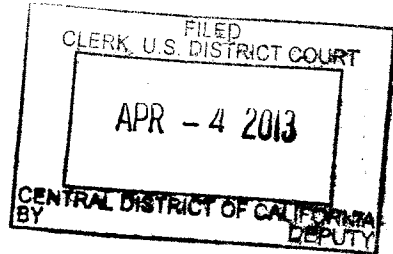


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7 **Kourtney Kardashian, Kimberly Kardashian,**
8 **Khloé Kardashian Odom, Robert Kardashian, Jr., and Kris Jenner**

9 **UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
11 **WESTERN DIVISION**

12 **Kourtney Kardashian, an individual;**
13 **Kimberly Kardashian, an individual;**
14 **Khloé Kardashian Odom, an**
15 **individual; Robert Kardashian, Jr.,**
16 **an individual, and Kris Jenner, an**
17 **individual,**
18 **Plaintiffs,**
19 **v.**
20 **Ellen Pearson, an individual, a/k/a**
21 **Ellen Kardashian and a/k/a**
22 **Ellen Pierson; and DOES 1 through**
23 **10, inclusive,**
24 **Defendants.**

CASE NO. **CV 13-02406-GHM**
(JCL)

- COMPLAINT FOR:
1. CONVERSION
 2. COPYRIGHT INFRINGEMENT
 3. COPYRIGHT INFRINGEMENT
 4. CLAIM AND DELIVERY
 5. ACCOUNTING
 6. CONSTRUCTIVE TRUST

[JURY TRIAL DEMANDED]

26 ///
27 ///
28 ///

1 Plaintiffs Kourtney Kardashian, Kimberly Kardashian, Khloé Kardashian
2 Odom, Robert Kardashian, Jr., and Kris Jenner (collectively, “Plaintiffs”), allege:

3 **THE NATURE OF THIS ACTION**

4 1. This action is necessitated by Defendant Ellen Pearson’s despicable and
5 unlawful scheme to hold in secret and convert, and now exploit, a private personal
6 and copyright protected compilation diary/journal/planner (the “Diary”) of the late
7 Robert Kardashian, family photo albums (the “Family Albums”), and a family
8 holiday photograph (the “Photograph”), all of which purportedly documents his and
9 his family’s lives before they were famous and while his children were minors.
10 Robert Kardashian bequeathed the bulk of his personal tangible and intangible
11 property, which includes the private Diary and Album and the copyrights therein,
12 equally to his four children, Kourtney Kardashian, Kimberly Kardashian, Khloé
13 Kardashian Odom and Robert Kardashian, Jr. (the “Kardashian Siblings”).

14 2. Notwithstanding the express wishes in Robert Kardashian’s will and
15 trust, until recently, Pearson hid from the Kardashian Siblings -- as well from the
16 trustee and Court in her recent bankruptcy -- the existence of and her possession of
17 the private Diary and the Photograph. In her continued efforts to cash-in on and
18 make money off of her brief marriage to the father of the now famous Kardashian
19 Siblings and their family, Pearson now, without any right, title, interest or
20 authorization, has exploited for her benefit and licensed the Diary and Photograph,
21 and portions of the Family Albums, to tabloid media for publication.

22 3. This is an action to obtain redress for Pearson’s unlawful conversion
23 of private and valuable personal property, and her and her co-conspirator’s blatant
24 violation of copyrights, among other calculated wrongful and tortious conduct.

25 **JURISDICTION & VENUE**

26 4. This action is brought, and exclusive subject matter jurisdiction lies
27 within this Court upon multiple grounds, including pursuant to the United States
28 Copyright Act, 17 U.S.C. Sections 101 et seq., based on acts of copyright

1 infringement committed in the United States (28 U.S.C. §1338(a)). This Court has
2 federal question jurisdiction over this matter pursuant to 28 U.S.C. § 1338(a), and
3 pursuant to 17 U.S.C. § 410(d) and § 411, and supplemental jurisdiction over
4 Plaintiff's common law conversion and claim and delivery claims arising under
5 California law pursuant to 28 U.S.C. § 1367, because they flow from a common
6 nucleus of operative facts.

7 5. Venue lies within this District pursuant to 28 U.S.C. §1400, and is also
8 proper in this District pursuant to 28 U.S.C. § 1391 (b) and (c) because Defendants,
9 and each of them, are subject to personal jurisdiction in this District as a substantial
10 part of the events or omissions giving rise to the claims herein occurred in this
11 District. This Court also has jurisdiction and venue of this action under 15 U.S.C.
12 §1125 *et seq.*, 28 U.S.C. §§1331, 1338(a) and (b). Some of the key acts giving rise
13 to the claims asserted herein occurred in the County of Los Angeles, State of
14 California. The amount in controversy includes statutory damages for copyright
15 infringement of up to \$150,000 per violation, which Plaintiffs sustained in the
16 County of Los Angeles.

17 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

18 **THE PARTIES**

19 6. Plaintiff Kourtney Kardashian (“Kourtney”) is, and at all times relevant
20 hereto has been, an individual who is a citizen of and who is engaged in and doing
21 business in the County of Los Angeles, State of California.

22 7. Plaintiff Kimberly Kardashian (“Kim”) is, and at all times relevant
23 hereto has been, an individual who is a citizen of and who is engaged in and doing
24 business in the County of Los Angeles, State of California.

25 8. Plaintiff Khloé Kardashian Odom (“Khloé”) is, and at all times relevant
26 hereto has been, an individual who is a citizen of and who is engaged in and doing
27 business in the County of Los Angeles, State of California.

28 ///

1 9. Plaintiff Robert Kardashian, Jr. (“Robert”) is, and at all times relevant
2 hereto has been, an individual who is a citizen of and who is engaged in and doing
3 business in the County of Los Angeles, State of California.

4 10. Plaintiff Kris Jenner (“Jenner”) is, and at all times relevant hereto has
5 been, an individual who is a citizen of and who is engaged in and doing business in
6 the County of Los Angeles, State of California.

7 11. Plaintiffs are informed and believe and based thereon allege that
8 Defendant Ellen Pearson, also known as (a/k/a) Ellen Kardashian and a/k/a Ellen
9 Pierson (“Pearson”), is, and at all times relevant hereto has been, an individual who
10 is a citizen of and/or who is engaged in and doing business and commercial
11 activities in and causing a direct effect in the County of Los Angeles, and
12 throughout the State of California.

13 12. Plaintiffs are presently unaware of the true names and capacities of
14 Defendants sued herein as Does 1 through 10, inclusive, and therefore sues said
15 Defendants by such fictitious names. Plaintiffs will amend this Complaint to allege
16 the true names and capacities of such fictitiously named Defendants when the same
17 have been ascertained. Plaintiffs are informed and believe and based thereon allege
18 that each of the fictitiously named Defendants is responsible in some manner for the
19 occurrences, acts and omissions alleged herein and that Plaintiffs’ damages were
20 proximately caused by their conduct. Hereinafter all Defendants including Doe
21 Defendants will sometimes be referred to collectively as “Defendants.” For
22 convenience, each reference to a named Defendant herein shall also refer to the Doe
23 Defendants, and each of them, as applicable.

24 13. Plaintiffs are informed and believe and based thereon allege that at all
25 material times Defendants, and each of them, were the agents, employees, partners,
26 joint venturers, co-conspirators, owners, principals, and employers of the remaining
27 Defendants, and each of them, and are, and at all times herein mentioned were,
28 acting within the course and scope of that agency, employment, partnership,

1 conspiracy, ownership or joint venture. Plaintiffs are informed and believe and
2 based thereon allege that the officers, directors and/or managing agents of the
3 Defendant business entities, authorized, directed and/or ratified the wrongful acts
4 of the employees and representatives of said Defendants and, consequently, all of
5 said Defendants are jointly and severally liable to Plaintiffs.

6 **BACKGROUND AND NATURE OF THIS ACTION**

7 14. Kourtney Kardashian, Kimberly Kardashian, Khloé Kardashian Odom
8 and Robert Kardashian, Jr. (the “Kardashian Siblings”), and their mother Kris
9 Jenner, are successful business owners and internationally recognized media and
10 television personalities, including with their E! reality television series *Keeping Up*
11 *with the Kardashians*, and its subsequent spin-offs, including *Kourtney and Kim*
12 *Take New York* and *Kourtney and Kim Take Miami*.

13 15. Robert Kardashian was a successful attorney and businessman, who
14 gained national recognition as one of O. J. Simpson’s defense attorneys during the
15 latter’s 1995 criminal trial. Robert Kardashian’s first-wife was Kris Jenner
16 (formally Kris Kardashian), together with whom he has four children, Kourtney
17 Kardashian, Kimberly Kardashian, Khloé Kardashian Odom and Robert Kardashian,
18 Jr. In August 2003, less than two-months before his death from cancer (on Sept.
19 30, 2003), Robert Kardashian married his third-wife, Defendant Ellen Pearson.

20 16. At the time of his untimely passing, Robert Kardashian was in
21 possession of, among other property and assets, various tangible personal property,
22 including comprised of private writings about he and his family and photographs
23 capturing he and his family/children.

24 17. By written legal bequeath -- as contained in the “Will of Robert George
25 Kardashian” (the “Will”) and pursuant to the “Trust Agreement for the Robert
26 George Kardashian 2003 Trust” (the “Trust”) dated July 26, 2003 -- Robert
27 Kardashian expressly provided that “**all of [his] interest in his tangible personal**
28 **property, not effectively disposed of [pursuant to a specific itemized list], ... shall**

1 **be distributed by the Trustee outright to [his] children** who survive him, to be
2 divided among them, in equal shares, as they agree. ..." (Trust, Article 5).

3 18. The definition for "property", as specifically and identically set forth
4 in both the Will (pursuant to Article 9 - Definitions, Section 9.11 - Property) and
5 the Trust (pursuant to Article 20 - Definitions, Section 20.23 - Property), defines
6 both "*tangible*" and "*intangible*" property rights. "Tangible personal property"
7 "includes clothing, jewelry, and **other personal effects,**" "**books,**" "**works on**
8 **paper,**" and "**other items of ... personal use.**" And "intangible property"
9 "includes **rights in literary ... properties,** rights in works of art, ... **copyrights,**
10 **publishing rights,** and **rights to a deceased personality's name, voice, signature,**
11 **photograph,** or likeness."

12 19. Pursuant to the clear language of the Will and his express instruction,
13 Robert Kardashian "g[a]ve all of [his] interest in the residue of [his] estate,
14 including all [his] intangible property and tangible personal property ... to the
15 Trustee of the Trust, ..." for distribution pursuant thereto (Will, Article 4).
16 Further, pursuant to the Trust, the only real and personal property distributed to his
17 third-wife, Defendant Pearson, was that of Robert Kardashian's "real property
18 located ... [in] Indian Wells, CA" ... and his tangible personal property customarily
19 used with that real property owned by him at his death ..." and certain other items
20 only per an itemized list (Trust, Articles 5 and 6). The papers and writings which
21 comprise Robert Kardashian's Diary, as well as the Family Albums, did not and do
22 not constitute property customarily used *with* the real property at Indian Wells, such
23 as furniture and furnishings. And, unless specifically included on the separate list
24 of distribution of personal property attached to the Will, **no other** "tangible"
25 personal property was distributed to Defendant Pearson, and **no** "**intangible**"
26 personal property was distributed to Defendant Pearson.

27 / / /

28 / / /

1 20. Plaintiffs are informed and believe and based thereon allege that,
2 accordingly, the both the Diary and Family Albums and any intangible rights thereto
3 passed to and are incontestably the personal property of the Kardashian Siblings,
4 who therefore also jointly and equally own all right, title, interest and copyright in
5 the Diary pursuant to the wishes and the express written transfer pursuant to the
6 Will and Trust of their father, the late Robert Kardashian. Likewise, any copies of
7 photographs of the children/family and family photo albums which were in the
8 possession of Robert Kardashian also passed to and are owned wholly by his four
9 children, and any copyrights in any such photographs taken by Robert Kardashian
10 are now owned by the children through inheritance, or, as to those photographs
11 taken/captured by Kris Jenner of the children and/or of Robert Kardashian, remain
12 Kris Jenner's copyright.

13 21. Plaintiffs are further informed and believe and based thereon allege
14 that, at the time of his passing, Robert Kardashian was in possession of a copyright
15 protected photograph of and capturing Robert Kardashian with his children (some
16 of which were, at the time, minors) (the "Photograph") on or around Christmas
17 Eve, which was captured and created by Plaintiff Kris Jenner. Plaintiffs are further
18 informed and believe and based thereon allege that the physical copy of the
19 Photograph is the personal property of the Kardashian Siblings; and that the
20 copyright and all right, title and interest thereto in the Photograph is owned
21 exclusively by Kris Jenner.

22 **DEFENDANTS' HIDING THE EXISTENCE OF AND**
23 **SECRET POSSESSION OF PLAINTIFFS' PROPERTY**

24 22. Notwithstanding the express bequeathments pursuant to the Will and
25 Trust of Robert Kardashian, and Defendant's knowledge thereof, Defendant Pearson
26 sought to hold and hide or divert various property from the estate and proper
27 distribution for her own use and benefit. After Robert Kardashian's passing, as
28 instances of missing property came to light, Plaintiffs and the trustee had to

1 repeatedly request that Defendant Pearson return various property which she sought
2 to abscond with, convert and/or hide from.

3 23. Plaintiffs are further informed and believe and based thereon allege that
4 Defendant Pearson converted for her own use and benefit tangible and intangible
5 property, which were bequeathed by written instrument to and are the personal
6 property of the Kardashian Siblings.

7 24. Plaintiffs are informed and believe and based thereon allege that,
8 among property of which Defendant Pearson wrongfully held and abscond with,
9 Defendant Pearson held in secret the existence of and her possession of the Diary
10 and various photographs of and capturing Robert Kardashian with members of his
11 family. Plaintiffs are further informed and believe and based thereon allege that
12 Defendant Pearson also held in secret the existence of and her possession of a
13 copyright protected Photograph of and capturing Robert Kardashian and his (at the
14 time) minor children, which was created by Plaintiff Kris Jenner.

15 25. Plaintiffs are informed and believe and based thereon allege that
16 Defendant Pearson did so to with the express intent to one-day capitalize on and
17 exploit the valuable property and celebrity of the famous Robert Kardashian, and/or
18 to deprive the Kardashian Siblings of the benefit of private information and
19 memories about their father, family and lives as children, all contrary to the express
20 wishes and bequeathments of Robert Kardashian.

21 26. In or about January 2013, as further set forth hereinbelow, Plaintiffs
22 first learned of or had any knowledge of the existence of and Defendant Pearson's
23 secret possession of the Diary, Photograph and other wrongfully and secretly held
24 personal property of the Kardashian Siblings.

25 **PLAINTIFFS' CELEBRITY AND VALUABLE RIGHTS OF PUBLICITY**

26 27. Commencing from in or about 2007, the Kardashian Siblings, Kris
27 Jenner and their family rose to prominence and celebrity with their E! reality
28 television series *Keeping Up with the Kardashians*. Since that time, the Kardashian

1 and Jenner family celebrity has exponentially increased, and they have transcended
2 across reality television into scripted programs, fashion and various other
3 entertainment and business endeavors. The Kardashian family are well recognized
4 in pop-culture and most things “Kardashian” have become extremely valuable,
5 including with any and all stories, real and baseless fiction, sought after by the
6 media. Rarely a week goes by without numerous, often paid for, tabloid stories
7 related to one or more of the Kardashian Siblings, Kris Jenner and/or other
8 members of their family.

9 **PEARSON’S BANKRUPTCY AND ESTOPPEL OF OWNERSHIP CLAIM**

10 28. After years of unchecked spending and living off of her inheritance, and
11 amassing significant debt, including to her country club, in or about November
12 2010, Defendant Pearson filed for Chapter 7 bankruptcy in the United States District
13 Court for the Central District of California, in Riverside County, Case Number
14 1047447, captioned *In re Ellen June Kardashian*. The bankruptcy was discharged
15 in or about March 2011.

16 29. As part of the bankruptcy, Defendant Pearson was required by law, as
17 are all debtors, to list in statements under *penalty of perjury* all assets and property,
18 and value thereof, in her possession or ownership. Defendant Pearson did not
19 disclose nor list her possession of nor purported ownership of the valuable Diary
20 and/or Photograph and/or Kardashian Family Albums. Defendant Pearson failed
21 to list in her assets any copyrights and/or intangible intellectual property rights in
22 the Diary and/or Photograph, and the values thereof. Likewise, Defendant Pearson
23 did not disclose nor list her possession of nor purported ownership of other
24 photographs and personal property formally of Robert Kardashian which concerned
25 or captured images or information relating to the Kardashian Siblings and/or their
26 mother, including the Family Albums.

27 30. As part of the bankruptcy, to help reimburse her creditors, Defendant
28 Pearson did list and was divested from various other valuable assets, including

1 artwork, jewelry and her house in Indian Springs -- property which she had received
2 by bequeathment from Robert Kardashian.

3 31. Having failed to disclose or list the Diary and Photograph and Family
4 Albums as valuable assets and/or property in her possession or ownership,
5 Defendant Pearson is and/or should be estopped from now claiming any ownership
6 interest in the Diary and/or Photograph and Kardashian Family Albums, or other
7 valuable photographs and personal property which concerns or captures images or
8 information relating to the famous Kardashian Siblings and their family. Any such
9 claim or assertion now of ownership in the property in defense of this action would
10 constitute an admission that Defendant Pearson defrauded the Court and her
11 creditors in her bankruptcy action, as it would be tantamount to having hidden
12 extremely valuable assets and property from the estate.

13 **DEFENDANTS' WRONGFUL EXPLOITATION OF THE DIARY AND PHOTOGRAPHS**

14 32. In the after-math of Defendant Pearson's bankruptcy and on-going
15 financial woes, Defendant Pearson has repeatedly sought to sell (often false) tabloid
16 stories and Kardashian family photos to exploit and cash-in on Plaintiffs' celebrity
17 by means of her past connection to them through her brief 2003 marriage to Robert
18 Kardashian.

19 33. Plaintiffs are informed and believe and based thereon allege that, in or
20 about January 2013, without right, title or copyright in or to the property, Defendant
21 Pearson sought to peddle and exploit, and disclosed to tabloid and other media, the
22 private and valuable personal papers of Robert Kardashian referred to as the Diary,
23 as well as the Photograph and photographs from the Family Albums. In conjunction
24 with a paid interview and corresponding article, Defendant Pearson provided and
25 purported to have rights to and to license for publication portions of the Diary and
26 family photographs to Bauer Publishing LP, owner and publisher of the weekly
27 tabloid publications *in Touch Weekly* and *Life & Style*.

28 / / /

1 34. Defendant Pearson purported to license copyright in portions of the
2 Diary for use, publication, reproduction and dissemination, all without authorization
3 from the property holder's true owners and in violation of copyright. In connection
4 with Defendant Pearson's unauthorized exploitation of the Diary, excerpt portions
5 and content thereof were published: (i) in the February 4, 2013 issue of *In Touch*
6 magazine, in an article titled "The SECRET KARDASHIAN DIARIES" and
7 described as "A feature on the private journals of the late Robert Kardashian that
8 expose how Kris Jenner treated her daughters including Khloé Kardashian" (the
9 "Feb 4th *In Touch* Article"); and also (ii) in the February 4, 2013 issue of *Life &*
10 *Style* magazine, in an article titled "More Heartbreak for Khloé: Secret Kardashian
11 Diaries Revealed" and described as "Feature on the life struggles of the Kardashians
12 including Khloé Kardashian" (the "Feb 4th *Life & Style* Article"); and also (iii) in
13 the February 11, 2013 issue of *In Touch* magazine, in an article titled "The
14 Kardashian Diaries -Part 2-, Kim, Kourtney and Khloé: It's Worst than They
15 Know" (the "Feb 11th *In Touch* Article") (collectively, the "Articles"). A copy of
16 the Photograph was published in the February 11th *In Touch* Article. Reprints of
17 certain Kardashian family photographs, including ones from the Family Albums,
18 also appeared in the Articles.

19 35. It was only as a result of the publication by Bauer Publishing LP in its
20 tabloids of portions of the Diary, and the Photograph, that Plaintiffs discovered the
21 existence of and Defendant Pearson's secret possession and unlawful conversion of
22 the Diary and related intellectual property rights.

23 36. In or about March 2013, Plaintiffs learned that, without right, title or
24 copyright in or to the property, Defendant Pearson has sought to and intends to
25 further peddle and exploit the private and Diary and personal writings of Robert
26 Kardashian, along with various Kardashian family photographs. Plaintiffs are
27 informed and believe and based thereon allege that Bauer Publishing LP intends to
28 and/or has now licensed from Defendant Pearson for publication and public

1 possession of the Diary, kept the same hidden from knowledge of existence from
2 Plaintiffs, and has converted the property for her own use and commercial gain.
3 Plaintiffs are informed and believe and allege that Defendant Pearson has received
4 tens-of-thousands of dollars for license, publication and use of the Diary and Family
5 Albums -- property which Pearson does not own or hold rights therein.

6 44. After learning of the existence of the property and Pearson's possession
7 of, conversion of and intended and actual exploitation thereof, in March 2013,
8 Plaintiffs demanded the immediate return of the Diary. Notwithstanding the
9 demands for the return of any and all copies of the Diary, Defendant(s) has failed
10 and refused to return the property and continued to wrongfully retain the property
11 for her own use, exploitation and benefit.

12 45. As a direct and proximate result of Defendants' wrongful conversion
13 of the Diary, Photograph and Family Albums, and related property, Plaintiffs have
14 been damaged in an amount that is not yet fully ascertainable but which is believed
15 to be in excess of Five Hundred Thousand Dollars (\$500,000). When Plaintiffs
16 have ascertained the full amount of their damages, they will seek leave of court to
17 amend this Complaint accordingly.

18 46. Between the time of Defendants' conversion of the Diary and
19 Photograph, Family Albums and related property and the filing of this lawsuit,
20 Plaintiffs have expended time and money in legal fees and costs in pursuit of the
21 return of the converted property, all to Plaintiffs' further damage in an amount
22 according to proof at trial.

23 47. Plaintiffs are informed and believe and based thereon allege that the
24 aforementioned acts of Defendants, and each of them, were done intentionally or
25 with a conscious and reckless disregard of Plaintiffs' rights, and with the intent to
26 vex, injure or annoy Plaintiffs, such as to constitute oppression, fraud, or malice,
27 thus entitling Plaintiffs to exemplary and punitive damages in an amount appropriate
28 to punish or set an example of Defendants, and each of them, and to deter such

1 conduct in the future, the exact amount of such damages subject to proof at trial.

2 48. No adequate remedy exists at law for the injustices suffered by
3 Plaintiffs herein, insofar as further harm will result to Plaintiffs from Defendants'
4 wrongful act of conversion of the Diary, Photograph and Family Albums and related
5 property absent injunctive relief. Absent granting injunctive relief of the type and
6 for the purpose specified herein, Plaintiffs will suffer irreparable injury. Therefore,
7 in addition to the award for damages set forth herein, Plaintiffs request the following
8 injunctive relief, an Order:

9 (a) Prohibiting Defendants, and each of them, and their officers,
10 directors, stockholders, owners, agents, partners, servants, employees,
11 representatives and attorneys, and all those in active concert or participation with
12 Defendants, or each of them, and all others, including any third-party publication
13 or website provider, who receive notice of this order, from selling or licensing,
14 offering to sell or license, facilitating the sale or licensing of, disseminating,
15 transferring, publishing, syndicating, displaying, posting for view or access on or
16 through the Internet or in any other manner or media outlet, broadcasting or
17 otherwise using or exploiting or attempting to exploit the Diary and Family Albums,
18 or any information contained therein, whether in electronic or hard-copy form or
19 in any other manner or via any other outlet;

20 (b) Directing Defendants to recall, retrieve and obtain the Diary and
21 Family Albums, and any and all copies thereof, in any format or medium, from any
22 persons or entities who received possession of any of said material from any of the
23 Defendants or any of their agents or representatives, and to deliver to Plaintiffs'
24 counsel, all copies of the Diary and Family Albums, and any and all copies and
25 portions thereof;

26 (c) Directing Defendants to give notice to any and all persons and
27 entities who have copies of any part of the Diary and/or Family Albums, received
28 by/through Defendants, that they are enjoined by Court Order from using,

1 displaying, posting for view or access on the Internet or in any other manner or in
2 any other format or medium, publishing, distributing, transferring or exploiting the
3 Diary and/or Family Albums and/or portions thereof pending further Order of this
4 Court, and provide a copy of each said notice to Plaintiffs' counsel; and

5 (d) Directing Defendants to deliver and turn-over to Plaintiffs'
6 counsel to hold and maintain possession of, all copies of the Diary and Family
7 Albums, and any portions thereof, in any format or medium, which are in their
8 possession, custody or control, or in the control of any of their officers, directors,
9 owners, agents, partners, servants, employees, representatives and attorneys.

10

11 **SECOND CLAIM FOR RELIEF**

12 **Copyright Infringement [17 U.S.C. § 101 *et. seq.*]**

13 **(By Plaintiffs the Kardashian Siblings, Against All Defendants)**

14 49. Plaintiffs repeat, reallege and incorporate each and every allegation
15 contained in Paragraphs 1 through 39, and 41 through 44, inclusive, as though fully
16 set forth herein.

17 50. Plaintiffs, the Kardashian Siblings, are jointly and equally the sole
18 owners of all right, title and interest in the copyright to the Diary, and the physical
19 embodiment(s) thereof. The subject work of this claim has been properly and fully
20 submitted in the Kardashian Siblings' names to the U.S. Copyright Office
21 ("USCO") for copyright registration.

22 51. Plaintiffs, the Kardashian Siblings, are informed and believe and
23 thereon allege that Defendants, and each of them, have copied, commercially used,
24 exploited, attempted to sell/license and disseminated the copyrighted Diary.

25 52. Defendants' copying of, commercial use, exploitation, attempts to
26 license or sell and dissemination of the copyrighted materials is unauthorized.
27 Defendants' unauthorized use, commercial use, exploitation, licensing, attempts to
28 license or sell and dissemination of the Diary and any physical embodiment thereof

1 constitutes an infringement of the Kardashian Siblings' rights, including of the Diary
2 copyright, and of the copyright laws.

3 53. Defendants have infringed the Kardashian Siblings' exclusive copyrights
4 in and to the Diary directly and indirectly by reproduction of the copyrighted work,
5 causing the copyrighted work to be copied and distributed, and by the preparation
6 of derivative works, all without the consent of the Kardashian Siblings.

7 54. As a direct and proximate result of Defendants' infringing activities, the
8 Kardashian Siblings have sustained and will continue to sustain substantial injury,
9 including damage to their business and to their personal reputations in an amount not
10 yet known but to be determined according to proof at trial. As a further direct and
11 proximate result of the infringement by Defendants, they have unlawfully and
12 wrongfully derived income and profits from their infringing acts.

13 55. The Kardashian Siblings lack an adequate remedy at law.

14 56. Plaintiffs, the Kardashian Siblings, are informed and believe and on that
15 basis allege that Defendants had prior knowledge of the Kardashian Siblings' rights
16 and, therefore, Defendants' infringing activities are willful and wanton, entitling the
17 Kardashian Siblings to an award of attorneys' fees and the costs of this action.

18 57. Pursuant to 17 U.S.C. § 502, Plaintiffs, the Kardashian Siblings, are
19 entitled to an order enjoining Defendants' from infringing Plaintiffs' copyright;
20 pursuant to 17 U.S.C. § 503, Plaintiffs are entitled to an order impounding all
21 copies of the infringing articles; and pursuant to 17 U.S.C. § 504, Plaintiffs are
22 entitled to recover actual damages from Defendants' infringement and Defendants'
23 profits attributable to their infringing conduct. Pursuant to 17 U.S.C. § 505,
24 Plaintiffs are also entitled to recover the full costs of bringing this action and their
25 reasonable attorney's fees.

26 58. Plaintiffs have suffered irreparable harm and will continue to be
27 irreparably injured unless Defendants' infringement is enjoined by this Court.

28

1 **THIRD CLAIM FOR RELIEF**

2 **Copyright Infringement [17 U.S.C. § 101 *et. seq.*]**

3 **(By Plaintiff Jenner, Against All Defendants)**

4 59. Plaintiffs repeat, reallege and incorporate each and every allegation
5 contained in Paragraphs 1 through 39, and 41 through 44 inclusive, as though fully
6 set forth herein.

7 60. Plaintiff Jenner is the sole owner of all right, title and interest in the
8 copyright to the Photograph, with the physical embodiment thereof which is in the
9 possession of Pearson owned by the Kardashian Siblings. The subject work of this
10 claim has been properly and fully submitted in Jenner's to the U.S. Copyright Office
11 ("USCO") for copyright registration.

12 61. Plaintiff Jenner is informed and believes and thereon alleges that
13 Defendants, and each of them, have copied, commercially used, exploited,
14 attempted to sell/license and disseminated the copyrighted Photograph.

15 62. Defendants' copying of, use, commercial use, exploitation, attempts to
16 license or sell and dissemination of the copyrighted materials is unauthorized.
17 Defendants' unauthorized copying of, use, commercial use, exploitation, licensing,
18 attempts to license or sell and dissemination of the Photograph and any physical
19 embodiment thereof constitutes an infringement of Plaintiff's rights, including of the
20 Photograph's copyright, and of the copyright laws.

21 63. Defendants have infringed Plaintiff's exclusive copyrights in and to the
22 Diary directly and indirectly by reproduction of the copyrighted work, causing the
23 copyrighted work to be copied and distributed, and by the preparation of derivative
24 works, all without the consent of Plaintiff.

25 64. As a direct and proximate result of Defendants' infringing activities,
26 Plaintiff has sustained and will continue to sustain substantial injury, including
27 damage to her business and to her personal reputation in an amount not yet known
28 but to be determined according to proof at trial. As a further direct and proximate

1 result of the infringement by Defendants, they have unlawfully and wrongfully
2 derived income and profits from their infringing acts.

3 65. Plaintiff lacks an adequate remedy at law.

4 66. Plaintiff is informed and believes and on that basis alleges that
5 Defendants had prior knowledge of Plaintiff's rights and, therefore, Defendants'
6 infringing activities are willful and wanton, entitling Plaintiff to an award of
7 attorneys' fees and the costs of this action.

8 67. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to an order enjoining
9 Defendants' from infringing Plaintiff's copyright; and pursuant to 17 U.S.C. § 504,
10 Plaintiff is entitled to recover actual damages from Defendants' infringement and
11 Defendants' profits attributable to their infringing conduct. Pursuant to 17 U.S.C.
12 § 505, Plaintiff is also entitled to recover the full costs of bringing this action and
13 her reasonable attorney's fees.

14 68. Plaintiff has suffered irreparable harm and will continue to be
15 irreparably injured unless Defendants' infringement is enjoined by this Court.

16

17

FOURTH CLAIM FOR RELIEF

18

Claim and Delivery

19

(By Plaintiffs the Kardashian Siblings, Against All Defendants)

20

21 69. Plaintiffs repeat, reallege and incorporate each and every allegation
22 contained in Paragraphs 1 through 39, 41 through 44 and 50 through 58, inclusive,
23 as though fully set forth herein.

23

24 70. Plaintiffs were at all times relevant hereto, and still are, entitled to the
25 possession of the tangible personal property defined herein as the Diary and the
26 Family Albums, and any and all copies and portions thereof.

26

27 71. While the Diary has little intrinsic value in and of itself, based on
28 information and belief, the value of the substance of the writings therein have a
value through the right to control and license or limit license for publication thereof,

1 in an estimated value of potentially in excess of one hundred thousand dollars.

2 72. While the Family Albums have little intrinsic value in and of itself,
3 based on information and belief, the value of the substance of the photographs therein
4 have a value through the right to control or license or limit license for publication
5 thereof, in an estimated value of potentially in excess of a hundred thousand dollars.

6 73. Defendants have no interest in the personal private Diary of the
7 Kardashian Siblings' father, nor any portion thereof, nor of the Family Albums.
8 Upon or after the death of the Kardashian Siblings' father, Defendant(s) wrongfully
9 and without Plaintiffs' consent took possession of the Diary without Plaintiffs'
10 knowledge, and has since that time maintained in secrecy and hidden from Plaintiffs
11 the existence of the Diary and Defendants' possession thereof. Defendant Pearson
12 hid the existence of and her possession of the valuable Diary and other property,
13 include hiding said properties from and not listing them as assets through the course
14 of her bankruptcy, filed in November 2010 and discharged in 2011. Since the date
15 Defendant clandestinely obtained the Diary, until January of 2013 when the
16 existence of Plaintiffs' property was revealed to be in Defendants' possession,
17 Defendants have been, and now are, in wrongful possession of the property in
18 violation of Plaintiffs' rights. Plaintiffs are, and at all times mentioned herein were,
19 entitled to the immediate and exclusive possession of the tangible personal property
20 described herein, and the property is being wrongfully withheld by the Defendants.

21 74. As a proximate result of, Defendants' wrongful possession and
22 detention of the personal property described above, Plaintiffs suffered damages,
23 according to proof at trial, for the loss of the use of their personal property.

24 75. There is a probability of "immediate danger" that the property will be
25 transferred, concealed, or may become substantially impaired in value by
26 Defendants publication of a copy of the property or portions thereof. Plaintiffs are
27 entitled to a writ of possession for seizure and return of the Diary, Photograph,
28 Family Albums, and any tangible copies thereof, including any electronic files and

1 stored copies.

2 76. Plaintiffs are informed and believe and based thereon allege that the
3 aforementioned acts of Defendants, and each of them, were done intentionally or
4 with a conscious and reckless disregard of Plaintiffs' rights, and with the intent to
5 vex, injure or annoy Plaintiffs, such as to constitute oppression, fraud, or malice,
6 thus entitling Plaintiffs to exemplary and punitive damages in an amount appropriate
7 to punish or set an example of Defendants, and each of them, and to deter such
8 conduct in the future, the exact amount of such damages subject to proof at the time
9 of trial.

10
11 **FIFTH CLAIM FOR RELIEF**

12 **For Accounting**

13 **(By All Plaintiffs, Against All Defendants)**

14 77. Plaintiffs repeat, reallege and incorporate each and every allegation
15 contained in Paragraphs 1 through 39, 41 through 44, 50 through 58 and 60 through
16 63, inclusive, as though fully set forth herein.

17 78. Plaintiffs are informed and believe on that basis alleges that the
18 Defendants, and each of them, have received profits by virtue of their wrongful
19 conduct, as herein alleged.

20 79. Plaintiffs are entitled to that portion of Defendants' profits attributable
21 to the unauthorized commercial use, dissemination and exploitation of the Diary and
22 Photograph and Family Albums, including from the sale or license or publication
23 thereof, as well as from and through any ad-revenue streams generated through sale
24 of any publications and/or the operation of their websites and all increased traffic
25 and views of their websites. The amount of these profits is presently unknown and
26 cannot be ascertained without an accounting. The accounting will show any profits
27 due and owing to Plaintiffs based on Defendants' unlawful conduct.

28

1 **SIXTH CLAIM FOR RELIEF**

2 **For Imposition of Constructive Trust**

3 **(By All Plaintiffs, Against All Defendants)**

4 80. Plaintiffs repeat, reallege and incorporate each and every allegation
5 contained in Paragraphs 1 through 39, 41 through 44, 50 through 58, 60 through 63
6 and 77 through 78, inclusive, as though fully set forth herein.

7 81. As alleged hereinabove, Defendants, and each of them, have
8 wrongfully misappropriated, and/or permitted or participated in the unauthorized
9 use, commercial use, licensing and exploitation of the Diary and Photograph and
10 Family Albums, including from the sale or license or publication thereof, for
11 purposes of inter alia obtaining an interview or license fee and/or soliciting sales of
12 Defendants' goods, merchandise and services and traffic to Defendants' websites,
13 all for commercial purposes and to increase Defendants' profits.

14 82. Plaintiffs are informed and believe and based thereon allege that as a
15 result of the aforesaid wrongful acts of Defendants, and each of them, Defendants
16 have realized profits and otherwise received payments and other valuable
17 consideration, and have been unjustly enriched at the expense of Plaintiffs, and may
18 continue to receive profits, payments and other valuable consideration in the future
19 from their unauthorized use, commercial use, licensing and exploitation of the Diary
20 and Photograph and Family Albums and of the related property.

21 83. As a direct and proximate result of Defendants' wrongful conduct as
22 alleged hereinabove, Defendants, and each of them, hold any and all monies
23 deriving from the unauthorized use, commercial use, licensing and exploitation and
24 exploitation of the Diary and Photograph and Family Albums and of the related
25 property, plus interest on said amount, as involuntary constructive trustees in
26 constructive trust for Plaintiffs.

27 / / /

28 / / /

1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, Plaintiffs Kourtney Kardashian, Kimberly Kardashian,
3 Khloé Kardashian Odom, Robert Kardashian, Jr., and Kris Jenner pray for
4 judgment against Defendant Ellen Pearson, and Does 1 through 10, as said plaintiff
5 and defendant(s) is specifically named and listed for the respective Claim for Relief,
6 as follows:

7 **AS TO THE FIRST CLAIM FOR RELIEF (FOR CONVERSION):**

8 1. For an award of general and special damages against Defendants, and
9 each of them, jointly and severally, for the value of the property converted, in an
10 amount in excess of the jurisdictional limits of this Court that is not yet fully
11 ascertainable, but believed to be not less than Five Hundred Thousand (\$500,000)
12 Dollars, in accordance with proof at trial, together with interest thereon at the legal
13 rate;

14 2. For damages for the proximate and foreseeable loss resulting from
15 Defendants' conversion in a sum according to proof at the time of trial, together
16 with interest thereon at the legal rate;

17 3. For punitive and exemplary damages;

18 4. For an order for the following preliminary and permanent injunction,
19 as set forth hereinabove in the First Claim For Relief.

20 **AS TO THE SECOND CLAIM FOR RELIEF (FOR VIOLATION OF**
21 **COPYRIGHT):**

22 5. Treble damages in an amount equivalent to three (3) times Defendants'
23 profits, or actual damages, whichever is greater, plus costs of suit, pursuant to 15
24 U.S.C. §1117(a);

25 6. For an order declaring that Defendants hold such profits in trust for
26 Plaintiffs;

27 7. For a preliminary and permanent injunction enjoining the use, copying,
28 sale, licensing, display, dissemination and distribution of the Diary and/or any

1 related property and any goods and services appropriating Plaintiffs' copyrights by
2 Defendants;

3 8. Attorneys' fees and costs, pursuant to 17 U.S.C. §§502-505;

4 **AS TO THE THIRD CLAIM FOR RELIEF (FOR VIOLATION OF**
5 **COPYRIGHT):**

6 9. Treble damages in an amount equivalent to three (3) times Defendants'
7 profits, or actual damages, whichever is greater, plus costs of suit, pursuant to 15
8 U.S.C. §1117(a);

9 10. For an order declaring that Defendants hold such profits in trust for
10 Plaintiff;

11 11. For a preliminary and permanent injunction enjoining the use, copying,
12 sale, licensing, display, dissemination and distribution of the Photograph and/or any
13 related property and any goods and services appropriating Plaintiffs' copyrights by
14 Defendants;

15 12. Attorneys' fees and costs, pursuant to 17 U.S.C. §§502-505;

16 **AS TO THE FOURTH CLAIM FOR RELIEF (FOR CLAIM AND**
17 **DELIVERY):**

18 13. For an order for the return to and possession by Plaintiffs of the Diary
19 and any tangible copies thereof, including any electronic files and stored copies;

20 14. For an order for the return to and possession by Plaintiffs of the Family
21 Albums and any tangible copies thereof, including any electronic files and stored
22 copies;

23 15. For an award of general and special damages against Defendants, and
24 each of them, jointly and severally, for the loss of use and damages to the value of
25 the property, in a sum according to proof at the time of trial, together with interest
26 thereon at the legal rate;

27 16. For punitive and exemplary damages;

28 / / /

1 **AS TO THE FIFTH CLAIM FOR RELIEF (FOR ACCOUNTING):**

2 17. A full and complete accounting from Defendants, and each of them,
3 concerning all monies or other things of value received by Defendants, and any of
4 them, directly and/or indirectly in connection with their wrongful exploitation of the
5 Diary and Photograph and Family Album, and any related or derivative copies or
6 portions thereof, without Plaintiffs' consent;

7 18. A full and complete accounting from Defendants, and each of them,
8 concerning all monies or other things of value received by Defendants, directly
9 and/or indirectly in connection with their wrongful use, license, sale and/or
10 exploitation of any of the Diary and Photograph and Family Album, and any related
11 or derivative copies or portions thereof;

12 **AS TO THE SIXTH CLAIM FOR RELIEF (FOR CONSTRUCTIVE TRUST):**

13 19. For the imposition of a constructive trust such that all sums and
14 consideration unlawfully obtained by Defendants are held by Defendants as
15 constructive trustees for Plaintiffs;

16 **AS TO ALL CAUSES OF ACTION:**

17 20. For costs of suit herein;

18 21. For reimbursement to Plaintiffs of attorneys' fees, as provided by law;

19 22. For interest on the above-requested damages and at the maximum legal
20 rate as provided by law; and

21 23. For such other additional relief as the Court deems just and proper.

22 Respectfully submitted,

23 DATED: April 4, 2013

24 LAVELY & SINGER
25 PROFESSIONAL CORPORATION
26 MARTIN D. SINGER
27 EVAN N. SPIEGEL

28 By: 

MARTIN D. SINGER

Attorneys for Plaintiffs, Kourtney Kardashian,
Kimberly Kardashian, Khloé Kardashian
Odom, Robert Kardashian, Jr., and Kris Jenner

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REQUEST FOR JURY TRIAL

Plaintiff hereby demands a jury trial pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Respectfully submitted,

DATED: April 4, 2013

LAVELY & SINGER
PROFESSIONAL CORPORATION
MARTIN D. SINGER
EVAN N. SPIEGEL

By: 

MARTIN D. SINGER

Attorneys for Plaintiffs, Kourtney Kardashian,
Kimberly Kardashian, Khloé Kardashian
Odom, Robert Kardashian, Jr., and Kris Jenner