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**IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

MESIKA MAGIC, a California
corporation, YIGAL MESIKA, an
individual,

Plaintiffs,

vs.

PENGUIN MAGIC, INC., a Nevada
corporation, CRAIG PETTY, a resident
of the United Kingdom, DOES 1-10,
inclusive,

Defendants.

Case No. 2:25-cv-07943-MWF-MBK

**DEFENDANT CRAIG PETTY'S
ANSWER TO SECOND
AMENDED COMPLAINT AND
AFFIRMATIVE AND OTHER
DEFENSES**

DEMAND FOR JURY TRIAL

Defendant Craig Petty ("Defendant" or "Petty") answers the Second Amended Complaint ("SAC"), ECF No. 43, filed by Plaintiffs Mesika Magic and Yigal Mesika (collectively, "Plaintiffs") as follows. Except as expressly admitted below, Defendant denies each and every allegation contained in the SAC, including

1 all headings, subheadings, and characterizations, whether or not specifically
2 referenced.

3 **I. THE PARTIES**

4 1. Without knowledge, therefore denied.

5 2. Without knowledge, therefore denied.

6 3. Without knowledge, therefore denied.

7 4. Admitted that Defendant is a resident of the United Kingdom and
8 published the referenced videos. Otherwise denied.

9 5. Without knowledge, therefore denied.

10 6. Denied.

11 7. Denied.

12 **II. JURISDICTION AND VENUE**

13 8. Denied.

14 9. Denied.

15 **III. GENERAL ALLEGATIONS**

16 10. Without knowledge, therefore denied.

17 11. Without knowledge, therefore denied.

18 12. Admitted to the extent Yigal Mesika alleges he is a public figure.

19 13. Denied.

20 14. Without knowledge, therefore denied.

1 15. Admitted that Defendant made the quoted statements in the referenced
2 video. Otherwise denied.

3 16. Admitted that Defendant made the quoted statements in the referenced
4 video. Otherwise denied.

5 17. Admitted that Defendant made the quoted statements in the referenced
6 video. Otherwise denied.

7 18. Admitted that Defendant received the “Creator of the Year” award.
8 Otherwise denied.

9 19. Admitted that Defendant made the quoted statements in the referenced
10 video. Otherwise denied.

11 20. Admitted that Defendant made the quoted statements in the referenced
12 video. Otherwise denied.

13 21. Denied.

14 22. Admitted that Defendant made the quoted statements in the referenced
15 video. Otherwise denied.

16 23. Denied.

17 24. Denied.

18 25. Denied.

19 26. Admitted that Defendant made the quoted statements in the referenced
20 video. Otherwise denied.

1 27. Denied.

2 28. Admitted that Defendant made the quoted statements in the referenced
3 video. Otherwise denied.

4 29. Admitted that Defendant made the quoted statements in the referenced
5 video. Otherwise denied.

6 30. Admitted that Petty set up a GiveSendGo campaign and made the
7 quoted statements in the referenced video. Otherwise denied.

8 31. Without knowledge, therefore denied.

9 32. Admitted that third parties have contributed to the GiveSendGo
10 campaign. Otherwise denied.

11 33. Admitted that third parties have posted comments on YouTube to the
12 February 13, 2026, video. Otherwise denied.

13 34. Admitted that Defendant made the quoted statements in the referenced
14 video. Otherwise denied.

15 35. Without knowledge, therefore denied.

16 36. Without knowledge, therefore denied.

17 37. Without knowledge, therefore denied.

18 38. Without knowledge, therefore denied.

19 39. Without knowledge, therefore denied.

20 40. Denied.

- 1 41. Denied.
- 2 42. Without knowledge, therefore denied.
- 3 43. Without knowledge, therefore denied.
- 4 44. Without knowledge, therefore denied.
- 5 45. Without knowledge, therefore denied.
- 6 46. Denied.
- 7 47. Without knowledge, therefore denied.
- 8 48. Denied.
- 9 49. Denied.
- 10 50. Denied.
- 11 51. Denied.
- 12 52. Without knowledge, therefore denied.
- 13 53. Without knowledge, therefore denied.
- 14 54. Denied.
- 15 55. Without knowledge, therefore denied.
- 16 56. Without knowledge, therefore denied.
- 17 57. Without knowledge, therefore denied.
- 18 58. Denied.
- 19 59. Without knowledge, therefore denied.
- 20 60. Without knowledge, therefore denied.

1 61. Without knowledge, therefore denied.

2 62. Without knowledge, therefore denied.

3 63. Without knowledge, therefore denied.

4 64. Without knowledge, therefore denied.

5 65. Without knowledge, therefore denied.

6 66. Without knowledge, therefore denied.

7 67. Without knowledge, therefore denied.

8 68. Admitted that “Ring Flight Revolution” is mentioned in Exhibit A.

9 Otherwise denied.

10 69. Admitted that “Rinkey Dinky” is mentioned in Exhibit A. Otherwise
11 denied.

12 70. Admitted that Exhibit A refers to an air tag. Otherwise denied.

13 71. Denied.

14 72. Denied.

15 73. Without knowledge, therefore denied.

16 74. Denied.

17 75. Denied.

18 76. Without knowledge, therefore denied.

19 77. Without knowledge, therefore denied.

20 78. Without knowledge, therefore denied.

1 79. Without knowledge, therefore denied.

2 80. Without knowledge, therefore denied.

3 81. Without knowledge, therefore denied.

4 82. Without knowledge, therefore denied.

5 83. Without knowledge, therefore denied.

6 84. Without knowledge, therefore denied.

7 85. Without knowledge, therefore denied.

8 86. Denied.

9 87. Denied.

10 88. Without knowledge, therefore denied.

11 89. Without knowledge, therefore denied.

12 90. Denied.

13 91. Denied.

14 92. Without knowledge, therefore denied.

15 93. Without knowledge, therefore denied.

16 94. Without knowledge, therefore denied.

17 95. Without knowledge, therefore denied.

18 96. Without knowledge, therefore denied.

19 97. Without knowledge, therefore denied.

20 98. Without knowledge, therefore denied.

1 99. Without knowledge, therefore denied.

2 100. Without knowledge, therefore denied.

3 101. Without knowledge, therefore denied.

4 102. Without knowledge, therefore denied.

5 103. Without knowledge, therefore denied.

6 104. Without knowledge, therefore denied.

7 105. Without knowledge, therefore denied.

8 106. Without knowledge, therefore denied.

9 107. Without knowledge, therefore denied.

10 108. Without knowledge, therefore denied.

11 109. Without knowledge, therefore denied.

12 110. Without knowledge, therefore denied.

13 111. Without knowledge, therefore denied.

14 112. Without knowledge, therefore denied.

15 113. Without knowledge, therefore denied.

16 114. Without knowledge, therefore denied.

17 115. Without knowledge, therefore denied.

18 116. Without knowledge, therefore denied.

19 117. Without knowledge, therefore denied.

20 118. Denied.

1 119. Denied.

2 120. Denied.

3 121. Denied.

4 122. Without knowledge, therefore denied.

5 123. Without knowledge, therefore denied.

6 124. Denied.

7 125. Denied.

8 126. Without knowledge, therefore denied.

9 127. Without knowledge, therefore denied.

10 128. Without knowledge, therefore denied.

11 129. Without knowledge, therefore denied.

12 130. Without knowledge, therefore denied.

13 131. Without knowledge, therefore denied.

14 132. Without knowledge, therefore denied.

15 133. Without knowledge, therefore denied.

16 134. Without knowledge, therefore denied.

17 135. Denied.

18 136. Denied.

19 137. Denied.

20 138. Admitted that Defendant published the July 2025 video.

1 139. Denied.

2 140. Admitted that Defendant made the quoted statements in the referenced
3 video. Otherwise denied.

4 141. Denied.

5 142. Denied.

6 143. Denied.

7 144. Without knowledge, therefore denied.

8 **CAUSE OF ACTION**

9 **COUNT 1**

10 **LIBEL**

11 **(As to All Defendants and DOES)**

12 145. Does not call for a response from Defendant.

13 146. Denied.

14 147. Denied.

15 148. Denied.

16 149. Denied.

17 150. Denied.

18 151. Denied.

19 152. Denied.

20 153. Denied.

1 154. Denied.

2 **COUNT 2**

3 **TRADE LIBEL**

4 **(As to All Defendants and DOES)**

5 155. Does not call for a response from Defendant.

6 156. Denied.

7 157. Denied.

8 158. Denied.

9 159. Denied.

10 160. Denied.

11 **COUNT 3**

12 **COMMON LAW MISAPPROPRIATION OF LIKENESS**

13 **(As to All Defendants and DOES)**

14 161. This count has been dismissed without leave to amend, and so this
15 allegation does not call for a response from Defendant.

16 162. This count has been dismissed without leave to amend, and so this
17 allegation does not call for a response from Defendant.

18 163. This count has been dismissed without leave to amend, and so this
19 allegation does not call for a response from Defendant.

20 164. This count has been dismissed without leave to amend, and so this

1 allegation does not call for a response from Defendant.

2 165. This count has been dismissed without leave to amend, and so this
3 allegation does not call for a response from Defendant.

4 166. This count has been dismissed without leave to amend, and so this
5 allegation does not call for a response from Defendant.

6 167. This count has been dismissed without leave to amend, and so this
7 allegation does not call for a response from Defendant.

8 168. This count has been dismissed without leave to amend, and so this
9 allegation does not call for a response from Defendant.

10 **COUNT 4**

11 **COMMERCIAL MISAPPROPRIATION OF LIKENESS UNDER**

12 **CALIFORNIA CIVIL CODE § 3344**

13 **(As to All Defendants and DOES)**

14 169. This count has been dismissed without leave to amend, and so this
15 allegation does not call for a response from Defendant.

16 170. This count has been dismissed without leave to amend, and so this
17 allegation does not call for a response from Defendant.

18 171. This count has been dismissed without leave to amend, and so this
19 allegation does not call for a response from Defendant.

20 172. This count has been dismissed without leave to amend, and so this

1 allegation does not call for a response from Defendant.

2 173. This count has been dismissed without leave to amend, and so this
3 allegation does not call for a response from Defendant.

4 174. This count has been dismissed without leave to amend, and so this
5 allegation does not call for a response from Defendant.

6 175. This count has been dismissed without leave to amend, and so this
7 allegation does not call for a response from Defendant.

8 176. This count has been dismissed without leave to amend, and so this
9 allegation does not call for a response from Defendant.

10 **COUNT 5**

11 **FALSE LIGHT**

12 **(As to All Defendants and DOES)**

13 177. Does not call for a response from Defendant.

14 178. Denied.

15 179. Denied.

16 180. Denied.

17 181. Denied.

18 182. Denied.

19 183. Denied.

20 184. Denied.

1 185. Denied.

2 **COUNT 6**

3 **CALIFORNIA UNFAIR TRADE PRACTICES ACT**

4 **(As to All Defendants and DOES)**

5 186. This count has been dismissed without leave to amend, and so this
6 allegation does not call for a response from Defendant.

7 187. This count has been dismissed without leave to amend, and so this
8 allegation does not call for a response from Defendant.

9 188. This count has been dismissed without leave to amend, and so this
10 allegation does not call for a response from Defendant.

11 189. This count has been dismissed without leave to amend, and so this
12 allegation does not call for a response from Defendant.

13 190. This count has been dismissed without leave to amend, and so this
14 allegation does not call for a response from Defendant.

15 191. This count has been dismissed without leave to amend, and so this
16 allegation does not call for a response from Defendant.

17 192. This count has been dismissed without leave to amend, and so this
18 allegation does not call for a response from Defendant.

COUNT 7

**CALIFORNIA UNFAIR TRADE PRACTICES ACT – FALSE OR
MISLEADING STATEMENTS WHEN ADVERTISING ONE’S GOODS
UNDER CAL. BUS. & PROF. CODE § 17500**

(As to All Defendants and DOES)

193. This count has been dismissed without leave to amend, and so this allegation does not call for a response from Defendant.

194. This count has been dismissed without leave to amend, and so this allegation does not call for a response from Defendant.

195. This count has been dismissed without leave to amend, and so this allegation does not call for a response from Defendant.

196. This count has been dismissed without leave to amend, and so this allegation does not call for a response from Defendant.

197. This count has been dismissed without leave to amend, and so this allegation does not call for a response from Defendant.

198. This count has been dismissed without leave to amend, and so this allegation does not call for a response from Defendant.

COUNT 8

UNFAIR COMPETITION UNDER CAL. BUS. & PROF. CODE § 17200

– SELF-PREFERENCING & PRODUCT COPYING

(As to Defendant Penguin Magic LLC and DOES)

199. This count has been dismissed without leave to amend, and so this allegation does not call for a response from Defendant.

200. This count has been dismissed without leave to amend, and so this allegation does not call for a response from Defendant.

201. This count has been dismissed without leave to amend, and so this allegation does not call for a response from Defendant.

202. This count has been dismissed without leave to amend, and so this allegation does not call for a response from Defendant.

COUNT 9

FALSE DESIGNATION OF ORIGIN / LANHAM ACT § 43(a)

(As to Defendant Penguin Magic and DOES)

203. This count has been dismissed without leave to amend, and so this allegation does not call for a response from Defendant.

204. This count has been dismissed without leave to amend, and so this allegation does not call for a response from Defendant.

205. This count has been dismissed without leave to amend, and so this

1 allegation does not call for a response from Defendant.

2 206. This count has been dismissed without leave to amend, and so this
3 allegation does not call for a response from Defendant.

4 207. This count has been dismissed without leave to amend, and so this
5 allegation does not call for a response from Defendant.

6 208. This count has been dismissed without leave to amend, and so this
7 allegation does not call for a response from Defendant.

8 209. This count has been dismissed without leave to amend, and so this
9 allegation does not call for a response from Defendant.

10 210. This count has been dismissed without leave to amend, and so this
11 allegation does not call for a response from Defendant.

12 211. This count has been dismissed without leave to amend, and so this
13 allegation does not call for a response from Defendant.

14 **COUNT 10**

15 **INTENTIONAL INTERFERENCE**

16 **WITH PROSPECTIVE ECONOMIC ADVANTAGE**

17 **(As to Defendant Penguin Magic LLC and DOES)**

18 212. This count has been dismissed without leave to amend, and so this
19 allegation does not call for a response from Defendant.

20 213. This count has been dismissed without leave to amend, and so this

1 allegation does not call for a response from Defendant.

2 214. This count has been dismissed without leave to amend, and so this
3 allegation does not call for a response from Defendant.

4 215. This count has been dismissed without leave to amend, and so this
5 allegation does not call for a response from Defendant.

6 216. This count has been dismissed without leave to amend, and so this
7 allegation does not call for a response from Defendant.

8 **COUNT 11**

9 **DECLARATORY RELIEF AGAINST DEFENDANTS**

10 **(As to All Defendants and DOES)**

11 217. This count has been dismissed without leave to amend, and so this
12 allegation does not call for a response from Defendant.

13 218. This count has been dismissed without leave to amend, and so this
14 allegation does not call for a response from Defendant.

15 219. This count has been dismissed without leave to amend, and so this
16 allegation does not call for a response from Defendant.

17 **AFFIRMATIVE AND OTHER DEFENSES**

18 Defendant's affirmative defenses set forth herein are based solely upon
19 Plaintiffs' allegations in the SAC, which do not describe the events and claims
20 therein with sufficient particularity to enable Defendant to determine all of the

1 defenses that might exist to their claims. Without these and other details, Defendant
2 cannot respond further to Plaintiffs' SAC. Therefore, Defendant reserves the right
3 to assert and rely upon additional defenses that become available or apparent during
4 the pendency of this action and to modify the affirmative defenses herein as
5 additional information is obtained by Defendant.

6 Defendant asserts the affirmative and other defenses set forth below, each as
7 separate and distinct defenses to Plaintiffs' alleged causes of action. Insofar as any
8 of the following expresses denial of an element of any claim alleged against
9 Defendant, that denial does not indicate that Plaintiffs are relieved of their burden
10 to prove each and every element of any such claims or that Defendant has assumed
11 any burden of proof. Defendant hereby gives notice that he intends to rely upon
12 such other and further defenses as may become available or apparent during, for
13 example, pre-trial proceedings in this case, and reserves the right to amend this
14 Answer and offer or assert additional defenses that cannot now be articulated
15 because, among other reasons, Defendant has not completed discovery.

16 **First Affirmative Defense**

17 ***Truth***

18 1. Plaintiffs' SAC fails to state a cause of action upon which relief can be
19 granted, in part because the complained-of statements that have not already been
20 found non-actionable by this Court are true or substantially true.

1 2. Although the burden of proof for falsity is upon Plaintiffs, Defendant
2 avers that all statements allegedly made by Defendant complained of by Plaintiffs
3 are true.

4 3. Any complained-of statements allegedly made by Defendant that may
5 happen to lack 100% factual veracity, but whose “gist” or “sting” are accurate, are
6 substantially true, and thus treated as true as a matter of law.

7 4. In particular, Mesika alleges Defendant claimed that Mesika did not
8 disclose the “Rinkey Dinky” and “Ring Flight Revolution” devices as prior art, and
9 that this claim is false because these devices are mentioned in Mesika’s patent
10 application for a ring flight device. However, the SAC mischaracterizes Petty’s
11 statements. Petty said that Mesika failed to give credit to the *inventors* of these
12 inventions, which is literally true; the inventors are identified nowhere in Mesika’s
13 patent application, nor does he allege he credited them at any other point.

14 5. Furthermore, Petty’s statements about this lack of credit were not
15 about Mesika’s patent application specifically, and Mesika does not allege he
16 disclosed prior art or gave credit to other inventions or inventors in any context
17 other than his patent application. It is substantially true to say that a magician does
18 not credit other inventions when he refers to them in a patent application his
19 audience will almost certainly never look at, while making no mention of them in
20 public statements or promotional material.

1 6. As truth is an absolute defense and there is nothing false or misleading
2 about the statements, Defendant cannot be liable for Plaintiffs' claims.

3 **Second Affirmative Defense**

4 ***Opinion or Rhetorical Hyperbole***

5 1. Plaintiffs' SAC fails to state a cause of action upon which relief can be
6 granted, in part because the complained-of statements that have not already been
7 found non-actionable by this Court are either statements of opinion based on
8 disclosed facts or statements of rhetorical hyperbole that no reasonable reader is
9 likely to interpret as a literal statement of fact.

10 2. Petty's statements about how Mesika has "[d]ozens of patent
11 applications, very few granted" (ECF No. 43 at ¶ 47) are expressions of opinion
12 based on disclosed facts. Petty disclosed that he reviewed patent records, which are
13 publicly accessible, and "very few" is a qualitative opinion about the success of
14 Mesika's patent attempts, rather than a quantitative statement about how many of
15 his applications have matured to registration.

16 3. Petty's statements about Mesika's lack of credit regarding his claimed
17 ring flight invention were not about Mesika's patent application specifically, and
18 Mesika does not allege he disclosed prior art or gave credit to other inventions or
19 inventors in any context other than his patent application. To the extent Petty's
20 statements about Mesika's lack of credit are not substantially true, he expressed his

1 opinion that Mesika did not credit other inventors, and Mesika does not allege any
2 of the underlying facts forming this opinion are false.

3 4. Statements of opinion based on disclosed facts and statements of
4 rhetorical hyperbole cannot form the basis of defamation and related tort claims,
5 and so Defendant cannot be liable for Plaintiffs' claims.

6 **Third Affirmative Defense**

7 ***Lack of Actual Malice***

8 1. Due to his notoriety in the magic industry and the ongoing controversy
9 surrounding Yigal Mesika's ring flight device and his habit of filing or threatening
10 abusive patent litigation, Mesika is a general or limited purpose public figure.

11 2. Mesika alleges that "Plaintiffs have developed a fine reputation and
12 goodwill at substantial expense" in regard to their LOOPS products "through
13 advertising and marketing goods and services through the[ir] website . . . and on
14 social media, such as YouTube. Plaintiffs also advertise and markets [sic] LOOPS
15 products via Amazon" ECF No. 43 at ¶¶ 12, 82. Plaintiffs' products "had a
16 strong reputation in the magic community and generated consistent sales across
17 multiple dealers and online platforms." *Id.* at ¶ 84.

18 3. Mesika is generally a public figure within the magic community.
19 Mesika is featured on the cover of *Vanish*, an international magic industry
20 magazine. One of his products was featured in a golden buzzer act on Britain's Got

1 Talent. He has performed at prominent magic shows internationally. ECF Nos. 58-
2 1 to 58-6. He has lectured globally on magic tricks. ECF Nos. 58-6 to 58-10. He
3 has appeared in various documentaries, podcasts, and magazines about magic. ECF
4 Nos. 58-11 to 58-16. His tricks have been performed by celebrity magicians and on
5 popular TV shows. ECF Nos. 58-17 to 58-20. Magic retailers worldwide sell his
6 products. ECF Nos. 58-21 to 58-28 to 58-43. Several magicians have reviewed these
7 products, with hundreds of thousands of views. ECF No. 58-44 to 58-82. He may
8 not be as prominent as Penn & Teller or David Copperfield, but he is certainly just
9 one tier below them in the magic industry.

10 4. Since at least April 2024, other members of the magic community have
11 criticized Mesika in relation to the same controversy that is the subject of Petty's
12 statements at issue. On April 5, 2024, the inventor of the "Rinkey Dinky" device
13 mentioned in the SAC, Steve Sheraton, published a Facebook post showing that
14 Mesika's ring flight device (at issue in this case) is extremely similar to Sheraton's
15 2001 product. ECF No. 58-83. In response, magic inventor João Miranda posted
16 that "*Yigal Mesika threatened me with lawyers when I released my Gravity reel. He*
17 *is a true bully. He lost all the respect I had for him. Funny (in a bad way) to see he*
18 *copied your original invention.*" *Id.* In June 2024, a magician in the "Magicians
19 Only" Facebook group said that "*Mesika is a thief of ideas. And doesn't bring*
20 *anything to the table as far as advancement in the art. And he is a bully.*" ECF No.

1 58-84 at 4. In the same group shortly before Petty’s statements were published,
2 magicians discuss “shenanigans” around Mark Bennett’s Air Flight invention and
3 Mesika’s pending patent application, with one member stating that “nothing Mesika
4 has released is original to him but rather a variation of something someone else has
5 created . . . none of this stuff is an original concept and if everything he’s made
6 variations of had patents . . . he’d have nothing. What a joke.” ECF No. 58-85 at 4.
7 The commenter then says “*this [invention] was created and sold MANY years*
8 *before mesikas [sic] ring flight and he’s trying to patent his as original and say*
9 *others can’t release THEIR variations.*” *Id.* at 5. In another conversation within the
10 same group shortly before Petty’s statements, other magicians discuss the dispute
11 between Mark Bennett’s Air Flight and Mesika’s claimed invention, with multiple
12 members of the group expressing skepticism about the validity of Mesika’s claim
13 of infringement. ECF No. 58-86. One of the members, after noting the conspicuous
14 similarities between Mesika’s invention and the Rinkey Dinky, says “*to try and*
15 *patent something you stole to begin with is INSANE. Then to try and tell people they*
16 *cant [sic] make variations when yours wasnt [sic] even a variation, but actually a*
17 *complete ripoff, is again...INSANE.*” *Id.* at 11.

18 5. Mesika’s customer base has also expressed these criticisms about the
19 specific invention at issue here. On the Vanishing Inc. website, which offers
20 Mesika’s ring flight for sale, there is a “community questions” forum in which

1 customers state that Mesika's invention is "a ripoff" of the Rinkey Dinky and that
2 its advertising copy misleads customers by implying that it is Mesika's original
3 idea, with one person saying Mesika's invention "could easily be considered blatant
4 theft." ECF No. 58-87. Magicians David Penn and Paul Longhurst published a
5 YouTube video in April 2024 reviewing Mesika's ring flight, noted his claim of
6 patent protection, expressed confusion about this because he did not come up with
7 the idea, and mentioned prior iterations of the concept. ECF No. 58-88.

8 6. Yigal Mesika was thus, at the time of Petty's statements complained
9 of in the SAC, a public figure for all purposes related to the international magic
10 community, and specifically in connection with his misuse of patent law to try bully
11 other magicians and stifle innovation within the community. Accordingly, Mesika
12 must allege and prove that Petty published his statements with actual malice
13 (meaning actual knowledge of falsity or reckless disregard) to prevail on any of his
14 remaining claims.

15 7. Petty did not believe any of his statements at issue were false when he
16 made them, nor did he have any reason to believe they were false. Rather, his
17 statements were the result of exhaustive research on Mesika's record of litigation
18 and threats of litigation, including interviews with multiple magicians who spoke
19 publicly about how Mesika's ring flight device was not original and how Mesika
20 bullied other magicians with baseless threats of patent litigation. Petty obtained

1 information from numerous third-party sources he found credible that backed up
2 his statements about Mesika, including his statements about the portion of Mesika's
3 patent applications that had matured to registration.

4 8. Defendant thus did not make any statements at issue with any degree
5 of fault, much less the actual malice required for Plaintiffs to prevail on their claims.

6 **Fourth Affirmative Defense**

7 ***Common Interest Privilege***

8 1. Cal. Civ. Code § 47(c) provides that any "publication or broadcast" is
9 privileged if made in "a communication, without malice, to a person interested
10 therein, (1) by one who is also interested"

11 2. Defendant published his complained-of statements for the purpose of
12 informing other members of the magic industry about Yigal Mesika's attempts to
13 abuse patent law to stifle innovation.

14 3. Both Defendant and his audience were interested in Defendant's
15 complained-of statements because they are all members of the magic community
16 who are being harmed by Yigal Mesika's conduct.

17 4. Defendant did not publish the complained-of statements with malice.

18 5. Defendant's statements are privileged under Cal. Civ. Code § 47(c).
19
20

Fifth Affirmative Defense

Lack of Personal Jurisdiction

1. This Court lacks personal jurisdiction over Defendant. Defendant is a citizen and resident of the U.K., and so the Court may not exercise general personal jurisdiction over him. He published his statements while in the U.K. and did not direct them to a California audience specifically, and so the Court may not exercise specific personal jurisdiction over him.

2. As this Court lacks personal jurisdiction over Defendant, Mesika's remaining claims should be dismissed.

Sixth Affirmative Defense

Improper Venue

1. This is not the proper venue for this dispute. Defendant is a U.K. citizen and resident and none of Defendant's actions allegedly giving rise to Mesika's remaining claims occurred within this District or even within the State of California.

2. As this Court is not a proper venue for this dispute, Mesika's remaining claims should be dismissed.

1 **Seventh Affirmative Defense**

2 ***Failure to State a Claim***

3 1. Plaintiffs have failed to sufficiently plead the elements of any cause of
4 action as to any Defendant.

5 **DEMAND FOR JURY TRIAL**

6 Defendant Craig Petty demands a trial by jury on all issues so triable.

7 Dated: September 4, 2026.

Respectfully submitted,

8 RANDAZZA LEGAL GROUP, PLLC
9 /s/ Alex J. Shepard

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14 *Attorneys for Defendant*
15 *Craig Petty*
16
17
18
19
20

Case No. 2:25-cv-07943-MWF-MBK

CERTIFICATE OF SERVICE

I CERTIFY that on September 4, 2026, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I further certify that a true and correct copy of the foregoing document is being served via transmission of Notice of Electronic Filing generated by CM/ECF.

Respectfully submitted,

/s/ Alex J. Shepard

Alex J. Shepard