

Debtor(s).

Location: U.S. Bankruptcy Court, Courtroom 301, 24101 Burbank Boulevard, Woodland Hills, California 91367

Last date to file objections:

Description of property to be sold: The Estate's interest in the Causes of Action 1-8 (Breach of Fiduciary Duty, Legal Malpractice, Constructive Fraud, Breach of the Implied Covenant of Good Faith and Fair Dealing, Unfair Competition Under California Bus. & Prof. Code § 17200 et seq., Trade Secret Misappropriation, Accounting, Intentional Interference With Prospective Economic Advantage, Intentional Infliction of Emotional Distress, and Negligent Infliction of Emotional Distress) in that certain litigation entitled *Rudy Rupak, et al. v. Joseph M. Adams, et al.*, Orange County Superior Court Case No. 30-2014-00753377-CU-PN-CJC (the "Estate Claims"). A copy of the Complaint filed in this action which describes the Estate Claims is appended hereto as "Exhibit A."

Terms and conditions of sale: The Estate Claims shall be sold on an “as-is”/“where-is” basis with no warranties, recourse, contingencies, or representations of any kind, in exchange for a one-time cash payment of not less than \$25,000.00. Additionally, any person or entity interested in purchasing the Estate Claims must follow the overbid procedures described herein.

Proposed sale price: \$25,000.00

Overbid procedure (if any): _____

- Any party or entity interested in purchasing the Estate Claims must submit a cashier's check, made payable to "David Seror, Chapter 7 Trustee," in an amount of not less than \$25,000.00 (a "Qualified Bid"), to counsel for the Trustee (Jason D. Balitzer, Esq., jbalitzer@sulmeyerlaw.com, SulmeyerKupetz, A Professional Corporation, 333 South Hope Street, 35th Floor, Los Angeles, California 90071) by no later than 5:00 p.m. PST on Tuesday, September 6, 2016 (the "Bid Deadline"), in order to qualify to participate as a prospective bidder at the hearing.
 - If multiple persons or entities submit Qualified Bids prior to the Bid Deadline, the Trustee shall conduct an auction of the Estate Claims at the hearing. If one Qualified Bid exceeds all others, that bid shall be considered the stalking horse bid. If no Qualified Bid exceeds all others (e.g., if all bids are in the same amount), then the Qualified Bid that was received by the Trustee's counsel first in time shall be the stalking horse bid. Overbids subsequent to the stalking horse bid shall be in an amount of not less than \$1,000.00 (so that if the stalking horse bid is \$25,000.00, the next bid must be in an amount of not less than \$26,000.00).
 - All due diligence must be completed prior to the hearing as the sale of the Estate Claims shall be on an "as-is"/"where-is" basis with no warranties, recourse, contingencies, or representations of any kind. In no event shall the Qualified Bid submitted by the winning bidder be refundable.
 - If no person or entity submits a Qualified Bid prior to the Bid Deadline, there shall be no sale of the Estate Claims.
- _____

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

N/A

Contact person for potential bidders (include name, address, telephone, fax and/or email address):

Jason D. Balitzer, Esq.

SulmeyerKupetz, PC

333 South Hope Street, 35th Floor

Los Angeles, California 90071

Tel: (213) 626-2311

Fax: (213) 629-4520

Email: jbalitzer@sulmeyerlaw.com

Date: August 18, 2016

EXHIBIT A

1 Cherif Elsheim (SBN: 270389)
2 **LAW OFFICES OF CHERIF ELSHEIKH**
3 11150 West Olympic Blvd.
4 Los Angeles, California 90064
5 c.sheikhlaw@gmail.com

ELECTRONICALLY FILED
Superior Court of California,
County of Orange
10/28/2014 at 06:32:31 PM
Clerk of the Superior Court
By Debbie Lechmann, Deputy Clerk

4 Ashton Watkins (SBN: 235310)
5 **LAW OFFICES OF ASHTON WATKINS.**
6 1990 S. Bundy Drive, Suite 390
7 Los Angeles, California 90025
8 310-855-3904 (tel.)
9 310-943-3896 (fax)
10 ashton@watkinslawgroup.com

11 Attorneys for Plaintiffs Rudy Rupak and Planethospital.com, LLC

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

RUDY RUPAK; PLANETHOSPITAL.COM,
LLC,

Case No. 30-2014-00753377-CU-PN-CJC

Plaintiffs,

v.

JOSEPH M. ADAMS, ADAMS & PHAM,
APC; CATHERINE MOSCARELLO; IP
CONCEPTION; and DOES 1 through 25,
inclusive,

Defendants.

1. BREACH OF FIDUCIARY DUTY
2. LEGAL MALPRACTICE Judge Sheila Fell
3. CONSTRUCTIVE FRAUD
4. BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING
5. UNFAIR COMPETITION UNDER CALIFORNIA BUS. & PROF. CODE § 17200 et seq.
6. TRADE SECRET MISAPPROPRIATION
7. ACCOUNTING
8. INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE
9. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
10. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

Plaintiffs Planethospital.com LLC and Rudy Rupak allege as follows:

PARTIES AND GENERAL ALLEGATIONS

1
2
3 1. At all times herein mentioned, Plaintiff Planethospital.com (“PH”) and Plaintiff Rudy
4 Rupak (“Rupak”) (hereinafter PH and Rudy are collectively referred to as “Plaintiffs” or as their respective
5 names “PH or Rudy”).

6 2. Plaintiff Rudy Rupak (“Rupak”) is an individual, is and, at all times herein
7 mentioned, was an individual residing in the County of Los Angeles, State of California, and conducting
8 business in the County of Los Angeles, State of California.

9 3. Plaintiff Planethospital.com LLC (“PH”) is a limited liability company organized
10 and existing under the laws of the State of California with its principal place of business located in Los
11 Angeles County. During all relevant times PH was authorized to conduct business in the State of
12 California

13 4. Defendant JOSEPH MARTIN ADAMS, ESQ. (“Adams”) also known as Joe
14 Adams, an individual, was doing business and holding himself out as a licensed and reputable attorney,
15 able to practice law in California, and affiliated with the ADAMS & PHAM, APC law firm, as a partner.
16 Adams held himself out as possessing that degree of skill and learning and ability common to legal
17 practitioners in California.

18 5. Defendant ADAMS & PHAM, APC (“AP”) is a California Professional
19 Corporation organized and existing under the laws of the State of California with its principal place of
20 business located in Costa Mesa, California. ADAMS & PHAM, APC at all relevant times are authorized
21 to conduct business in the County of Los Angeles, State of California.

22 6. Defendant Catherine Moscarello (“Moscarello”) is an individual. She was formerly
23 a licensed attorney in California. However, her license was suspended for engaging in at least thirty acts of
24 misconduct. Moscarello was doing business in California. Moscarello was providing legal services without
25 a license through Defendants Adams and ADAMS & PHAM, APC. Adams and Moscarello are involved in
26 an intimate relationship. Indeed, Adams and Moscarello hold themselves out to be husband and wife.

27 //

7. Defendant IP Conception (“IP”) is a limited liability company. IP is doing business in the County of Orange, State of California.

8. The true names and capacities, whether individual or corporate, associate or otherwise of DOES 1 through 25, inclusive (“Doe Defendants”), are unknown to Plaintiffs, who therefore sue said Does Defendants by such fictitious names. Plaintiffs are informed and believes, and based thereon alleges, that Defendant that each of the fictitiously named Doe Defendants is in some manner, means or degree connected with the matters herein alleged, is in some manner responsible for the events and happenings herein referred to, and is liable to Plaintiffs thereon. Plaintiffs will move to amend this Complaint to show such defendants’ true name and capacities when the same have been ascertained.

9. Together AP, Adams, Moscarello, IP and DOES 1 through 25, inclusive, are collectively referred to as “Defendants.”

10. At all times mentioned, each of the Defendants, and each of them, were and are the agents, servants, employees, principals, officers, directors, partners, representatives, parents, subsidiaries, successor-interest, or co-conspirators of each of the remaining defendants, and in such capacity participated in the acts or conduct alleged herein. Defendants, and each of them, are the alter ego of all other Defendants, and each of them, and that there is such a unity of interest between them that separate personalities of the persons and/or entities named and these separate entities and individuals do not exist. Therefore, if the acts of the Defendants, and each of them, are treated as only one defendant alone, an equitable result will follow, as the other defendants will escape responsibility for any tortuous or fraudulent conduct complained of herein.

JURISDICTION AND VENUE

11. Jurisdiction is proper because Plaintiffs do business in the County of Orange.

12. Jurisdiction is proper because Defendants conduct business in the County of Orange, State of California

13. Jurisdiction is proper because the transaction and occurrences giving rise to this lawsuit occurred in the County of Orange, State of California.

FACTUAL BACKGROUND

1 14. PH is a business headquartered in the County of Los Angeles, State of California
2 that has rendered medical tourism, which includes surrogacy services for almost eight (8) years. Rupak is
3 a majority interest holder of PH. Plaintiffs are pioneers of the surrogacy business.

4 15. Plaintiffs invested extensively in a system consisting of software, call center
5 interface, and specific techniques and methods, all of which are unique to its business and provide
6 substantial business advantage for Plaintiffs PH and Rupak. At all times herein mentioned, PH maintained
7 a secret electronic file containing all of its clients' names, potential investors and contact information
8 within its practice management system named "Planet Hospital CRM" and related software (collectively
9 "Master Client List" and/or "CRM") as well as pricing information and billing data. The Master Client
10 List and pricing information and billing data that (1) derives independent economic value, actual and
11 potential, and provides a substantial business advantage to Planet Hospital, from not being generally
12 known to the public or other persons who can obtain economic value from its disclosure or use; and (2) is
13 the subject of extensive efforts by Planet Hospital that are reasonable given the nature of the surrogacy
14 industry to maintain its secrecy.

15 16. Plaintiffs are greatly damaged whenever their business model is duplicated; its
16 reputation maligned in the surrogacy community; its trade secrets misappropriated; or when competitors
17 offer the surrogacy services to past, existing or prospective customers of Plaintiffs. Aside from possibly
18 violating intellectual property rights and/or regulations and competing unfairly, such business practices are
19 inherently misleading and confusing to customers. Plaintiffs' are substantially damaged by a competitor
20 when it seeks to steal customers through deception and slander. Further, if Plaintiffs potential customers
21 use the competitor's services, or if these customers are discouraged to use any competing service due to
22 tactics involving defamation and slander, would put Plaintiff out of business. Plaintiffs' efforts and
23 business would effectively be stolen by a competitor.

24 17. On or about August 28, 2013, Plaintiffs hired Adams and AP as its attorneys.
25 During this engagement Defendants provided legal advice, representation, and services on multiple legal
26 matters. Among other assignments, Plaintiffs hired Adams and AP to handle customer complaints.
27 Adams and AP assigned Moscarello to help them with this task. She reviewed the files, contacted the
28

1 disgruntled customers and purportedly took steps to resolve these disputes with the customers. Marcarello
2 also offered legal advice to Plaintiffs during a time when she was not licensed to practice law. She
3 concealed her activities by offering that service through AP and Adams. Among other things Moscarello at
4 times identified herself as an attorney, she re-wrote contracts and advised clients of their legal rights.

5 18. Defendants also personally represented Rupak on a number of different matters
6 including, but not limited to his individual interest in PH.

7 19. At the approximate time of hiring of Adams and AP, Moscarello in or about August
8 2013, started providing services to Plaintiffs. In or about November 2013, Plaintiffs discovered that
9 Moscarello was copying Plaintiffs' highly confidential and proprietary information including, but not
10 limited to, Plaintiffs' Master Client List and investor information. Further, Defendants Moscarello and
11 Defendant Adams took from PH approximately \$25,000 worth of PH's embryos.

12 20. In the fall of 2013, Rhy Morrigan, PH's former patient who had a dispute with
13 Plaintiffs, made a settlement offer to Plaintiffs. She communicated that offer to Defendants herein.
14 Plaintiffs responded with a counter offer. However, Defendants deliberately concealed that offer from
15 Rhy Morrigan. Through deceit and concealment Defendants purposely induced Rhy Morrigan to
16 believe that Plaintiffs did not want to settle. This made Rhy Morrigan infuriated. As a result, she
17 continued to attack Plaintiffs in various public forums.

18 21. On September 24, 2014, Plaintiffs discovered that Defendants did not communicate
19 the settlement offer to settle the dispute with Rhy Morrigan.

20 22. Plaintiffs also discovered later that Moscarello had posted false and defamatory
21 statements about Plaintiffs online. She also posted information from customer complaints given to Adams
22 and AP during the course and scope of their representation. Moscarello, AP and Adams used information
23 learned during their representation of Plaintiffs in these online reviews and comments. It was further
24 discovered that Moscarello, Adams and AP urged and assisted Plaintiffs' patients to pursue complaints
25 against Plaintiffs. Defendants also disclosed highly confidential information learned through their
26 representation of Plaintiffs. For example, Defendants disclosed, in or about May of 2014, to Plaintiffs'
27 former clients (who Plaintiffs have a dispute with) confidential information regarding Plaintiffs' bank
28

1 accounts. Plaintiff also discovered that Moscarello and Adams had started a competing company called IP
2 CONCEPTIONS while Defendants were still Plaintiffs' attorneys.

3 23. At the same time Defendants were making these statements online, Moscarello
4 used the information she stole from Plaintiffs to open a competing business called IP CONCEPTIONS. At
5 the time IP Conceptions was formed Defendants were Plaintiffs' attorneys. AP and Adams assisted
6 Moscarello in forming this company.

7 24. Defendants devised a plan to divert Plaintiffs' business to themselves and
8 simultaneously put Plaintiffs out of business, by using proprietary and confidential information they had
9 acquired from Plaintiffs during Defendants' representation, including client contact information that they
10 were entrusted with as employees and/or agents. Defendants planned to secretly perform surrogacy
11 services at their newly formed IP CONCEPTIONS, as a direct competitor of Plaintiffs, by initially building
12 their client base by contacting and marketing to Plaintiffs' patients and while simultaneously defaming
13 Plaintiffs in various public online forms. Defendants further urged Plaintiffs' clients to pursue complaints
14 against Plaintiffs.

15 25. Defendants also agreed and conspired among themselves to gradually take many of
16 Plaintiffs' vendors, existing and incoming prospective patients to IP CONCEPTIONS and perform the
17 surrogacy services for their personal profit, by falsely misrepresenting to Plaintiffs' existing and
18 prospective clients and to the public that Plaintiffs were: (a) providing inferior services; (b) committing
19 fraud; (c) providing services under unsafe conditions while referring the same patients to
20 IPCONCEPTIONS.

21 26. Defendants also contacted potential investors and urged them not to invest with
22 Plaintiffs, while Defendants sought the same investors to invest in IP Conceptions.

23 27. Defendants made copies of Plaintiffs Master Client List, vendor list and its practice
24 management system, pricing data, billing data, scheduling software, potential investors and other computer
25 data. At all times relevant hereto, these items belonged to Plaintiffs and that these items constitute
26 Plaintiffs' proprietary and confidential information and constitute trade secrets under California law.
27 Defendants used this information to start a competing business and simultaneously defame Plaintiffs on
28

1 various different public forms to put Plaintiffs out of business.

2 28. Defendants willfully set out to duplicate Plaintiffs' unique business operations and
3 sought to induce potential customers by offering services in a similar style to that of Plaintiffs services and
4 by directly defaming Plaintiffs' reputation with information they wrongfully obtained. Prior to working
5 for PH Defendants had no knowledge about the surrogacy process.

6 29. Defendants continue to unlawfully profit from Defendants' wrongful conduct, as
7 well as seeking to directly tarnish Plaintiffs' reputation and goodwill, and that Plaintiffs continue to be
8 damaged due to the loss of its business.

9
10 **FIRST CAUSE OF ACTION**
Breach of Fiduciary Duty

11 **(Against all Defendants and DOES 1-25, except Defendant IP Conception)**

12 30. Plaintiffs incorporate by reference paragraph 1 through 29, inclusive, as if fully set
13 forth herein.

14 31. Defendants and Plaintiffs were in a fiduciary relationship. As attorneys, Defendants
15 had strong obligations to act with loyalty and fairness with Plaintiffs. Defendants' obligations are
16 embodied in, among other places, the Business and Professions Code and Rules of Professional Conduct.

17 32. Defendants breached their duties and obligations by, among other things, using
18 confidential client information to their benefit and to the detriment of plaintiffs; posting false, defamatory
19 and confidential information learned during their representation to online forums; assisting Plaintiffs'
20 former patients to lodge complaints against Plaintiffs.

21 33. Defendants' acts and omissions were a substantial factor in causing Plaintiffs'
22 harm.

23 34. As a proximate result of Defendants breach of their fiduciary duties, Plaintiffs
24 have suffered compensatory damages in an amount to be proven at trial.

25 35. Defendants are guilty of malice, oppression or fraud, entitling Plaintiffs to an award
26 of exemplary damages, in addition to compensatory damages.
27
28

SECOND CAUSE OF ACTION

Legal Malpractice

(Against all Defendants and DOES 1-25, except IP Conceptions)

36. Plaintiffs incorporate by reference paragraph 1 through 35, inclusive, as if fully set forth herein.

37. As set forth herein above, an attorney-client relationship existed between Plaintiffs, on the one hand, and Adams, AP, and Moscarello, on the other hand.

38. Defendants owed Plaintiffs a duty to exercise reasonable care, skill and diligence and to act competently in the rendering of legal services.

39. By their acts and omissions as alleged herein, Defendants breached their duties to exercise reasonable care, skill and diligence and to act competently, failed to use the care and skill ordinarily exercised in like cases by reputable members of their profession reasonable diligence and their best judgment in the exercise of their skill and the accomplishment of their learning in an effort to accomplish the best possible result for Plaintiffs.

40. As a proximate result of Defendants' breach of their duties, Plaintiffs suffered compensatory damages in an amount to be proven at trial.

THIRD CAUSE OF ACTION

Constructive Fraud

(Against all Defendants and DOES 1-25, except IP Conception)

41. Plaintiffs incorporate by reference paragraphs 1 through 40, inclusive, as if fully set forth herein.

42. The relationship between the attorney and client is a fiduciary relationship of the very highest character and binds the attorney to the most conscientious fidelity. Because of its role as attorneys for Plaintiffs, Defendants owed, at all times relevant hereto, a fiduciary duty to Plaintiffs to act with the utmost care, good faith and honesty in protecting Plaintiffs' interest with respect of the attorney-client representation.

43. By virtue of the attorney-client relationship that existed between Plaintiffs and Defendants, Defendants owed Plaintiffs a fiduciary duty, and by virtue of Plaintiffs having placed confidence in the fidelity and integrity of Defendants and in entrusting Defendants with Plaintiffs' representation in connection with the a myriad of legal issues and providing them with highly confidential information, a confidential relationship existed at all times between Plaintiffs and Defendants.

44. Despite having voluntarily accepted the trust and confidence of Plaintiffs, Defendants abused the trust and confidence as alleged herein above, with the intent to deceive Plaintiff.

45. By their acts and omissions, Defendants breached the fiduciary duties owed to Plaintiffs, as alleged above, and as follows:

- a) Defendants not only failed to protect Plaintiffs' interest in connection with their representation, but rather used confidential information obtained from their representation for their own financial benefit;
- b) Defendants drafted various agreements in such a manner as to further their own interest and to protect Defendants from liability, while detrimentally affecting Plaintiffs' rights and exposing Plaintiffs to liability;
- c) Defendants urged Plaintiffs clients to filed actions against Plaintiffs;
- d) Defendants wrongfully defamed Plaintiffs in various public forms in order to put Plaintiffs out of business and for their financial benefit.
- e) Defendants unlawfully obtained confidential information through their representation and opened a competing business against Plaintiffs;
- f) Defendants intentionally failed to communicate Plaintiffs' offers to settle;
- g) Defendants failed to advise Plaintiffs that Defendant was only representing their own interest and misled Plaintiffs into believing that Defendants were protecting Plaintiffs' interest, in violation of, among others, various California Rules of Professional Conduct 3-310 and 3-600;
- h) Defendants failed to put Plaintiffs' interest ahead of their own and engaged in self-dealing;

1 46. Plaintiffs reasonably relied upon Defendants, as set forth hereinabove.

2 47. As a proximate result of Defendants' constructive fraud, Plaintiffs suffered
3 compensatory damages in an amount to be proven at trial.

4 48. Defendants are guilty of malice, oppression or fraud, entitling Plaintiffs to an award
5 of exemplary damages, in addition to compensatory damages.

6
7 **FOURTH CAUSE OF ACTION**

8 **Breach of the Implead Covenant of Good faith and Fair Dealing**
9 **(Against all Defendants and DOES 1-25, except Defendant IP Conception)**

10 49. Plaintiffs incorporate by reference paragraphs 1 through 48, inclusive, as if fully set
11 forth herein.

12 50. In every contract between an attorney and client, there exists an implied covenant
13 of good faith and fair dealing that the attorney will not do anything to impair the client's rights to receive
14 the benefits under the contract.

15 51. By their acts and omissions as alleged herein above, Defendants breached the
16 implied covenant of good faith and fair dealing.

17 52. As a proximate result of Defendants' breach of the implied covenant of good faith
18 and fair dealing, Plaintiffs have suffered damages in an amount to be proven at trial.

19 **FIFTH CAUSE OF ACTION**

20 **Unfair Competition Under California Bus & Prof. Code Section 17200 et seq.**
21 **(Against all Defendants and DOES 1-25)**

22 53. Plaintiffs incorporate by reference paragraphs 1 through 52, inclusive, as if fully set
23 forth herein.

24 54. By engaging in the conduct above, Defendants committed unfair business practices
25 as defined in California Business & Professions Code, Section 17200 et seq.

26 55. Defendants acquired proprietary and confidential information, and access to
27 Plaintiffs' software programs, and in the course of competing with Plaintiffs, Defendants wrongfully used
28 such confidential and proprietary information, including a Master Client List, software programs, stolen
embryos to gain a competitive advantage over Plaintiffs and for the benefit of themselves and their

1 business, which was wrongfully obtained and to which they are therefore not entitled.

2 56. Defendants have wrongfully misappropriated Plaintiffs' confidential and
3 proprietary information, reputation and goodwill, through their representation as Plaintiffs' attorneys.
4 Such actions are likely to mislead the public and constitute unfair competition in violation of California
5 *Business & Professions Code*, § 17200 *et. seq.*

6 57. Defendants committed acts of unfair competition with respect to Plaintiffs
7 including, but expressly not limited, to the following:

- 8 a. Misinforming Plaintiffs' current and past clients that Plaintiffs' facilities and staff
9 were responsible for fraud. Defendants subsequently directed these patients to
10 IPCONCEPTIONS;
- 11 b. Making unauthorized referrals of Plaintiffs' clients, both existing and prospective,
12 to IPCONCEPTIONS;
- 13 c. Disclosing, using and otherwise misappropriating Plaintiffs' proprietary and
14 confidential information;
- 15 d. Defaming Plaintiffs in a public forum;
- 16 e. Unfairly contacting for business purposes and soliciting Plaintiffs' clients;
- 17 f. Maligning Plaintiffs' reputation;
- 18 g. Breaching the duty of confidentiality;
- 19 h. Breaching the duty of loyalty;
- 20 i. Failing to make full written disclosure of conflicting interest to Plaintiffs and to
21 obtain Plaintiffs' informed written consent in violation of California Rules of
22 Professional Conduct;
- 23 j. Failing to put Plaintiffs' interests ahead of their own and engaged in self-dealing.

24 58. The wrongful conduct of Defendants described herein above constitutes unfair
25 competition and deceptive and unfair trade practices contemplated and prohibited by California *Business &*
26 *Professions Code*, § 17200 *et. seq.* Further, the Defendants' conduct has caused them to become unjustly
27 enriched, and Defendants should have to pay restitution of all sums inappropriately obtained to the
28

1 detriment of Plaintiffs.

2 59. The aforementioned conduct of Defendants was intentional on the part of the
3 Defendants to deprive Plaintiffs of property and harm their reputations. This was despicable conduct
4 which has subjected Plaintiffs to unjust hardship in conscious disregard of Plaintiffs' rights.

5 60. Also, as a direct and proximate result of Defendants' conduct alleged above, an
6 amount of restoration of money or property acquired by unfair competition has yet to be ascertained but
7 Plaintiffs are informed and believe, and thereon allege, is well in excess of the jurisdictional limits of this
8 Court.

9 61. Moreover, the unfair competition by Defendants to convert Plaintiffs' business, as
10 described above, will likely occur and continue so that further harm and irreparable injury will result to
11 Plaintiffs from Defendants' wrongful acts unless enjoined and restrained by this court in accordance with
12 California *Business & Professions Code*, § 17200 *et. seq*

13 62. Plaintiffs have no adequate remedy at law for the injuries it will suffer in that there
14 is no way to quantify the extent of the impact on Plaintiffs' present and future business and reputations as a
15 result of Defendants' misconduct.

16 63. Plaintiffs, therefore, also request an order enjoining Defendants from further
17 continuing their unfair competition and unfair business practices, as described herein and from using
18 Plaintiffs' proprietary and confidential information.

19 64. Plaintiffs are entitled to obtain injunctive relief and restoration of money acquired
20 by unfair competition pursuant to California Business & Professions Code, Sections 17070 and 17203.

21
22 **SIXTH CAUSE OF ACTION**
23 **Trade Secret Misappropriation (Civil Code 3426 et.seq.)**
24 **(Against all Defendants and DOES 1-25)**

25 65. Plaintiffs incorporate by reference paragraphs 1 through 64, inclusive, as if fully set
26 forth herein.

27 66. At all relevant times, everything Defendant Moscarello, with the assistance of her
28 spouse, Adams and his law firm AP, acquired by virtue of their agency, employment and/or business

1 relations with Plaintiffs and Plaintiffs' affiliates, whether during or after expiration of the term of her
2 agency and/or employment, including without limitation, PH's Master Client List, vendors, doctors,
3 scheduling system, billing data, clinics as well as software programs belonging exclusively to PH.

4 67. At all relevant times, PH's Master Client List, vendor information, software system,
5 information regarding PH's business model derived independent economic value from not being generally
6 known by the public or in the surrogacy industry.

7 68. At all relevant times, Plaintiffs' Master Client list vendor information, software
8 system, information regarding PH's business model were the subject of efforts by Plaintiffs to maintain
9 their secrecy that were reasonable under the circumstances.

10 69. At all relevant times, Defendants had a duty to maintain the secrecy of Plaintiffs'
11 Master Client List, pricing data, software system, business forms and billing data as well as Plaintiffs'
12 software programs, and not to use it or disclose it. These duties arose from, among other things, the fact
13 that they were notified, and/or were aware that this information constituted Plaintiffs' trade secrets and/or
14 constituted Plaintiffs' confidential and proprietary information.

15 70. Defendants used or disclosed Plaintiffs' proprietary information.

16 71. Defendants used or disclosed Plaintiffs' Master Client List, pricing data,
17 scheduling system, business forms and billing data as well as Plaintiffs software programs without
18 Plaintiffs knowledge or consent, by, among other things, disclosing it to defendant IP Conception
19 and/or using it in connection with IP Conceptions sales efforts.

20 72. The misappropriation by Defendants have caused them to become unjustly enriched
21 and Defendants should have to pay compensatory damages of all sums inappropriately obtained to the
22 detriment of Plaintiffs pursuant to California Civil Code §3426. Additionally, due to these willful and
23 malicious acts Defendants should pay exemplary damages pursuant to California Civil Code §3426.3(c).

24 73. As a proximate result of the conduct alleged above, Plaintiffs have been damaged
25 in an amount which has yet to be ascertained but which is believed to be in excess of the jurisdictional
26 limits of this Court. Plaintiffs will seek leave to amend this Complaint when the true nature and extent of
27 its damages are ascertained.

28 74. Moreover, Defendants continue to convert Plaintiffs' property and clients, as
described above, so that further harm will result to Plaintiffs from Defendants' wrongful acts, and Plaintiffs
will suffer irreparable injury absent injunctive relief. Therefore, Plaintiffs also request an order enjoining

Defendants from further use of Plaintiffs' clients and proprietary and confidential information, including, without limitation, Plaintiffs' Master Client List, billing data, pricing data and its software. Furthermore, Plaintiffs are entitled to recover attorney fees and costs, pursuant to California Civil Code §3426.4.

SEVENTH CAUSE OF ACTION

Accounting

(Against all Defendants and Does 1 to 25)

75. Plaintiffs incorporate by reference paragraphs 1 through 74, inclusive, as if fully set forth herein.

76. Plaintiffs are informed and believe, and based thereon allege that in or about 2013, Defendants, because of their fiduciary relationship with Plaintiffs, as attorney and/or employees rendering related legal and managerial services on behalf of Plaintiffs' executive officers, began to make unauthorized referrals of Plaintiffs' business and clients to themselves and to their business, IP Conception, through misappropriation of Plaintiffs' proprietary and confidential information, as well as Plaintiffs' software, and through misrepresentations and slanderous statements to Plaintiffs and its clients; and fraudulently performing services for Plaintiffs' existing and prospective clients using the proprietary and confidential information they had acquired from Plaintiffs, as well as the information and software Plaintiffs' had entrusted them with. Having done so, Plaintiffs are unable to ascertain the amount of monies that rightfully should have been paid to Plaintiffs but instead was misappropriated by all the Defendants.

77. The amount of monies that rightfully should have been paid to Plaintiffs but instead was misappropriated by Defendants and IP Conception were paid to Defendants is unknown to Plaintiffs and will not be ascertainable without an accounting of such monies by Defendants.

78. By filing this Complaint, Plaintiffs have demanded an accounting, but Defendants have failed and refused, and continue to fail and refuse to account to Plaintiffs, as requested.

//
//
//
//
//
//
//
//

EIGHTH CAUSE OF ACTION
Intentional Interference with Prospective Economic Advantage
(Against all Defendants and DOES 1 to 25)

79. Plaintiffs incorporates by reference paragraphs 1 through 78, inclusive, as if fully set forth herein.

80. Plaintiffs have an economic relationship with its customers who use its Services. These relationships entail the probability of future benefit and advantage to Plaintiffs, that is, the opportunity to render its Services and obtain new as well as repeat customers for such Services through marketing, word of mouth referrals, etc. Further Plaintiffs have an economic relationship with investors who planned on investing in PH. These relationship entail the probability of future benefit and advantage to Plaintiffs, that is, the opportunity derived from such investments.

81. Defendants knew of the existence of the advantageous economic relationship between Plaintiffs and its clients, prospective clients, investors and potential investors at all relevant times. Plaintiffs are informed and believe, and based thereon allege that beginning in or around late 2013 and continuing to date, Defendants intentionally interfered with, and caused disruption of said relationships with Plaintiffs' clients, prospective clients, investors and potential investors by; (1) making unauthorized referrals of Plaintiffs clients, both existing and prospective, to defendant IP Conception; (2) unfairly contacting for business purposes and soliciting Plaintiffs' clients, thereby jeopardizing the clients, accounts and business of Plaintiffs; (4) making defamatory and slanderous statements on public forms; (5) maligning the established reputation of Plaintiffs and the provision of services provided by Plaintiffs; and (6) unfairly contacting investors and potential investors and urging them not to invest with Plaintiffs.

82. But for Defendants' wrongful and intentional interference, Plaintiffs would have maintained its valuable customer and investor relationships to its economic advantage and benefit. The mere fact that customers and investors do not want a business relationship with Plaintiffs is indicative of actual disruption of Plaintiffs valuable relationships with its customer base and investors. The "disappointment" and "considerable emotional distress" involved makes it likely that Plaintiffs has been denied prospective economic benefits.

83. As a direct and proximate result of the foregoing intentional interference by Defendants, Plaintiffs have suffered immediate and irreparable injury, economic loss, harm and damage subjecting Defendant to pay damages pursuant to California Civil Code §3333.

84. In their intentional interference with Plaintiffs' prospective economic advantage, as alleged above, the Defendants acted despicably and continue to act with oppression, fraud and malice, and in willful disregard of the rights of Plaintiffs, also entitling Plaintiffs to punitive damages pursuant to California Civil Code §3294.

85. As a direct and proximate result of Defendants' despicable conduct and actions, and each of them, Plaintiffs have been damaged in an amount which has yet to be ascertained but Plaintiffs are informed and believe, and thereon allege, is well in excess of the jurisdictional limits of this Court.

86. These acts have actually interfered with or disrupted Plaintiffs' relationships with customers, potential customers, investors, and/or potential investors who use and/or would have used Plaintiffs Services and/or would have invested in Plaintiffs, so that existing and potential business created by Plaintiffs efforts have been diverted to the Defendants, Plaintiffs customer base has been eroded, and Plaintiffs' reputation and goodwill have been injured, all entitling Plaintiffs to recover actual damages and to obtain injunctive relief.

87. Moreover, Defendants continue to interfere with Plaintiffs' existing and prospective business, as described above, so that further harm will result to Plaintiffs from Defendant's wrongful acts, and Plaintiffs will suffer irreparable injury absent injunctive relief. Therefore, Plaintiffs also request an order enjoining Defendants from further use of Plaintiffs' proprietary and confidential information.

NINTH CAUSE OF ACTION
Intentional Infliction of Emotional Distress
(Plaintiff Rupak against all Defendants and DOES 1 to 25, except Defendant IP Conception)

88. Plaintiff Rupak incorporates by reference paragraphs 1 through 87, inclusive, as if fully set forth herein.

89. By virtue of Defendants' unlawful scheme to obtain Plaintiff Rupak's

1 business, and ruin his reputation has caused Plaintiff Rupak severe mental anguish and distress.
2 Defendants have no cause to reasonably believe that Defendants would find it acceptable for them to
3 commit and perpetrate such a deceptive and egregious tactic to obtain and put Plaintiffs out of
4 business and ruin their reputation.

5 90. Defendants, in committing the acts herein alleged, intended to inflict severe
6 emotional distress on Plaintiff Rupak and/or acted in conscious disregard of the almost certain result
7 of causing Plaintiff Rupak severe emotional distress.

8 91. The wrongful acts of Defendants have in fact directly and proximately caused
9 and continue to cause Plaintiff Rupak to suffer mental anguish and severe emotional distress,
10 generally damaging Plaintiff.

11 92. Defendants committed the acts alleged herein with knowledge of their
12 wrongfulness, and with the intent to injure Plaintiff Rupak, in conscious disregard of their legal
13 obligation to refrain from such acts and/or with conscious disregard of Plaintiffs rights. In
14 committing such acts, Defendants are guilty of oppression, fraud and malice, entitling Plaintiff Rupak
15 to an award of exemplary and punitive damages.

16
17 **TENTH CAUSE OF ACTION**
18 **Negligent Infliction of Emotional Distress**
19 **(Plaintiff Rupak Against all Defendants and DOES 1 to 25, except Defendant IP Conception)**

20 93. Plaintiff Rupak incorporates by reference paragraphs 1 through 92, inclusive, as if
21 fully set forth herein.

22 94. Defendants owed a duty to Plaintiff Rupak. Defendants breached this duty to the
23 Plaintiff Rupak by failing to competently represent Plaintiffs.

24 95. Plaintiff Rupak spent the last eight (8) years pioneering the surrogacy industry and
25 12 years in medical tourism. Because of Defendants' negligence in their representation, and their overt
26 actions to ruin Plaintiff Rupak and PH's reputation in the surrogacy industry. Plaintiff Rupak's reputation
27 was harmed such that he was unable to find employment. Plaintiff Rupak valued his name and reputation
28

1 and the allegations and slanderous nature of Defendants' statements, made worse (as Defendants they
2 directly and/or indirectly came from those who owe a fiduciary duty to Plaintiff Rupak and PH), because
3 they were made to the public challenged his reputation. This caused severe mental and emotional distress
4 to Plaintiff Rupak. Plaintiff Rupak was insulted and humiliated by various statements made on public
5 websites. Plaintiff Rupak was further harmed by the damage to PH which was caused by Defendants.

6 96. Due to the negligence of Defendants, Plaintiff Rupak suffered from and continues
7 to suffer from, severe anxiety, loss of sleep, and disturbance of his daily life and normal activities, and
8 Defendants' negligence has impacted his health and well bring. Defendants' negligence has caused
9 Plaintiff Rupak embarrassment, humiliation, anxiety over losing his way of life, distress over losing his
10 reputation and business and distress for having to clear his name.

11 97. It was reasonably foreseeable to Defendants that their breach of the standard of
12 care would result in challenges to Plaintiff Rupak's reputation and his way of life and cause severe
13 emotional distress.

14 **WHEREFORE**, Plaintiffs pray for judgment against Defendants as follows:

- 15 1. For general damages of at least \$1,000,000;
- 16 2. For special damages of at least \$1,000,000;
- 17 3. For an order finding defendants have been unjustly enriched by their wrongful acts and
18 omissions;
- 19 4. For attorney's fees and costs pursuant to contract or statute;
- 20 5. For punitive damages in amount to be proven at trial;
- 21 6. For injunctive relief;
- 22 7. For costs of suit herein incurred; and
- 23 8. For such other and further relief as the court may deem just and property.

24 //
25 //
26 //
27 //
28 //

DATED: October 28, 2014

Ashton Watkins

Ashton Watkins, Esq.
Cherif Elsheik, Esq.
Attorneys for Plaintiffs,

REQUEST FOR JURY TRIAL

DATED: October 28, 2014

Ashton Watkins

Ashton Watkins, Esq.
Cherif Elsheik, Esq.
Attorney for Plaintiffs