the Estate, and Silver

268. Plaintiffs reallege and restate the allegations contained in paragraphs 1 through 116 of this complaint against Defendants with the same force and effect as if they had been fully restated.

269. The elements of a claim for quantum meruit are: (1) Plaintiff's performance of services valuable to Defendant; (2) Either at the request of Defendant or knowingly accepted by Defendant; (3) Defendant's receipt of which without compensating Plaintiff would be unjust; and (4) Plaintiff's expectation of compensation at the time of the rendition of the services. *See Synergy Worldwide, Inc. v. Long, Haymes, Carr, Inc.*, 44 F. Supp. 2d 1348, 1358 (N.D. Ga. 1998).

270. By participating in the Interviews, the Contributing Lost Boys performed services valuable to Nagle and Outlaw Productions.

271. Nagle and Outlaw Productions knowingly accepted these services.

272. Nagle and Outlaw Productions have not paid the Contributing Lost Boys for their contributions to *The Good Lie* or their participation in the Interviews. Nagle and Outlaw Productions' receipt of the Contributing Lost Boys' services without payment is unjust.

273. Nagle and Outlaw Productions told the Contributing Lost Boys that they would be compensated for participation in the Interviews.

274. As partners in Outlaw Productions, the Estate and Silver and personally responsible for Outlaw Productions' acts and omissions.

275. Nagle, Outlaw Productions, the Estate, and Silver have acted in bad faith, have been stubbornly litigious, and have caused the Contributing Lost Boys unnecessary trouble and expense so as to allow the Contributing Lost Boys to recover their reasonable attorney's fees and expenses incurred in bringing this action pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, the Contributing Lost Boys demand judgment against Nagle, Outlaw Productions, the Estate, and Silver in an amount to be proven at trial, post-judgment interest as allowed by law, their reasonable expenses and attorney's fees incurred in bringing this action, together with all costs, pursuant to

O.C.G.A. § 13-6-11, and such other and further relief as this Court deems just and proper.

ALTERNATE COUNT XV: PROMISSORY ESTOPPEL

Against Alcon, Reliance, Imagine, Black Label Media, and GLP

276. Plaintiffs reallege and restate the allegations contained in paragraphs 1 through 116 of this complaint against Defendants with the same force and effect as if they had been fully restated.

277. In the April 15, 2013 meeting, the Contributing Lost Boys reiterated the exclusive ownership of their original stories, and the Production Team agreed to compensate the Contributing Lost Boys for their original stories.

278. When confronted during a videotaped meeting on April 15, 2013, Molly Smith, of Black Label Media, LLC, said, “The most important thing that was said here today was you asked a question, ‘Do you feel we should be compensated for your story?’ And, the answer I can say, because it’s my company and my studio, is absolutely.”

279. Pursuant to O.C.G.A. §13-3-44(a), “A promise which the promisor should reasonably expect to induce action or forbearance on the part of the promisee or a third person and which does induce such action or forbearance is

binding if injustice can be avoided only by enforcement of the promise. The remedy granted for breach may be limited as justice requires.”

280. The elements of a claim for promissory estoppel are: (1) the defendant made certain promises; (2) the defendant should have expected that plaintiffs would rely on such promises; (3) the plaintiffs did in fact rely on such promises to their detriment; (4) injustice can be avoided only by enforcement of the promise. *See Kamat v. Allatoona Fed. Sav. Bank*, 231 Ga. App. 259, 263 (1998).

281. “A ‘promise’ may be defined as a manifestation of an intention to act or refrain from acting in a specified way, so made as to justify a promisee in understanding that a commitment has been made.” *Foley Co. v. Warren Eng’g, Inc.*, 804 F. Supp. 1540, 1544-45 (N.D. Ga. 1992).

282. “[T]he fact that [a promise] is performable in the future does not preclude the application of promissory estoppel.” *Hendon Props., LLC v. Cinema Dev., LLC*, 275 Ga. App. 434, 440 (2005).

283. “Promissory estoppel cannot be applied unless the promisee reasonably relied on the promise.” *Poindexter v. Am. Bd. of Surgery, Inc.*, 911 F. Supp. 1510, 1523 (N.D. Ga. 1994) (citing *Fidelity & Deposit Co. v. West Point Constr. Co.*, 178 Ga. App. 578, 580 (1986)).

284. Alcon, Reliance, Black Label Media, Imagine and GLP made certain promises to the Plaintiffs, to wit, promising to negotiate the amount of payment for the Contributing Lost Boys' life stories.

285. Alcon, Reliance, Black Label Media, Imagine and GLP should have known that Plaintiffs would rely on such promises.

286. Plaintiffs relied on such promises to their detriment.

287. Injustice can only be avoided by enforcement of the promise.

288. Alcon, Reliance, Black Label Media, Imagine and GLP have acted in bad faith, have been stubbornly litigious, and have caused Plaintiffs unnecessary trouble and expense so as to allow Plaintiffs to recover their reasonable attorney's fees and expenses incurred in bringing this action pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, Plaintiffs demand judgment against Alcon, Reliance, Black Label Media, Imagine and GLP in an amount to be proven at trial, post-judgment interest as allowed by law, their reasonable expenses and attorney's fees incurred in bringing this action, together with all costs, pursuant to O.C.G.A. § 13-6-11, and such other and further relief as this Court deems just and proper.

ALTERNATE COUNT XVI: PROMISSORY ESTOPPEL

Against Nagel, Outlaw Productions, the Estate, and Silver

289. Plaintiffs reallege and restate the allegations contained in paragraphs 1 through 116 of this complaint against Defendants with the same force and effect as if they had been fully restated.

290. Pursuant to O.C.G.A. §13-3-44(a), “A promise which the promisor should reasonably expect to induce action or forbearance on the part of the promisee or a third person and which does induce such action or forbearance is binding if injustice can be avoided only by enforcement of the promise. The remedy granted for breach may be limited as justice requires.”

291. The elements of a claim for promissory estoppel are: (1) the defendant made certain promises; (2) the defendant should have expected that plaintiffs would rely on such promises; (3) the plaintiffs did in fact rely on such promises to their detriment; (4) injustice can be avoided only by enforcement of the promise. *See Kamat v. Allatoona Fed. Sav. Bank*, 231 Ga. App. 259, 263 (1998).

292. “A ‘promise’ may be defined as a manifestation of an intention to act or refrain from acting in a specified way, so made as to justify a promisee in understanding that a commitment has been made.” *Foley Co. v. Warren Eng’g, Inc.*, 804 F. Supp. 1540, 1544-45 (N.D. Ga. 1992).

293. “[T]he fact that [a promise] is performable in the future does not preclude the application of promissory estoppel.” *Hendon Props., LLC v. Cinema Dev., LLC*, 275 Ga. App. 434, 440 (2005).

294. “Promissory estoppel cannot be applied unless the promisee reasonably relied on the promise.” *Poindexter v. Am. Bd. of Surgery, Inc.*, 911 F. Supp. 1510, 1523 (N.D. Ga. 1994) (citing *Fidelity & Deposit Co. v. West Point Constr. Co.*, 178 Ga. App. 578, 580 (1986)).

295. Nagle and Outlaw Productions promised the Contributing Lost Boys that the Screenplay would not be made into a movie without their consent.

296. Nagle and Outlaw Productions should have known that the Contributing Lost Boys would rely on such promises.

297. The Contributing Lost Boys relied on such promises to their detriment.

298. Injustice can only be avoided by enforcement of the promise.

299. As partners in Outlaw Productions, the Estate and Silver are liable for all of Outlaw Productions’ obligations pursuant to Cal. Corp. Code. § 16306.

300. Nagle, Outlaw Productions, the Estate, and Silver have acted in bad faith, have been stubbornly litigious, and have caused the Foundation unnecessary trouble and expense so as to allow the Foundation to recover its reasonable

attorney's fees and expenses incurred in bringing this action pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, the Foundation demands judgment against Nagle, Outlaw Productions, the Estate, and Silver in an amount to be proven at trial, post-judgment interest as allowed by law, its reasonable expenses and attorney's fees incurred in bringing this action, together with all costs, pursuant to O.C.G.A. § 13-6-11, and such other and further relief as this Court deems just and proper.

COUNT XVII: FRAUDULENT INDUCEMENT

Against Nagle, Outlaw Productions, the Estate and Silver

301. Plaintiffs reallege and restate the allegations contained in paragraphs 1 through 116 of this complaint against Defendants with the same force and effect as if they had been fully restated.

302. In Georgia, the elements of fraudulent inducement are:

- a. A false representation or omission of material fact;
- b. Scierer;
- c. Intention to induce the party claiming fraud to act or refrain from acting;
- d. Justifiable reliance; and
- e. Damages.

See Worsham v. Provident Companies, Inc., 249 F. Supp. 2d 1325, 1331 (N.D. Ga. 2002); *Denim N. Am. Holdings, LLC v. Swift Textiles, LLC*, 816 F. Supp. 2d 1308, 1320 (M.D. Ga. 2011).

303. “Although actionable fraud cannot be based on statements and promises as to future events, there is an exception to this proposition, which is that fraud may be predicated on a promise made with a present intention not to perform.” *Kirkland v. Pioneer Mach., Inc.*, 243 Ga. App. 694, 695 (2000).

304. Nagle and Outlaw Productions made a false representation of existing material facts to the Contributing Lost Boys that no film would be produced from the Screenplay unless and until the Contributing Lost Boys consented after agreeing on the compensation arrangement with the producers/studios.

305. The Contributing Lost Boys justifiably relied upon Nagle and Outlaw Productions’ promise and subsequently participated in the Interviews.

306. At the time of the misrepresentation, the Nagle and Outlaw Productions had the intention not to perform the promised act. Nagle and Outlaw Productions intended to deceive the Contributing Lost Boys.

307. The Contributing Lost Boys have suffered damage proximately caused by Nagle and Outlaw Productions’ fraud.

308. As partners in Outlaw Productions, the Estate and Silver are liable jointly and severally for all obligations of the partnership pursuant to Cal. Corp. Code § 16306.

309. Nagle, Outlaw Productions, the Estate, and Silver have acted in bad faith, have been stubbornly litigious, and have caused the Foundation unnecessary trouble and expense so as to allow the Contributing Lost Boys to recover their reasonable attorney's fees and expenses incurred in bringing this action pursuant to O.C.G.A. § 13-6-11.

310. Nagle, Outlaw Productions, the Estate, and Silver's actions constituted willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care which would raise a presumption of conscious indifference to consequences so as to authorize an award of punitive damages in order to deter such willful misconduct.

WHEREFORE, the Contributing Lost Boys request that this Court issue a judgment against Nagle, Outlaw Productions, the Estate and Silver for damages in an amount to be proven at trial for their promissory fraud and for punitive damages in an amount determined by the enlightened conscious of the jury; requiring Nagle, Outlaw Productions, the Estate and Silver to pay the Contributing Lost Boys'

attorneys' fees, costs, and expenses of litigation; and affording all further relief the Court deems just and appropriate.

COUNT XVIII: FRAUDULENT INDUCEMENT

Against Alcon, Imagine, Reliance, Black Label Media and GLP

311. Plaintiffs reallege and restate the allegations contained in paragraphs 1 through 74 of this complaint against Defendants with the same force and effect as if they had been fully restated.

312. In Georgia, the elements of fraudulent inducement are:

- a. A false representation or omission of material fact;
- b. Scierter;
- c. Intention to induce the party claiming fraud to act or refrain from acting;
- d. Justifiable reliance; and
- e. Damages.

See Worsham v. Provident Companies, Inc., 249 F. Supp. 2d 1325, 1331 (N.D. Ga. 2002); *Denim N. Am. Holdings, LLC v. Swift Textiles, LLC*, 816 F. Supp. 2d 1308, 1320 (M.D. Ga. 2011).

313. "Although actionable fraud cannot be based on statements and promises as to future events, there is an exception to this proposition, which is that

fraud may be predicated on a promise made with a present intention not to perform.” *Kirkland v. Pioneer Mach., Inc.*, 243 Ga. App. 694, 695 (2000).

314. Alcon, Imagine, Black Label Media, Reliance and GLP made a false representation of existing material fact to the Contributing Lost Boys and the Foundation that they would make a payment to the Foundation for the Contributing Lost Boys’ contribution to the Screenplay.

315. The Contributing Lost Boys justifiably relied upon Alcon, Imagine, Black Label Media, Reliance and GLP’s promise and made efforts to negotiate in good faith.

316. At the time of the misrepresentation, Alcon, Imagine, Black Label Media, Reliance and GLP had the intention not to perform the promised act. Alcon, Imagine, Black Label Media, Reliance and GLP intended to deceive the Contributing Lost Boys and the Foundation.

317. The Contributing Lost Boys and the Foundation have been damaged by Alcon, Imagine, Black Label Media, Reliance and GLP’s fraud.

318. Alcon, Imagine, Black Label Media, Reliance and GLP have acted in bad faith, have been stubbornly litigious, and have caused the Contributing Lost Boys and the Foundation unnecessary trouble and expense so as to allow the

Contributing Lost Boys and the Foundation to recover their reasonable attorney's fees and expenses incurred in bringing this action pursuant to O.C.G.A. § 13-6-11.

319. Alcon, Imagine, Black Label Media, Reliance and GLP's actions constituted willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care which would raise a presumption of conscious indifference to consequences so as to authorize an award of punitive damages in order to deter such willful misconduct.

WHEREFORE, Plaintiffs request this Court issue a judgment against Alcon, Imagine, Black Label Media, Reliance and GLP for their promissory fraud and for punitive damages in an amount determined by the enlightened conscious of the jury; requiring Alcon, Imagine, Black Label Media, Reliance and GLP to pay the Plaintiffs' attorneys' fees, costs, and expenses of litigation; and affording all further relief the Court deems just and appropriate.

Respectfully submitted,

This 19th day of February, 2015.

/s/ Jason W. Graham
Jason W. Graham
Ga. Bar No. 304595
jgraham@grahamjensen.com
Raegan M. King
Ga. Bar No. 812035
rking@grahamjensen.com
T. Brandon Welch

Ga. Bar No. 152409
bwelch@grahamjensen.com
Attorneys for Plaintiffs

Graham & Jensen, LLP
17 Executive Park Drive, Suite 115
Atlanta, Georgia 30329
Phone: (404) 842-9380
Fax: (678) 904-3110

CERTIFICATE OF COMPLIANCE

This is to certify that the foregoing document has been prepared in Times New Roman, 14-point font in accordance with LR 5.1 and LR 7.1(d).

Respectfully submitted,

This 19th day of February, 2015.

/s/ Jason W. Graham
Jason W. Graham
Ga. Bar No. 304595
jgraham@grahamjensen.com
Raegan M. King
Ga. Bar No. 812035
rking@grahamjensen.com
T. Brandon Welch
Ga. Bar No. 152409
bwelch@grahamjensen.com
Attorneys for Plaintiffs

Graham & Jensen, LLP
17 Executive Park Drive, Suite 115
Atlanta, Georgia 30329
Phone: (404) 842-9380
Fax: (678) 904-3110