

1 Kerry M. Vine, In pro per
2 9909 Topanga Cyn. Blvd., #231
3 Chatsworth, CA 91311
4 Telephone: (818) 564-3880
5

FILED
2009 MAR-6 PM 2:41

6 **UNITED STATES DISTRICT COURT**
7 **CENTRAL DISTRICT OF CALIFORNIA**

8 -----X

9 **CASE NO.: CV09 1600-ODW(AGRX)**

10 **COMPLAINT FOR:**

- 11 (1)US Copyright Infringement
- 12 (2)Interference with Prospective
Economic Advantages
- 13
- 14 (3)Plaintiff Demands a Jury Trial

15 Kerry M. Vine

16 Plaintiff,

17 v.

18 Starz Entertainment LLC, Overture Films,
19 Russell Gewirtz, Jon Avnet, Starz Media LLC,
20 Nu Image/Millennium Films, Bestbuy Co., Inc.,
21 Blockbuster, Inc., Merscom LLC, Time Warner, Inc.
22 and DOES 1-10, inclusive.

23 Defendants.
24

25 -----X
26 Plaintiff Kerry M. Vine, for his Complaint against the Starz
27 Entertainment LLC, Overture Films, Russell Gewirtz, Jon
28 Avnet, Starz Media LLC, Bestbuy Co., Inc., Blockbuster, Inc., Nu
////

1 Image/Millennium Films, Merscom LLC, Time Warner, Inc. and DOES
2 1-10 alleges, upon information and belief, as follows:

3 **INTRODUCTION TO THE COMPLAINT**

4 "A writer's position in the motion picture or television
5 industry is determined largely by his/her credits. His/her
6 professional status depends on the quality and number of the
7 screenplays, teleplays, or stories which bear his/her name.
8 Writing credit is given for the act of creation in writing for
9 the screen. This includes the creation of plot, characters,
10 dialogue, scenes, and all other elements which comprise a
11 screenplay."

12 *Writers Guild of America, Screen Credits Manual as of July*
13 *1999, Preface.*

14 **NATURE OF THE ACTION**

15 1. This is an action for copyright infringement, and
16 other relief, arising out of Defendant's deliberate, willful,
17 and unauthorized copying, publication, dissemination,
18 distribution, and exploitation of Plaintiff Kerry M. Vine's
19 manuscript entitled "A Badge of Deception" (collectively "the
20 Copyrighted Work") in connection with the motion picture
21 entitled "Righteous Kill" (the "Infringing Work"). The Plaintiff
22 alleges that the two Works are "strikingly similar".

23 In addition, two Works are considered "strikingly similar"
24 if "creation of one is so dependent on the other as to preclude
25 the possibility of independent creation." *Id.* (citing *Repp*, 132
26 F.3d at 889) (internal quotation marks omitted). In both of the
27 Works, the serial killer "bad-cop", the "good-cop", and the
28 opposing female investigative characters impact the overall feel
and flow of the Works. Additionally, the impact of

////

1 the similar main female investigator characters dictate the
2 exact plot and ending of both works. Lastly, the main "bad-guy"
3 character's (Roger and Spider) similarities impact the sequence
4 of evolving events throughout both Works. This case is opposite
5 when considering the elements of *Flaherty v. Filardi*, 388 F. 25
6 Supp. 2d 274, 287-88 (S.D.N.Y. 2005) (no substantial similarity
7 where, among other elements, characters of the protagonists in
8 each work were different).

9 2. Mr. Vine is the sole proprietor to the copyrighted
10 manuscript and amplification, and has sought registration with
11 the United States Copyright Office, which registration is
12 complete. On or about October 1998, Plaintiff Kerry M. Vine
13 sent approximately (20) copies of the copyrighted manuscript,
14 "A Badge of Deception" to various publishing companies and
15 literary agents in the general area of the City of New York,
16 state of New York, and approximately (10) copies to various
17 publishing companies and literary agents in the general area of
18 Los Angeles, state of California, for consideration in
19 publishing the copyrighted work.

20 This act resulted in Mr. Vine's Work being widely
21 accessible and disseminated. The following are a few of the
22 entities that received the copyrighted work: Harper-Collins
23 Publishing, Penguin Group, St. Martins Press, MacMillian, Ethan
24 Ellenberg Literary Agency, JCA Literary Agency, Lowenstein-Morel
25 Associates, Richard Henshaw Group, The Literary Group
26 International, and Random House Inc. The Plaintiff hereby
27 declares that the "*industry access theory*" applies to this action

28 Mr. Vine also entered his manuscript, "A Badge Of
Deception" in the annual fiction writer's contest in the
Writer's Journal Magazine, in 1999. In addition, Mr. Vine gave
copies of the manuscript to five individuals with close ties to
////

1 actors, directors, and producers in the area of Hollywood,
2 California, for the purpose of converting the manuscript into a
3 screenplay.

4 Mr. Vine affirms that he made no agreements and
5 neither written or oral with any entities regarding the sale or
6 transfer of the concept, story line, or works contained in the
7 manuscript, A Badge of Deception. Mr. Vine at no time, made
8 contact with Russell Gewirtz, the writer of the screenplay
9 treatment, Righteous Kill.

10 Plaintiff re-affirms that he has never had any contact
11 with Russell Gewirtz, nor knew of his being, prior to this suit.
12 Plaintiff does believe that the Defendant Russell Gewirtz
13 resided and worked in the New York City area during the time
14 period of November 1998, when multiple copies of the copyrighted
15 Work were sent to entities in that area.

16 The Plaintiff acknowledges that when establishing
17 copying by circumstantial evidence, "there is an inverse
18 relationship between access and probative similarity such that
19 the stronger the proof of similarity, the less the proof of
20 access is required." *Jorgensen v. Epic/Sony Records*, 351 F.3d
21 46, 56 (2d Cir. 2003) ("*Jorgensen*") (citation and internal
22 quotation marks omitted). Thus, "if the two works are so
23 strikingly similar as to preclude the possibility of independent
24 creation, copying may be proved without a showing of access."
25 *Repp*, 132 F.2d at 889 (citation omitted).

26 3. The alleged infringed copyrighted work, A Badge of
27 Deception (copyrighted 3/24/1998, TXu000846001), which tells the
28 dramatic story of two veteran homicide police detectives that
are very close friends and job partners. Both detectives plant
a handgun on a man that killed a female, but was acquitted. One
of the detectives is a serial killer, a recognized expert

////

1 marksman, and assaults and murders drug dealers, pimps, and
2 sexual predators because he is a homosexual and is very
3 frustrated that he cannot tell anyone about his sexual
4 orientation, including his best friend and partner. In addition,
5 he also assaults his victims as revenge for his sister being
6 raped. The good cop's sister in-law is an investigator for
7 nonprofit 'police watch' organization.

8 She discovers that the serial killer cop is committing
9 the murders and assaults, and plans to expose him. The serial
10 killer cop finds out, breaks into her home in an effort to kill
11 her, but the good cop shows up just before he murders her. The
12 good cop shoots the serial killer cop in order to save the life
13 of the female investigator. The story's setting is in the San
14 Francisco Bay Area. The serial killer "bad-cop" is Caucasian
15 and the other cop is African American.

16 4. The alleged infringing movie treatment, Righteous
17 Kill, tells the dramatic story of two homicide police detectives
18 that are also very close friends and job partners. Both
19 detectives plant a handgun on a man that killed a female, but
20 was acquitted. The serial killer cop is also a recognized
21 expert marksman, and is murdering drug dealers, pimps and child
22 molesters for no apparent reason, other than vigilantism. After
23 each murder, the killer cop leaves a poem and the handgun at the
24 crime scene. The girlfriend of the good cop is an investigator
25 for the police department's crime lab.

26 The girlfriend (investigator) discovers that the
27 serial killer cop is the one committing the murders and tries to
28 capture him at a warehouse. The good cop, who is also there,
shoots and kills the serial killer cop when the female
investigator shows up to capture the serial killer cop. The
story takes place in the New York City Area. The serial killer

////

1 "bad-cop" is Caucasian and the other cop is also Caucasian.

2 ** It is true that dissimilarities between the Works will
3 not serve to automatically relieve the infringer of liability,
4 as "no copier may defend an act of plagiarism by pointing out
5 how much of the copy he has not pirated," *Rogers v. Koons*, 960
6 F.2d 301, 308 (2d Cir. 1992), these differences are not only
7 relevant but are of even greater significance when the standard
8 applied is that of striking similarity.

9 5. In addition to the striking similarities listed in #4
10 above, the infringing screenplay treatment contains several
11 specific identical events that occur, as well as other
12 similarities regarding the characters, plots, tone, and ending.
13 Furthermore, the Plaintiff alleges that the infringer Russell
14 Gewirtz admits to reviewing other screenplay Works online to
15 "see what they look like" for the basis of his screenplays.
16 This is made evident in an interview that Gewirtz had with David
17 Medsker, a journalist with "bullz-eye.com", on 09/08/06. An
18 excerpt from the interview that reaffirms this claim is as
19 follows:

20 **BE (bullz-eye):** Now is this the first screenplay you've ever
21 written? (referring to the screenplay, "Inside Man")

22 **RG (Russell Gewirtz):** It is.

23 **BE:** Well, let me speak on behalf of every other aspiring
24 screenwriter out there when I say that...you make me sick.

25 **RG:** (Laughs) Thank you very much! I was hoping you would be
26 honest! Yeah, I don't know what to say about that. I looked up a
27 couple of screenplays online, I saw what they looked like...I
28 mean, frankly, I don't exactly fit the format. If I was taking a
test in a screenwriting class, there'd be errors all over the
place with transitions and times and locations. My script

////

////

1 doesn't exactly look like most other ones that you see. But at
2 the end of the day, if you have a great story to tell, that's
3 what really counts. This was a story that I had in my head for
4 literally years. I'd refine it and, you know, bounced it around
in my head for probably five years.

5 **BE:** That was my next question, how long it took from conception
6 to the movie being released. Five years?

7 **RG:** Yeah, yeah. I mean, not so bad in comparison to others, but
8 like they say, the cliché, an overnight success that took five
9 years.

10 During this interview, Russell Gewirtz states that in 2000,
11 he began writing his first screenplay "Inside Man". As
12 previously stated above, it took Gewirtz five years to complete
13 it, and the screenplay was sold and produced in 2005. The
14 screenplay, Inside Man opened in theaters on 3/24/06. The
15 Plaintiff affirms that the screenplay Righteous Kill is a
16 significantly more complex screenplay with several instances
17 that would require its writer/creator to have a vast amount of
18 law enforcement and criminal investigative knowledge and
19 experience or at least extensive prior genre writing experience.

20 Based on the admissions in the interview made by Russell
21 Gewirtz, he neither possessed the experience nor knowledge of
22 indebt law enforcement or criminal investigative aspects. Also,
23 based on Gewirtz's statements listed in his interview above, he
24 did not have the time to write the screenplay Righteous Kill,
25 especially considering that he finished the screenplay, Inside
26 Man in 2005 and had completed and shopped it (Righteous Kill)
27 around with only "a couple of so-so offers on it", by the date
28 of the interview, 9/8/06. That equates to one and a half years.
The Plaintiff alleges "*compressed time frame*" of creation of the
Defendant Russell Gewirtz's Work as a factor among others

////

1 indicating that unauthorized copying had occurred.

2 This would show that it took Gewirtz over five years to
3 write a far less complex screenplay, Inside Man, and less than
4 one and a half years to write and distribute the screenplay,
5 Righteous Kill. The Plaintiff alleges "*alacrity of creation*" as
6 one factor among others indicating that unauthorized copying had
7 occurred on the part of Gewirtz.

8 Again, referring to the interview mentioned above, the
9 interview excerpt below, shows that Gewirtz lacked any hands on
10 or detailed experience or knowledge of law enforcement and/or
11 criminal investigation aspects and methods:

12 **BE:** What was your day job before you broke into the movie
13 business?

14 **RG:** Ah! I had failed at a few things. I went to Tufts
15 University, got a degree in computer science, and never got a
16 job off of that. I went to Benjamin Cardozo School of Law here
17 in Manhattan, passed the bar, and pretty much never got a job as
18 a lawyer, which turned out to be a good thing. I went to work
19 with my dad, who had some old clothing stores that were a dying
20 business on its way out. I spent five or six years in that,
21 never really made much money. Then I got lucky with a couple of
22 things. I put a real estate deal together based around one of
23 the stores we had, it had some value in the lease. We now own
24 the building. So I had a little bit of a nest egg, which I was
25 lucky enough to put in the stock market back in 2000, when any
26 moron could make money in the stock market. So for a while I had
27 a nice little nest egg, and I had no real career, so I just
28 decided to travel around, stupidly thinking I could build up the
29 money into more. And in the next two years, I wrote "Inside
30 Man," and by the time I sold it, my portfolio was down to about

31 ////

32 ////

1 zero. (*Laughs*) So there was no real day job at the time.
2 Whenever I meet someone who's under the age of 30, and isn't
3 quite sure what they're going to do with their lives, I tell
4 them not to worry.

5 **BE:** Well, you kind of answered my next question, which was that
6 there's not much...there's actually no info about you on the web,
7 so for our readers who may not be familiar with you, tell us a
8 little something about yourself. But you just did that, didn't
9 you? Did you grow up in Manhattan?

10 **RG:** I grew up in Long Island. Let's put it this way: I'm a
11 Jewish kid from Long Island who got a computer science degree,
12 and a law degree, and went into the retail clothing business,
13 and then became a screenwriter. So if my life is about anything,
14 it's about breaking down boundaries.

15 **BE:** Do you have anything else in the pipe?

16 **RG:** Yeah, I have a bunch. My second screenplay is called
17 "Righteous Kill." I still own it, nobody's bought it. I turned
18 down a couple of so-so offers on it, because I don't want to see
19 it done wrong. For a while, we had Edward Norton attached to it;
20 he's still sort of loosely attached to it, but it would depend
21 on scheduling and all that. It's like "Inside Man," but a little
22 bit darker. I hope that one of these days, we'll find the right
23 director, and we'll get that made. I'm writing a TV pilot for
24 NBC right now. And we're talking about a sequel to "Inside Man,"
25 so...

26 Based on the interview above, it is a fact that
27 Russell Gewirtz admits to receiving his screenplay ideas from
28 sources online, that he lacked the time frame needed to create
Righteous Kill, and possessed no law enforcement or criminal

////

1 investigative knowledge. This reaffirms Plaintiff's claim that
2 Gewirtz did copy, disseminate, or otherwise infringe upon Mr.
3 Vine's manuscript, A Badge of Deception. Plaintiff alleges that
4 Russell Gewirtz's first and only other cinema screenplay,
5 "Inside Man" was a common bank robbery type drama, which did not
6 involve any murder investigations or other in depth
7 investigative techniques or methods, and all of the scenes took
8 place within the bank, and its immediate exterior.

9 6. Defendants have infringed the Plaintiff's Work, under
10 the Copyright Act by creating, manufacturing, and distributing
11 an unauthorized Work based upon Mr. Vine's Copyrighted Work: A
12 Badge of Deception. Plaintiff seeks injunctive relief, monetary
13 and other appropriate relief arising under the Copyright Act of
14 1976, as amended and under common law claims of unfair
15 competition and fraud.

16 THE PARTIES

17 7. Plaintiff Kerry M. Vine is a retired police officer,
18 who was the initial investigating officer on (24) homicide cases
19 and hundreds of assault cases. He is also a veteran California
20 State licensed private investigator, with a specialty in
21 criminal defense investigations.

22 8. Starz Entertainment LLC, is an entertainment
23 corporation (12/08, issued Cease & Desist Letter).

24 9. Russell Gewirtz is the writer of the infringing
25 screenplay Righteous Kill.

26 10. Jon Avnet is the producer and director of the
27 screenplay Righteous Kill.

28 11. Overture Films is a subsidiary of Starz Ent., LLC.

12. Nu Image/Millennium Films, a film production company
(1/09, issued Cease & Desist Letter).

12.Merscom LLC is video game development and distribution

////

1 company (1/09, issued Cease & Desist Letter).

2 14. Bestbuy Co., Inc. is a retail distributor of
3 screenplay videos(12/08 issued Cease & Desist Letter).

4 15. Time Warner, Inc. and Blockbuster, Inc. are retail
5 distributors and lessor of screenplay videos(12/08, issued Cease
& Desist Letter).

6 16. Defendants Does 1-10 are various unknown individuals
7 and/or entities who have written, produced, distributed, and
8 otherwise exploited the Infringing work.

9 17. Collectively, the Defendants, and each of them
10 have written, produced, distributed, and otherwise exploited the
Infringing Work.

11 **JURISDICTION AND VENUE**

12 18. This action arises under the copyright laws of the
13 United States, 17 U.S.C. ss 101., et seq. This Court has
14 subject jurisdiction over the claims asserted pursuant to 28
15 U.S.C. ss 1331 1338.

16 19. The venue of this action is properly laid in this
District pursuant to 28 U.S.C. ss 1391 (b) and (c).

17 20. Plaintiff owns the copyright to A Badge of Deception and
18 has complied in all respects with 17 U.S.C. §§ 101 et seq. and all
19 other laws governing copyright, and secured the exclusive rights
20 and privileges in and to the copyright of A Badge of Deception.
21 Mr. Vine has always been and still is the sole proprietor of all
22 rights, privileges, title, and interest in and to the copyright in
23 his work A badge of Deception whereby he holds the following
24 exclusive rights, including but not limited to, the exclusive right
25 to publish, copy, distribute, perform, produce, dramatize, create a
26 derivative work and to create a motion picture of the screenplay
27 entitled A Badge of Deception and/or to transfer this right to
others.

28 ////

1 21. By distributing without Mr. Vine's authorization, the
2 Defendants willfully infringed Mr. Vine's copyright I his original
3 manuscript and violated his exclusive rights under the Copyright
4 Act.

5 **THE SIMILARITIES TO THE SCREENPLAY**

6 22. The striking similarities between the Infringing Work
7 and the Copyrighted Work are remarkable and can be explained by
8 a deliberate copying on the part of the Defendants.
9 Essentially, except for location, some character names, and
10 nationalities, the body, plot, climax, and ending of the
11 screenplay, Righteous Kill, have several similarities to the
12 infringed manuscript, A Badge of Deception. Many of the
13 specific similarities are as follows:

- 14 1) In the screenplay and manuscript, the two main characters
15 are veteran police detectives are assigned to the homicide
16 division and great emphasis is placed on their close
17 personal friendship.
- 18 2) In the screenplay and manuscript, there is no emphasis on
19 developing the personal life of the serial killer cop, and
20 only the good cop has a personal relationship with other
21 characters. In the screenplay, the good cop's family life
22 is discussed (at 49:30 minutes). In the manuscript, it is
23 discussed frequently.
- 24 3) Great emphasis is given to the fact that the serial killer
25 cop is an expert marksman in the screenplay at 47:02 and
26 several times throughout the manuscript, in particular
27 when the main investigator female informs Stephanie, the
28 wife of the good cop, that she suspects the serial
 killer cop of wrong doings.
- 4) The type of gun used by the serial killer cop in the
 screenplay is a Colt .45 cal. type pistol with a silencer.

////

1 The type of gun used in the manuscript is also a Colt .45
2 cal. pistol with a silencer. The use of a Colt .45 cal.
3 type pistol is unique in most screenplays. In the screen-
4 play, all of the other visible pistols are a "Glock" brand.
5 Also, as it relates to a factual inconsistency in the
6 screenplay, after each murder, the killer cop throws the
7 Colt .45 cal. type pistol on the ground next to the body.
8 Each time this occurs, the striking hammer is forward.
9 Actually, the hammer would remain "back" on that type of
10 handgun after it is fired, due to it being a single action
11 gun. In the manuscript, no gun is left at the scene of the
12 murders. This was an intentional alteration from the
13 manuscript by the infringers, and it resulted in non-
14 realistic instances in the screenplay.

- 15 5) The serial killer cop murders drug dealers, pimps and
16 sexual predators only in the screenplay and manuscript.
- 17 6) The serial killer cop killed one of his victims (Jonathan
18 Van Luytens) in his living room by shooting him several
19 times in a circular pattern, directly around the heart area
20 in the screenplay. In the manuscript, when the Hispanic
21 man is shot in his bed, he is shot six times directly
22 around his heart area on page 103.
- 23 7) In the screenplay, the serial killer cop uses an assault
24 rifle to completely shoot out the 'center mass' of a
25 standard target and heart area of a human silhouetted
26 target at the firing range. In another scene, he murders
27 one of his victims, by shooting him (3) times in a circular
28 pattern, directly around the heart area. In the
manuscript, the serial killer cop uses an assault rifle to

////

1 shoot a complete pattern around the heart of one of his
2 victims on page 103. Also in the manuscript, in a second
3 shooting of a victim, the serial killer cop shoots the
4 victim twice, directly below the heart on page 158. The
5 shootings mentioned above were dramatically written in the
6 manuscript to demonstrate the serial cop killer's expert
7 marksmanship.

8 8) In the screenplay (at 31:54 minutes), it is discussed that
9 the serial killer cop leaves no clues or fingerprints. This
10 is also mentioned in the manuscript by the good cop
11 character on page 192.

12 9) In the screenplay, the pimp that is killed, assaults his
13 prostitute in an alley, and was executed by the serial
14 killer cop, after he shoved the prostitute into the back of
15 a waiting taxi. In the manuscript, the pimp was assaulting
16 his prostitute in an alley, shoved her into his own car and
17 was executed by the serial killer cop on page 158. In both
18 Works the pimp is shot once in the forehead. An additional
19 point to this fact is that for this particular murder in
20 both Works, a single shot is made to the forehead of the
21 murdered pimp. In other murders in the screenplay, the
22 victims are shot twice in the forehead. In both works,
23 there is a dramatic exit wound in the back of the pimp's
24 head, where his brains/blood exits. This illustrates that
25 in this scene, the infringers followed the manuscript's
26 method and details without variation.

27 10) After the pimp is killed in the screenplay, the good cop
28 says that the pimp was "shot at close range", and the main
female investigator character says that the pimp was "shot
in the forehead at a distance of 2-3 feet" at 11:14 min.

////

1 In the manuscript, the pimp is shot in the forehead while
2 sitting on the ground, with his back against the car door.
3 The bad cop stands over him and with the barrel of the
4 pistol inches from his forehead, fires a shot on page 158.
5 The significance of this is that the infringers went to
6 extremes to show that the pimp was shot at very close
7 range, although the original scene did not depict it. This
8 is yet another instance where the infringers followed the
9 scene in manuscript, but flawed in the filming of the
10 screenplay. This is flaw is further shown in that the
11 pimp in the screenplay was riding a skateboard at full
12 stride when he was shot directly between his eyes. This
13 meant that the bad cop would have been standing directly in
14 front of the approaching skateboarder. The scene simply
15 does not make factual sense.

16 11) In the manuscript and screenplay, the serial killer cop
17 shoots his victims in the forehead with a Colt .45
18 caliber type pistol with a silencer attached.

19 12) In the screenplay, the serial killer cop sneaks into the
20 apartment of the female investigator character, and
21 assaults her at 113:27. In the manuscript, the serial
22 killer cop sneaks into the homes of some of his victims and
23 assaults them and also the home of the female investigator
24 character and assaults her on page 232. The significance
25 of this, is that it occurs at the end of both Works, and
26 also involves the same female investigator character.

27 13) The main female investigator character has a personal

28 ////

1 relationship with the good cop character in the screenplay
2 and in the manuscript. She is the girlfriend of the good
3 cop character in the screenplay. In the manuscript, she is
4 the sister in-law of the good cop character.

5 14) The main female investigator character in the screenplay is
6 an investigator for the police department's crime lab.
7 The main female investigator character in the manuscript is
8 an investigator for a community cop watch group
9 organization. In both Works, this character is an expert at
10 analyzing crime murder scenes, in particular bullet
11 trajectories and types. The expertise of the female
12 investigator is emphasized greatly in the screenplay
13 during the murder scene in the apartment living room area
14 of Jonathan Van Luytens, and in the manuscript, at the
15 murder scene in the bedroom of a victim, on page 117.

16 15) In the screenplay, at each murder scene, no bullet casings
17 are present and are presumed to have been removed by the
18 serial cop killer. In the manuscript, the serial killer cop
19 reaches down and picks up the bullet casings after a murder,
20 on page 159. Additionally, in each murder or assault in
21 both Works, it is written and visibly shown that the
22 killer is wearing black leather gloves.

23 16) In the screenplay, the female investigator informs a police
24 Lieutenant that the serial killer cop is a "psychopath" and
25 he warns her to stay away from him (at 1.11:13 minutes). In
26 the manuscript, the female investigator informs the good
27 cop's wife that she suspects wrong doings of the serial

28 ////

1 killer cop and is warned to stay away from him on page 201.

2 17)The screenplay and the manuscript's climax points are set
3 with both cops "facing off" with the good cop pointing his
4 gun at the serial killer cop, pleading with him to "give
5 up".

6 18)At the conclusion of the screenplay, the good cop shoots
7 the bad cop once in the left side of the chest. At a closer
8 look at the screenplay, visually, the good cop fires one
9 time (one muzzle flash is seen). However, three shots are
10 heard being fired by the good cop. Only one single gunshot
11 wound is visible at 131:05. In the manuscript, the good cop
12 shoots the bad cop once, in the right side of his chest on
13 page 236. The significance of this is that the
14 infringers made an overt act to follow the manuscript scene
15 verbatim, by only showing one single gunshot wound
16 to the serial killer cop, but in a flaw they audibly showed
17 that the good cop shot the serial killer cop three times,
18 because three "rapid fire" shots are clearly heard. In both
19 Works it is shown that the serial killer cop did not fire
20 at the good cop in that scene.

21 19)The screenplay and the manuscript both have the female
22 investigator character being the reason that the
23 serial killer cop's killing spree is figured out, and
24 she is present during the last climatic scene in both
25 Works. Also, in both Works, she possessed a gun in that
26 scene, but did not use it to shoot the serial killer
27 cop.

28 ////

- 1 20)The female investigator in the screenplay gets a photo of
2 the serial killer cop and has one of his victims identify
3 it. In the manuscript, the female investigator gets a
4 sketch of the serial killer cop from the files of his
5 victims, and identifies him as the serial killer.
- 6 21)In both Works, the good cop character does not let the
7 serial killer cop shoot the female investigator, and
8 insists that he 'give up'.
- 9 22)In both Works, the female investigator is not present,
10 is located in an adjacent room, and does not witness the
11 good cop shooting the serial killer cop. Nor, does she
12 enter the room after the shooting of the bad cop.
- 13 23)In the screenplay and manuscript, the good cop shoots the
14 serial killer cop and does not kill him instantly. However,
15 great emphasis is placed on the fact that the bad cop is
16 bleeding profusely in both Works.
- 17 24)In the screenplay, the dying serial killer cop asks the
18 good cop to 'radio in' stating that he that he is already
19 dead, and dies several minutes later, after some dialog.
20 In the manuscript, the shot and severely injured serial
21 killer cop asks the good cop not to let him be captured
22 alive, and after some dialog, the good cop gives him his
23 own gun back and the serial killer cop shoots himself in
24 the head and dies.
- 25 25)In the screenplay and manuscript, both officers plant a gun
26 on a suspect that was acquitted of murder, and causes him
27 to receive a long prison sentence at 4:40. This occurs at
28 ////

1 the beginning of the screenplay and on page 38 (beginning)
2 of the manuscript. The infringers used this story idea as a
3 main part and basis of the overall storyline in the
4 screenplay. It ultimately did not make sense, lacked a
5 conclusion, and was not developed in detail. This part of
6 the storyline occurred in the beginning of both Works, but
7 is not developed or later referenced in the manuscript.

8 26) In the screenplay, it is stated that the serial killer cop
9 had a total of fourteen(14) victims at 3:42, and kills his
10 15th victim at 120:25. In the manuscript, it states that
11 the serial killer cop had fifteen (15) victims on page 99.

12 27) In the screenplay, the serial killer cop calls the good cop
13 "Righteous" at 36:15 minutes. In the manuscript, the serial
14 killer cop calls the good cop "Mr. Righteous" on page 44
15 in the first paragraph and in the last paragraph, calls
16 him "Self-righteous". In both Works, these statements are
17 made while the two characters are discussing 'planting' a
18 gun on an acquitted murder suspect. The aspects
19 surrounding the acquitted murder suspect's character make-
20 up is identical in both Works.

21 28) The screenplay is entitled, "Righteous Kill". In the
22 manuscript, the female investigator refers to the serial
23 killer cop as having many "righteous kills" on page 202.

24 29) In the screenplay, the main "bad guy" (aka "Spider"), is
25 suspected of murdering two people, and shooting one of the
26 and shooting one of the two victims in the forehead at 13:30
27 seconds (beginning). In the manuscript, the main "bad-guy"

28 ////

1 (aka "Roger") is suspected of murdering two people, and one
2 of the two victims was shot in the forehead, on pages 19,
3 20, and 38. In the screenplay, this striking similarity is
4 critical, because it significantly contributes to the
5 storyline, basis, and plot of the screenplay. In the
6 manuscript, it is also very significant because the killing
7 of this character by the serial killer cop, prompts the
8 main female investigator to uncover the serial killer cop's
9 wrong doings, thus contributing to the overall storyline,
10 basis, and plot of the manuscript.

11 30) In the screenplay, when the main "bad-guy" (aka "Roger") is
12 being arrested, an accomplice of his, is in an adjacent
13 room. He is shot six times in the chest by the serial
14 killer cop. The good cop also fires at the person, but it
15 is unclear if his rounds struck him, considering that while
16 shooting, he is ducking his head and clearly has his eyes
17 closed. However, it is quite clear in the scene, that the
18 serial killer cop aggressively fires six times, striking
19 the man in the chest area with each round.

20 The person that was killed had a weapon, but in a closer
21 review of the screenplay, he did not possess a direct
22 threat to the bad cop at 19:20. In the manuscript, when
23 the main "bad-guy" (aka "Roger") is being arrested, an
24 accomplice of his is, in an adjacent room and is shot six
25 times in the chest by the bad cop. He had a weapon next to
26 him, but did not possess a threat to him, on page 103. In

27 ////

28 ////

1 both Works, the bad cop chose to murder a person that did
2 not possess a direct threat, and did so, by shooting him
3 six times in the chest area.

4 31) In the screenplay, when the man that did not possess a
5 direct threat to the serial killer cop is shot six times in
6 the chest, he dramatically falls backward against a wall
7 and lies lifelessly on the floor/wall at 19:18. In the
8 manuscript on page 103, in the same shooting scene, it
9 states, "He flies back and slams into the headboard of the
10 bed. The large powerful slugs punched his heart out like a
11 time card. His body falls lifeless, as his legs tremble."
12 This illustrates that the infringers attempted to follow
13 the drama of this scene verbatim to that of the manuscript.

14 32) In the manuscript and screenplay, when the actual assault
15 and arrest of the main "bad-guy" (aka Roger & Spider)
16 character is being made, the scenes are absent of the other
17 SWAT officers that were present before the actual
18 arrest/raid of the main "bad-guy" characters began. This
19 is a significant fact, because the Plaintiff intentionally
20 left these characters out of that scene, so that there
21 would be no witnesses to the murder of the accomplice and
22 the assault of the main "bad-guy" character (aka, Roger).
23 In the screenplay, as it relates to the intentional
24 shooting of the accomplice, it was also later mentioned
25 that no other witnesses were present during the shooting of
26 the accomplice, by the African American female Internal
27 Affairs officer and the two Internal Affairs investigative

28 ////

1 officers (Stein & Rogers).

2 33)As it relates to the shooting of the accomplice, in the
3 screenplay, the two Internal Affairs investigative officers
4 discussed their suspicion of the accomplice being killed
5 for no reason. In the manuscript, the female investigator
6 character discussed her suspicion that the serial killer
7 cop killed the accomplice for no apparent reason on page
8 200.

9 34)In the manuscript and screenplay, there are a total of
10 eight officers present just prior to the arrest/raid of
11 the main "bad-guy" (aka Roger & Spider). Additionally, it
12 is specifically mentioned in the manuscript that during the
13 briefing of the arrest/raid of the main "bad-guy" (aka
14 "Roger"), five of the officers were wearing standard SWAT
15 raid uniforms, on page 98. In the screenplay, it shows
16 five officers in the briefing room wearing standard SWAT
17 raid uniforms, just before the arrest of the main "bad-guy"
18 (aka "spider) at 15:50.

19 35)In the screenplay, when the main "bad-guy"(aka "Spider"),
20
21 is being arrested, he is kicked three times in the stomach
22 by the good cop character at 20:35. In the manuscript, the
23 main "bad-guy" (aka "Roger"), while being arrested, is
24 on the ground and is assaulted and kicked twice in the
25 stomach by a good cop. This occurs on page 102 of the
26 manuscript.

27 36)In the screenplay, there is a dramatic amount of blood
28 present on the face of the "bad-guy"(aka "Spider") after

1 ////

2 the assault and arrest. After reviewing the screenplay
3 closer, it is shown that the "bad-guy" (aka "Spider") was
4 not kicked or struck in the face at all. However, when
5 the camera spanned back down to him on the ground, there
6 was an extreme amount of blood on his face and mouth. The
7 relevance of this, is that the screenplay writer and/or
8 director noted that the manuscript made a detailed
9 reference to an excessive amount of blood being present
10 on the "bad-guy" (aka "Roger") character's face and mouth in
11 the manuscript, and as a result, added it to the scene.

12 37) In the manuscript, when the "bad-guy" (aka "Roger") is
13 being arrested by a female cop, she first kicks him in the
14 face, kicks him twice in the stomach, then dives on him
15 and wildly punches him in his bloodied face, on page 102.
16 In the screenplay, the good cop tells the main female
17 investigator character that during the arrest of the "bad-
18 guy" (aka "Spider"), the good cop stands over him and
19 "starts smackin' him in the face, over and over", at
20 27:38. The significance of this, is that in the actual
21 scene in the screenplay, the "bad-guy" (aka "Spider") was
22 quite clearly kicked three times in the stomach only. It
23 is evident that the infringers referenced what was
24 actually written in the manuscript and later attempted to
25 interject it into the screenplay. However, the assault
26 scene in the screenplay did not actually occur in that
27 manner. This is yet another instance where the infringers
28 followed the scene in manuscript, but flawed in the filming
of the screenplay. Lastly, the infringers took this sub-

1 ////

2 plot and over developed it, showing the fact that the main
3 "bad-guy" character's (aka Spider) front teeth were knocked
4 out during his arrest and received gold replacement teeth.

5 38) In the screenplay, the killer cop has a lot of dialog at
6 the conclusion, confessing his crimes to the good cop at
7 121:20. In the manuscript, at the conclusion, the serial
8 killer cop confesses his crimes to the female investigator
9 on page 235. The good cop also overhears this confession.

10 39) In the screenplay, the serial killer cop informs the
11 Captain that he owes the good cop his life, because he took
12 a bullet for him. In the manuscript, the good cop tells
13 another good cop that the serial killer cop has put his
14 life on the line several times for him and that he owes him
15 his life on page 204. The infringers switched the
16 characters making the statement. However, the statements
17 and their tones are similar.

18 40) In the screenplay, both detectives are treated by a police
19 ordered psychiatrist. In the manuscript, the serial
20 killer cop seeks treatment from a psychiatrist on a live
21 TV show and the good cop receives treatment from a police
22 ordered psychiatrist.

23 41) In the beginning of the screenplay, the serial killer cop
24 confesses to killing (14) various types of criminals. A
25 15th person was killed at the conclusion of the screenplay.
26 However, his first victim was a homosexual man who
27 assaulted other gay men that he met at various night
28 clubs. In the manuscript, the serial killer cop is a
homosexual and goes to a gay night club/bar, on page 238.

42) At the conclusion of the screenplay, it is emphasized that
the good cop only has one child, a daughter at 134:50. At
the end of the manuscript, it is discussed that the bad

1 ////

2 cop only has one child, a daughter, on page 237. Although
3 the infringers switched the two main characters that have
4 the similarity of having only a single daughter, this
5 demonstrates that the infringers chose to illustrate this
6 fact at the conclusion of the screenplay, just as it was
7 at the conclusion of the manuscript.

8 43) In the screenplay, there are only two other officers whose
9 characters are developed and connected with some of the
10 story's homicide investigations. One character is
11 Hispanic (Perez) and the other is Caucasian (Riley). In
12 the manuscript, only two other male officers are
13 repeatedly mentioned and developed (during a raid and
14 during the attempted robbery of a credit union). One of
15 them is Hispanic (Ramos) and the other is Caucasian
16 (Stein). In both Works, the Hispanic Officer has a bad
17 temper. In the screenplay, he attacks the good cop on two
18 occasions (in the locker room and at the conclusion). In
19 the manuscript, he attacks a teller in a credit union.

20 44) In both Works, the use of "animal" type nicknames are used
21 for the two main detective characters. In the screenplay
22 their names are "Turk" (short for Turkey) and "Rooster" and
23 are used during numerous scenes. The reasoning for the
24 use of their nicknames is not explained. In the
25 manuscript, the two main detective characters are named
26 "Zebra One" and "Zebra Two". They are named 'Zebra'
27 because they are teamed as an African American and a
28 Caucasian. Their nicknames are used in scenes on pages
20, 21, and 59.

45) In both works, there is only one sexually oriented
subconscious comical remark made by one of the main
character detectives. In the screenplay, in the scene

1 ////

2 located at the rear of a bar, the good cop is speaking
3 with a pretty woman (prostitute). The serial killer cop
4 is concentrating intently on the woman's physical
5 features. He then says, "lick my balls anytime", and
6 then immediately says, "call me anytime". In the
7 manuscript, on page 47, at a murder scene, the serial
8 killer cop is talking to a pretty woman (crime scene
9 technician). The good cop is staring intently at the
10 woman's physical features, in particular, her breasts. He
11 then says, "My name is 'titty' Richards", then
12 immediately says, "I mean Lee Richards".

13 46) The screenplay is narrated in a 'first person' type of
14 standpoint. The manuscript is written in a 'first person'
15 type of format, which is unique for a book narrative
16 manuscript. The stories in both Works are told by the good
17 cop in this type of manner, after the bad cop dies. In
18 fact, in both Works, after the death of the serial killer
19 cop, the good cop has a lot of dialog with himself, as in
20 the phrase "thinking out loud". This begins at 134:36 in
21 the screenplay, and in the manuscript, on page 240.

22 **THE SIMILARITIES TO THE MOVIE SCRIPT**

23 Similarities to the REVISED DRAFT SCRIPT, dated
24 1/27/2007 are listed below, and are in addition to those listed
25 above:

26 47) In the movie script and the manuscript, there are
27 only approximately eight officers or detectives that are
28 referred to by name. Officer Stein is a pervasive
character that is found in each Work. Roger is the name of
the main "bad-guy" character in the manuscript, and one of
the Internal Affairs detectives in the script.

48) In the movie script, the pimp is killed in the front

1 ////

2 driver's side seat of his car, by being shot once in the
3 forehead on page 4. In the manuscript, the pimp is killed
4 at the threshold of the car's driver's side doorway,
5 adjacent to the front driver's side seat on page 158.
6 He is also shot once in the forehead.

7 49) In the movie script, the raid van that is used to arrest
8 the main "bad-guy" character (aka Spider) is
9 described as a darkened van, containing five SWAT
10 officers in full gear on page 13. In the manuscript, the
11 raid van that is used to arrest the main "bad-guy"
12 character (aka Roger), is described as a "dark blue
13 undercover raid van", and contained five SWAT officers
14 with full gear on page 100.

15 50) In the movie script, during the arrest of the main "bad-
16 guy" character (aka Spider), he is "kicked repeatedly in
17 the stomach" by the good cop, the cop then "gets on his
18 knees, and punches his face repeatedly" on page 21. In
19 the manuscript, during the arrest of the main "bad-guy"
20 character (aka Roger), a female good cop kicks him twice
21 in the stomach and also punches him seven times in his
22 face while on top of him on page 102.

23 51) In the movie script, it is overstated that the man that
24 was shot and killed during the arrest of the main "bad-
25 guy" character (aka Spider), possessed no threat, when the
26 bad cop shot him on page 106. In the manuscript, when
27 the main "bad-guy" character (aka Roger) is being
28 arrested, the serial killer cop also shot the man despite
he possessed no threat on page 104.

The overwhelmingly striking similarities contained
above in items #48, #49, #50, and #51 were exactly copied from
the Plaintiff's Work, and were blatantly changed, however

1 ////

2 slightly, during filming by the writer (Gewirtz), the director
3 (Avnet), and/or the producers (Nu Image/Millennium Films), in an
4 effort to show less of an obvious copy of the related scenes
5 contained in the manuscript.

6 The Plaintiff alleges that of the (51) similarities
7 listed in #22 above, (Similarities To The Screenplay) and
8 (Similarities To The Movie Script), the (29) following numbered
9 items qualify as being strikingly similar in nature:

10 #4, 5, 9, 10, 13, 14, 17, 18, 19, 20, 22, 23, 25, 26, 27, 29,
11 30, 31, 32, 34, 35, 36, 37, 43, 46, 48, 49, 50, and 51.

12 These (29) strikingly similarities represent over half of all of
13 those similarities alleged by the Plaintiff. The Plaintiff
14 further states that as this action relates to *Mowrey v. Viacom*
15 *International, Inc.*, 75 U.S.P.Q.2d 1624 (S.D.N.Y. 2005), the
16 aspects in the Plaintiff's action is opposite and the
17 rulings/findings in that case are not applicable to the
18 aspects/allegations involved in this action.

19 In *Mowrey v. Viacom International, Inc.*, the Court
20 granted summary judgment to defendants, producers of film *The*
21 *Truman Show*, holding that plaintiff failed to show that
22 defendants had access to plaintiff's screenplay, and that no
23 reasonable reader or viewer would find *The Truman Show*
24 strikingly similar to plaintiff's screenplay. Plaintiff argued
25 that because he provided screenplay to entertainment industry
26 professionals, jury question was raised on issue of access.
27 Court disagreed.

28 The Court rejected plaintiff's "industry access
theory" and separate "corporate receipt theory"; plaintiff
needed to show, at very least, that screenplay had reached
someone connected with defendants, and no one who received
screenplay was so connected. Nor were the screenplay and film

1 ////

2 strikingly similar. Although both shared idea of televised
3 program based on secret recording of person's life, works
4 differed in "plot, theme, character, mood, setting, and total
5 concept and feel." In contrast to *Mowrey v. Viacom*
6 *International, Inc.*, the Plaintiff will show below, how the two
7 Works are similar in "plot, theme, characters, pace, mood,
8 sequences of events, dialog, and setting".

9 The Plaintiff re-alleges that the Infringers,
10 considering that the Works share a "similarity of expression",
11 have violated the Copyright Law, see *Hogan*, 48 F. Supp. 2d at
12 309 (similarity of expression evinced by "similarities of
13 treatment, details, scenes, events and characterization, or a
14 similarity in their total concept and feel") (internal quotation
marks and citations omitted).

15 Given the inconsistent and contradictory treatment of
16 the IRR "*Inverse Ratio Rule*", it is clear that it is a "rule" in
17 name only. One of the key purposes of the copyright laws is to
18 further the "paramount goal . . . of enhancing predictability
19 and certainty of copyright ownership." *Community for Creative*
20 *Non-Violence v. Reid*, 490 U.S. 730, 749 (1989). As it relates to
21 the Ninth Circuit Court, the IRR holds that in a copyright
22 infringement case, where a high degree of access by the
23 defendant to the plaintiff's allegedly infringed work is shown,
a lower degree of similarity will be required to establish
infringement. *Copyright Society of the U.S.A.*

24 In this action, where less access is shown, the
25 Plaintiff will show below, that the objective elements of the
26 Works, including characters, plots, themes, sequences of events,
27 dialogue, pace, mood and setting, will establish that Works are
28 "strikingly similar." The following, are the strikingly and
objectively similar elements of the Works:

1 ////

2 *Main Plot* - A serial killer is a homicide detective, that
3 has a total of (15) victims, and his partner is unaware of
4 his crimes. They are also best friends and expert marksmen.

5 *Sub-Plot #1* - In both Works, the two main character
6 detectives pursue a man (Roger and Spider) that has killed
7 two people. One of which was shot in the forehead. A
8 planned police SWAT raid is executed with (5) fully
9 uniformed raid officers, and an accomplice that does not
10 possess a direct threat, is shot six times in the chest by
11 the serial killer cop in the scene .

12 *Sub-Plot #2* - In both Works, a pimp is executed in an
13 alley at close range, shot between his eyes, by the serial
14 killer cop. The good cop and the female investigator
15 participate in the investigation of the crime scene.

16 *Theme* - There is a female investigator, who's personal
17 life is not discussed in any way, and is an expert in
18 homicide investigations and ballistics. This character is
19 the sole reason that the serial killer cop's identity is
20 discovered. A rare type of gun with a silencer that is used
21 by the serial killer cop, is identical in both Works.

22 *Characters* - In each Work, these characters exist; good
23 cop/detective, serial killer cop/detective, a main bad-guy
24 character that murdered (2) people, a pimp that was
25 executed in an alley, a female investigator, an acquitted
26 murderer that had a gun illegally "planted" on him, and an
27 assigned police psychiatrist.

28 *Pace* - Both Works show the serial killer cop assaulted
and murdered his victims throughout story. Both Works start
with the development of the main "bad-guy" character which
ultimately resulted in a five man SWAT team raid to arrest

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

him, and the murder of his accomplice/friend by the serial
////
killer cop. The progression of the pace continues with the
female investigator pursuing the identity of the serial
killer cop. The pace ultimately ends with the good cop,
shooting the serial killer cop once in the side of his
chest, and him finally dying.

Mood - The setting/mood of the assaults and murders
take place at night in both Works. There is an extreme
amount of rough sex, particularly "from behind" by the
serial killer cop in the manuscript and the good cop in the
screenplay. The serial killer cop in both Works, is
scenically acting and rather 'cold'. Also, he has no
remorse for his victims.

Sequences of events -

A. Towards the beginning of both Works, the two main
character detectives raid the premises of the main "bad-
guy" character, and the serial killer cop shoots his
accomplice that was in an adjacent room, six times in the
chest.

B. Towards the beginning of both Works, the pimp is
executed in an alley by being shot in the forehead.

C. Towards the middle of both Works, the two main
character detectives discuss planting a gun on an acquitted
murderer of a female.

D. Towards the end of both Works, in the screenplay,
the female investigator identifies that serial killer cop
via a picture from one of his surviving victims. In the
manuscript, the female investigator identifies the serial
killer cop via a sketch from one of his surviving victims.

E. At the end of both Works, the good cop shoots the
serial killer cop in the side area of the chest, and leans
over him and has a lot of dialog, before he dies.

1 ////

2 *Dialog* - During the scene in the screenplay,
3 where the two main detective characters are discussing the
4 "planting" of the gun on the acquitted murder suspect, the
5 bad cop
6 calls the good cop "righteous". This is significant,
7 because the screenplay is entitled "Righteous Kill". In
8 the manuscript, the term 'righteous' is also used in the
9 dialog of the two main detective characters, during the
10 scene where they are discussing the "planting" of a gun on
11 an acquitted murder suspect. Also, at another point in the
12 manuscript, it is said that the bad cop had "many righteous
13 kills". At the conclusion of both Works, as the bad cop is
14 dying, the good cop is remorseful for shooting him and has
15 a very similar dialog with the dying serial killer cop.

16 *Setting* - Both Works take place in a major U.S.
17 Metropolitan city. However, one is on the East coast and
18 the other is on the West coast. The locations are simply
19 chosen because the creators of each Work, resided in each
20 of the cities that were chosen. This would signify that
21 each writer used a location that they were intricately
22 familiar with.

23 **CLAIMS FOR RELIEF**

24 **FIRST CAUSE OF ACTION**

25 **(Copyright Infringement 17 U.S.C. §§ 101 et seq.) (Against**
26 **All Defendants)**

27 23. Plaintiff repeats and re-alleges each and every
28 allegation contained in paragraphs 1-21 above as if fully set
forth herein.

 24. "A Badge of Deception" is an original work of
authorship and copyrightable subject under the laws of the

1 United States, and has been submitted in conformity with the
2 ////

3 Copyright Act and all applicable laws governing copyrights.

4 25. At all times relevant hereto, Plaintiff has always
5 been and is still the sole owner of all copyrights in and to "A
6 Badge of Deception", and hereby affirms that he has never
7 assigned, licensed, or otherwise transferred his copyrights, or
8 any of them, to any of the Defendants, or anyone else, or
9 dedicated them to the general public.

10 26. The infringement by the Defendants is willful and was
11 committed with knowledge of and in conscious disregard of the
12 infringement, that the conduct was performed with oppression, fraud
13 and malice toward Mr. Vine and Mr. Vine has been damaged and
14 continues to be damaged thereby, and Defendants were unjustly
15 enriched. All of the Defendants are infringers within the meaning
16 of 17 U.S.C. §501 *et seq* of Mr. Vine's copyright in his original
17 manuscript, A Badge of Deception.

18 By its actions alleged above, the Defendants have
19 infringed and will continue to infringe the copyright of Mr.
20 Vine in A Badge of Deception by the distribution and performance
21 of the infringing work, Righteous Kill. The direct, natural,
22 probable and foreseeable result of Defendants wrongful conduct
23 has been and will continue to be, to deprive Mr. Vine of the
24 benefits of the exclusive rights of his copyright.

25 Mr. Vine has already suffered irreparable damage, and
26 continues to suffer immeasurable injury and damage, including
27 but not limited to, lost revenues and profits, lost business
28 opportunities, just and due recognition and credit, fair
opportunities and economic benefits. In addition to these
damages, Mr. Vine also created a copyrighted sequel to his
manuscript, A Badge of Deception. The above mentioned sequel
manuscript is entitled, Flirting With the Dead, and references

1 numerous aspects of the concept and storyline of A Badge of
2 ////

3 Deception.

4 The storyline, plot, concept, and basis of the infringing
5 Screenplay Righteous Kill has been widely distributed and has
6 received countless documented national poor ratings from well
7 known industry recognized screenplay critics. The storyline's
8 basis, plot, and concept of the manuscript, "A Badge of
9 Deception" has been exploited and the Plaintiff's copyrighted
10 manuscript and it's copyrighted sequel, "Flirting With The Dead"
11 will likely never be produced into a novel and/or screenplay
12 because of the adverse infringers actions, further alleging
13 "*Interference with Prospective Economic Advantages*" by the infringers. The
14 following, are just a few of the many national critic ratings of
15 the infringing screenplay, Righteous Kill:

15 A. *Chicago Tribune, by Matt Pais*

16 This generic, style-free shambles goes through the
17 motions so blankly that it doesn't realize its motions
18 turn police procedure into a war against urgency and
19 common sense.

20 Pacino and De Niro look totally spent, and watching
21 "Righteous Kill" will likewise make a long, tired day
22 feel even more endless.

22 B. *Hollywood Reporter, by Luke Sader*

23 Bottom Line: Ordinary cop movie boosted by superstar
24 teaming is no righteous thrill.

24 C. *Los Angeles Times, by Gene Seymour*

25 The movie seems so intent on deploying its gimmicks that
26 it clumsily shoves aside any genuine character
27 development.

28 D. *New York Post, by Lou Lumenick*

"A slow-moving, ridiculous police thriller that would

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

////

have been shipped straight to the remainder bin at

Blockbuster if it starred anyone else."

E. *New York Times*, by Manohla Dargis

"Righteous Kill a clutter of recycled cop-movie and serial-killer film clichés..."

F. *USA Today*, by Claudia Puig

"The pace lags and the story of a vigilante killer in New York City lacks the requisite suspense."

G. *Rotten Tomatoes* reported that 21% of critics gave positive reviews based on 132 reviews.

H. *Metacritic* gave the film a 36/100 approval rating based on 27 reviews.

I. *Keith Phipps of The Onion's A.V. Club* said, "The novelty of watching De Niro and Pacino team up wears off pretty quickly, [with them] trudging through a thriller that would have felt warmed over in 1988. Director Jon Avnet doesn't offer much compensation for the absent suspense."

J. *ReelViews* gave the film two stars (out of four), saying: "This isn't just generic material; it's generic material with a dumb ending, and the director is a journeyman, not a craftsman. ... Its failure to live up to even modest expectations is a blow. There's nothing righteous to be found here."

K. *Ken Fox of TV Guide* also gave *Righteous Kill* a score of two stars out of four, saying: "The entire movie is one big build-up to a twist that, while not exactly cheating, plays an awfully cheap trick. To get there, writer Russell Gewirtz and director John Avnet sacrifice mystery, suspense, sensible editing and everything else one expects to find in a police thriller just to keep the audience off-guard. It's not worth it, and the first real

1 pairing of De Niro and Pacino is utterly wasted.

2 ////

3 L. *Claudia Puig of USA Today* gave the film one and a half
4 stars out of four, saying: "By the time the movie reaches
5 its protracted conclusion, it feels like a slog. Pacino
6 has a few funny lines, as does Leguizamo, but not nearly
7 enough to save the film from collapsing under the weight
8 of its own self-righteous tedium."

9 The Defendant's conduct, as set forth herein, is causing
10 and, unless enjoined and restrained by this Court, will continue to
11 cause Mr. Vine irreparable harm, some of which cannot be
12 compensated through any other means. Mr. Vine is entitled to an
13 injunction restraining the Defendants, its officers, agents and
14 employees, and all persons acting in concert with them from
15 engaging in any further such acts in violation of the copyright
16 laws.

17 **DEMAND FOR A JURY TRIAL**

18 A jury trial is hereby demanded on Plaintiff's First Claim for
19 Relief.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Mr. Vine prays for judgment against Defendants,
22 and Does 1-10:

23 Awarding judgment in favor of Mr. Vine and against Defendants
24 Starz Entertainment LLC, Overture Films, Russell Gewirtz, Jon
25 Avnet, Starz Media LLC, Nu Image/Millennium Films, Bestbuy Co.,
26 Inc., Blockbuster, Inc., Merscom LLC, Time Warner, Inc., and
27 Does 1-10.

- 28 1. Immediately and permanently enjoining Defendants,
their officers, directors, agents, servants,
employees, representatives, attorneys, related
companies, successors, assigns, and all others in
active concert or participation with them from

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

////

infringing on Vine's copyright or any works derived or copied from it or other rights in any manner, including distributing and performing the infringing work Righteous Kill in any format and preventing further copying of Mr. Vine's copyrighted material without Mr. Vine's consent and or authorization.

2. Awarding Mr. Vine as against Defendant, Russell Gewirtz, at his election, either (i) actual and compensatory damages sustained by Mr. Vine as a result of Defendant's illegal infringing activities concerning his copyright and profits derived by Defendants as a result of his infringing activities, pursuant to 17 U.S.C. § 504 (b) in an amount to be determined at trial, but in no event less than Two Million Dollars (\$2,000,000.00) Dollars or (ii) statutory damages in the maximum amount pursuant to 17 U.S.C. § 504 (c).

3. Awarding Mr. Vine as against Defendant, Starz Entertainment LLC, Overture Films, Starz Media LLC, at his election, either (i) actual and compensatory damages sustained by Mr. Vine as a result of Defendant's illegal infringing activities concerning his copyright and profits derived by Defendants as a result of their infringing activities, pursuant to 17 U.S.C. § 504 (b) in an amount to be determined at trial, but in no event less than Two Million Dollars (\$2,000,000.00) Dollars or (ii) statutory damages in the maximum amount pursuant to 17 U.S.C. § 504 (c).

4. Awarding Mr. Vine as against Defendant, Jon Avnet, at his election, either (i) actual and compensatory damages sustained by Mr. Vine as a result of Defendant's illegal infringing activities concerning his copyright and profits derived by Defendants as a

1 ////

2 result of his infringing activities, pursuant to 17
3 U.S.C. § 504 (b) in an amount to be determined at
4 trial, but in no event less than Two Million Dollars
5 (\$2,000,000.00) Dollars or (ii) statutory damages in
6 the maximum amount pursuant to 17 U.S.C. § 504 (c).

7 5. Awarding Mr. Vine as against Defendant, Nu Image/
8 Millennium Films at his election, either (i) actual
9 and compensatory damages sustained by Mr. Vine as a
10 result of Defendant's illegal infringing activities
11 concerning his copyright and profits derived by
12 Defendants as a result of their infringing activities,
13 pursuant to 17 U.S.C. § 504 (b) in an amount to be
14 determined at trial, but in no event less than Two
15 Million Dollars (\$2,000,000.00) Dollars or (ii)
16 statutory damages in the maximum amount pursuant to 17
17 U.S.C. § 504 (c).

18 6. Awarding Mr. Vine as against Defendant Bestbuy Co.,
19 Inc., Blockbuster, Inc., and Merscom LLC, Time
20 Warner, Inc., actual and Compensatory damages
21 sustained by Mr. Vine as a result of Defendant's
22 illegal infringing and distribution activities
23 concerning his copyright and profits derived by
24 Defendants as a result of their infringing activities,
25 pursuant to 17 U.S.C. § 504 (b) in an amount to be
26 determined at trial. The (4) Defendants listed
27 herein have been issued "Cease and Desist" letters,
28 by the Plaintiff, informing them of the basis of this
Complaint, on or before 1/2/09. Since notification,
the (4) Defendants listed herein continued with their
infringing distribution activities.

8. Awarding Mr. Vine as against all Defendants, his
costs, reasonable attorneys fees, and disbursements in

////

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

this action, pursuant to 17 U.S.C. § 505.10.

9. Awarding Mr. Vine as against all Defendants, interest in this action.

10. Awarding Mr. Vine as against all Defendants, punitive damages for the willful copyright infringement, in an amount to be determined at trial.

11. Awarding Mr. Vine such other and further relief as this Court deems just and proper.

12. An award of attorney's fees and cost per the Copyright Act.

13. An award of compensatory and punitive damages on the common law causes of action for unfair competition and fraud against all Defendants, in an amount to be determined at trial.

14. These facts are being pled with the specificity required pursuant to Federal Rules of Civil Procedure, Rule 26.

15. This claim arises arise under California Law.

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

DATED: _____, 2009

Kerry M. Vine, Plaintiff