

1 Steven T. Lowe, Esq., (SBN 122208)
2 Omar S. Anorga, Esq., (SBN 236250)
3 LOWE LAW, A Professional Law Corporation
4 11400 Olympic Boulevard, Suite 600
5 Los Angeles, California 90064
6 Telephone: (310) 477-5811
7 Facsimile: (310) 477-7672

8 Attorneys for Plaintiff
9 SHARLENE SULLIVAN

Case assigned to Judge MAUREEN Duffy Lewis

ORIGINAL
90212

FILED
LOS ANGELES SUPERIOR COURT

MAR 08 2007

John A. Clark, Executive Officer/Clerk
By _____, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

D-38

9 SHARLENE SULLIVAN, an individual,)
10 Plaintiff,)
11 v.)
12 MICHAEL SIMON, an individual, MARK)
13 BURNETT, an individual, MARK BURNETT)
14 PRODUCTIONS, INC., a California corporation;)
15 CBS BROADCASTING, INC., a California)
16 corporation; and DOES 1-50, inclusive,)
17 Defendants.)

CASE NO.: BC367462

PLAINTIFF'S COMPLAINT FOR:

- 1. Breach of Implied In Fact Contract;
- 2. Breach of Implied Covenant of Good Faith;
- 3. Breach of Fiduciary Duty;
- 4. Aiding and Abetting the Breach of a Fiduciary Duty;
- 5. Slander of Title; and
- 6. Breach of Implied In Law Contract

16 Plaintiff Sharlene Sullivan, (hereinafter referred to as "Sullivan" or "Plaintiff"), an individual,
17 alleges as follows:

PARTIES

- 19 1. At all times mentioned herein, Sullivan was an individual residing in Los Angeles County,
20 State of California, and New York City, New York
- 21 2. At all times mentioned herein, Michael Simon, (hereinafter referred to as "Simon" or
22 "Defendants") is an individual with a business address of 3810 David Road, Agoura Hills, CA 91301.
- 23 3. At all times mentioned herein, Mark Burnett (hereinafter referred to as "Burnett" or
24 "Defendants") is an individual with a business address of 9899 Santa Monica Boulevard, Beverly Hills
25 CA 90212.
- 26 4. At all times mentioned herein, Mark Burnett Productions, Inc., (hereinafter referred to as
27 "BMP" or "Defendants") is a California corporation with a business address of 9899 Santa Monica
28 Boulevard, Beverly Hills CA 90212. Upon information and belief, Burnett is the president of MBP.

COMPLAINT

1 5. At all times mentioned herein, CBS Broadcasting, Inc., (hereinafter referred to as "CBS"
2 or "Defendants") is a New York corporation with a business address of 51 West 52nd Street New York,
3 10019.

4 6. Plaintiff is unaware of the true names and capacities of the defendants sued herein as DOES
5 I through 50, inclusive, and for that reason, sues such defendant under such fictitious names. Plaintiff is
6 informed and believes and based thereon alleges that such fictitiously named defendants are responsible
7 in some manner for the occurrences herein alleged, and that plaintiff's damages as herein alleged were
8 proximately caused by the conduct of said defendants. Plaintiff will seek to amend the complaint when
9 the names and capacities of such fictitiously named defendants are ascertained. As alleged herein,
10 defendants shall mean all named defendants and all fictitiously named defendants.

11 7. Plaintiff is informed and believes and based thereon alleges that defendant at all times
12 relative to this action, were the agents, servants, partners, joint venturers and employees of each of the
13 other defendants and in doing the acts alleged herein were acting with the knowledge and consent of each
14 of the other defendants in this action. Alternatively, at all times mentioned herein, each of the defendants
15 conspired with each other to commit the wrongful acts complained of herein. Although not all of the
16 defendants committed all of the acts of the conspiracy or were members of the conspiracy at all times
17 during its existence, each defendant knowingly performed one or more acts in direct furtherance of the
18 objectives of the conspiracy. Therefore, each defendant is liable for the acts of all of the other conspirators.

19 **GENERAL FACTUAL ALLEGATIONS**

20 8. At all times mentioned herein, Sullivan was a writer and producer in the entertainment
21 industry.

22 9. In or about the Fall of 2002, Sullivan created a treatment (a detailed outline of an idea for
23 a television show or film)(hereinafter referred to as the "Treatment") which sets forth the idea she had for
24 a television series revolving around a competition to find the next "rock 'n roll star". Said Treatment was
25 entitled "Rock Star". The Treatment (attached hereto as Exhibit A) describes a television show wherein
26 lead vocalists for rock bands would compete and would be judged by well-known musicians/rock stars.
27 In addition, the show would chronicle the candidates auditions before judges as well as their daily
28 interactions with other competitors, since all of the candidates would temporarily reside in the same house

1 in Los Angeles. At the conclusion of each week's airing of "Rock Star", candidates would be eliminated.
2 "Rock Star" would eventually climax with a winner being chosen as the next rock 'n roll star.

3 10. In or about late March 2003, Sullivan registered the Treatment with Writers Guild of
4 America (hereinafter referred to as "WGA")(Attached hereto as Exhibit B.)

5 11. Sometime after the creation of the Treatment, Sullivan contacted friend and producer, Liz
6 Gaffney (hereinafter referred to as "Gaffney") to determine whether Gaffney would be interested in
7 assisting Sullivan in the development and exploitation of the Treatment. Gaffney agreed to do so. After
8 meeting with Sullivan, Gaffney contacted director Michael Simon (hereinafter referred to as "Simon") to
9 determine if he would be interested in working with Plaintiff to develop and exploit "Rock Star". Gaffney
10 had previously worked with Simon and indicated that Simon would be a good fit for "Rock Star" because
11 of Simon's music experience, which includes, but is not limited to, directing music videos (e.g., in or about
12 1997, he directed a music video for the rock band, "INXS"). Simon expressed his interest in "Rock Star"
13 to Gaffney.

14 12. On or about March 31, 2003, Sullivan sent Simon the Treatment via electronic mail. (See
15 Exhibit A.) On or about April 1, 2003, Simon responded to Sullivan's email and stated "fantastic. I think
16 this has real potential. Thanks for sending it." (Attached hereto as Exhibit C.) Immediately thereafter,
17 Sullivan replied to Simon and stated "So glad you like it. I'll speak with Liz tomorrow and we'll go from
18 there." (Attached hereto as Exhibit D.)

19 13. In or about mid April 2003, Sullivan met with Simon in the "Green Room" for the Jimmy
20 Kimmel television show, which Simon was directing at the time. At this meeting, Simon introduced
21 Sullivan as his "producing partner" to several individuals. Soon thereafter, Simon and Sullivan had lunch
22 in Los Angeles to discuss "Rock Star" in further detail. Simon again conveyed his interest in "Rock Star"
23 and his desire to direct and produce the television show. Sullivan agreed. Additionally, Simon conveyed
24 to Sullivan that he had contacted his agent, Sherry Berman about "RockStar". In or about 2000, Sherry
25 Berman's husband, Al, was the executive producer of CBS's television show and MBP's creation,
26 "Survivor." In addition, Mr. Berman had worked extensively with Burnett and MBP on other projects like
27 the "Apprentice" and the "Contender."

28 14. Sometime thereafter, the communication frequency between Sullivan and Simon decreased.

1 Indeed, it appeared that Simon no longer had an interest in "RockStar" and encouraged Sullivan to abandon
2 the project and write an unrelated treatment regarding transvestites. (Sullivan did write said treatment
3 entitled "Crossover.") By late summer/early fall of 2004, Simon and Sullivan were no longer
4 communicating.

5 15. In or about December 2003, Simon directed for Burnett/MBP the finale for "Survivor"
6 (season seven). Simon also directed for Burnett/MBP the finale for "Survivor" (season eight).
7 Additionally, Simon was involved in directing episodes for the reality television show, "The Apprentice",
8 which is a television show created by Burnett/MBP.

9 16. Clearly, Simon and Burnett had a working relationship during and before Sullivan submitted
10 the Treatment to Simon. In or about the summer of 2004, Burnett announced his plans for a reality
11 television show to rival "American Idol". The name of said reality television show was "RockStar: INXS".

12 17. "RockStar:INXS" television series (and the second season "RockStar: Supernova") utilized
13 Sullivan's key ideas: the title; the combination of a reality base format television show with talent search
14 base television show; a television show in search of the next rock 'n roll star; famous rock star musicians
15 as judges; candidates live in an estate in Los Angeles where they are filmed in their daily
16 activities/interactions; hosted by a likeable television personality; viewer participation by voting for
17 candidates; weekly candidate eliminations; stages of development of being a rock star (workshops); a
18 global search for rock star talent; and the recording of a compilation album with candidates of the
19 television show.

20 18. In or about 2005, CBS broadcast the reality television show "RockStar:INXS", which was
21 executively produced by Burnett and directed by Simon. Said show used and exploited Sullivan's
22 Treatment and all of her key ideas therein.

23 FIRST CAUSE OF ACTION

24 (Breach of Implied In Fact Contract against Simon, Burnett, and MBP)

25 19. Plaintiff repeats and realleges the allegations of Paragraphs 1-18 above, as fully set forth
26 herein.

27 20. "RockStar:INXS" television series (and the second season "RockStar: Supernova")
28 utilized Sullivan's key ideas.

1 21. By virtue of the Defendants' acceptance and utilization of the services and ideas of
2 Sullivan, an agreement (hereinafter referred to as the "Agreement") was implied in fact and in law to
3 pay Sullivan the reasonable value of those services and to credit her as creator thereof.

4 22. Sullivan performed all covenants and conditions required of her pursuant to said
5 agreement. Defendants breached said agreement by utilizing and profiting from Sullivan's ideas
6 without compensation to Sullivan.

7 23. As a result of the foregoing, Sullivan was damaged in an amount according to proof in
8 excess of \$2,000,000.00.

9 SECOND CAUSE OF ACTION

10 (Breach of Implied Covenant of Good Faith against Simon)

11 24. Plaintiff repeats and realleges the allegations of Paragraphs 1-23 above, as fully set forth
12 herein.

13 25. Pursuant to California law, there is a covenant of good faith and fair dealing implied
14 into the Agreement.

15 26. Sullivan performed all covenants and conditions required of her except as excused by
16 the conduct of Defendants.

17 27. Defendants breached the agreement between the parties including the implied
18 provisions thereof by doing the acts alleged hereinabove, including but not limited to, exploiting
19 Sullivan's idea for "RockStar" without credit or compensation to Sullivan.

20 28. As a result of the foregoing, Sullivan was damaged in an amount according to proof in
21 excess of \$2,000,000.00.

22 THIRD CAUSE OF ACTION

23 (Breach of Fiduciary Duty against Simon)

24 29. Plaintiff repeats and realleges the allegations of Paragraphs 1-28 above, as fully set forth
25 herein.

26 30. By virtue of Simon's words and conduct, a joint venture relationship was created
27 between Plaintiff and Simon.

28 31. Simon owed a fiduciary duty to Sullivan by virtue of the joint venture relationship

1 between the parties.

2 32. Simon breached said fiduciary duty by engaging in the acts and omissions alleged
3 hereinabove.

4 33. As a result of the foregoing, Sullivan was damaged in an amount according to proof in
5 excess of \$2,000,000.00.

6 34. In doing the acts alleged hereinabove, Simon acted with malice, fraud and oppression,
7 entitling Sullivan to punitive and exemplary damages.

8 FOURTH CAUSE OF ACTION

9 (Aiding and Abetting the Breach of Fiduciary Duty against Burnett, MBP and CBS)

10 35. Plaintiff repeats and realleges the allegations of Paragraphs 1-34 above, as fully set forth
11 herein.

12 36. With actual or constructive knowledge of the fiduciary relationship between Sullivan,
13 on the one hand, and Simon, on the other, Burnett, MBP, and CBS provided substantial assistance to
14 Simon in breaching his fiduciary duty to Sullivan.

15 37. As a result of the foregoing, Sullivan was damaged in an amount according to proof in
16 excess of \$2,000,000.00.

17 FIFTH CAUSE OF ACTION

18 (Slander of Title against Simon, Burnett, and MBP)

19 38. Plaintiff repeats and realleges the allegations of Paragraphs 1-37 above, as fully set forth
20 herein.

21 39. Sullivan is informed and believes and upon that basis alleges that the named Defendants
22 have made false statements of fact to various third parties about the creation of "RockStar", and have
23 failed to credit Sullivan for the creation thereof.

24 40. As just one example, Burnett announced his idea to "create" a music-based reality
25 television show when in fact he obtained the idea for same through Mr. Berman and/or Simon. Indeed,
26 Burnett misrepresented that he would "create" the television show when Sullivan had already done so.

27 41. Said misrepresentations have a natural tendency to injure Sullivan in that third parties
28 were misled to believe that the named Defendants created "RockStar" when in fact they did not, and

1 the named Defendants could reasonably foresee that the false publication might determine the conduct
2 of said third parties. Furthermore, upon information and belief, Sullivan alleges that said
3 misrepresentation may have been repeated by said third parties to other third parties as well, to
4 Sullivan's further damage.

5 42. As a result of the foregoing, Sullivan was damaged in an amount according to proof in
6 excess of \$2,000,000.00.

7 43. In doing the acts alleged hereinabove, Simon acted with malice, fraud and oppression,
8 entitling the Sullivan to punitive and exemplary damages.

9 SIXTH CAUSE OF ACTION

10 (Breach of Implied In Law Contract against CBS)

11 44. Plaintiff repeats and realleges the allegations of Paragraphs 1-43 above, as fully set forth
12 herein.

13 45. As alleged herein above, "RockStar:INXS" television series (and the second season
14 "RockStar: Supernova") utilized Sullivan's key ideas.

15 46. By virtue of the CBS' utilization and exploitation of Plaintiff's ideas, CBS has been
16 unjustly enriched and an agreement is implied in law to pay Sullivan the reasonable value of her
17 intellectual property and credit her appropriately.

18 47. Sullivan performed all covenants and conditions required of her pursuant to said
19 agreement. CBS breached said agreement by utilizing and profiting from Sullivan's ideas without
20 compensation to Sullivan.

21 48. As a result of the foregoing, Sullivan was damaged in an amount according to proof in
22 excess of \$2,000,000.00.

23 WHEREFORE, Plaintiff prays:

24 ON THE FIRST CAUSE OF ACTION

25 1. For damages in an amount according to proof in excess of \$2,000,000.00;

26 ON THE SECOND CAUSE OF ACTION

27 2. For damages in an amount according to proof in excess of \$2,000,000.00;

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ON THE THIRD CAUSE OF ACTION

- 3. For damages in an amount according to proof in excess of \$2,000,000.00;
- For punitive and exemplary damages according to proof at trial;

ON THE FOURTH CAUSE OF ACTION

- 4. For damages in an amount according to proof in excess of \$2,000,000.00;

ON THE FIFTH CAUSE OF ACTION

- 5. For damages in an amount according to proof in excess of \$2,000,000.00;
- For punitive and exemplary damages according to proof at trial;

ON THE SIXTH CAUSE OF ACTION

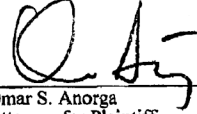
- 6. For damages in an amount according to proof in excess of \$2,000,000.00;

ON ALL CAUSES OF ACTION

- 7. For reasonable attorneys fees;
- 8. For interest and costs of suit;
- 9. For such other relief as is just and proper.

Respectfully submitted,

LOWE LAW, P.C.



By: _____
Omar S. Anorga
Attorney for Plaintiff

Date: February 22, 2007

~~3/22/07~~
~~3/22/07~~
~~3/22/07~~