

SEP 22 2006

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7 SHANA HIATT

INITIAL CASE MANAGEMENT REVIEW
AND CONFERENCE

Judge Joseph S. Biderman

JAN 10 2007

Def C
8:30 AM

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF LOS ANGELES - WEST DISTRICT

10

11 SHANA HIATT, an individual,)

CASE NO.

SC091169

12 Plaintiff,)

COMPLAINT FOR:

13 v.)

(1) DECLARATORY RELIEF;

14 WPT ENTERPRISES, INC., a Delaware)
15 corporation; STEVE LIPSCOMB, an)
individual; and DOES 1 through 10,)
16 inclusive,)

(2) INTENTIONAL INTERFERENCE
WITH PROSPECTIVE ECONOMIC
ADVANTAGE; AND

17 Defendants.)

(3) TEMPORARY RESTRAINING
ORDER AND PRELIMINARY AND
PERMANENT INJUNCTIVE RELIEF

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21 Plaintiff Shana Hiatt ("Plaintiff") alleges as follows:

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THE NATURE OF THIS ACTION

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1. This action was necessitated by the wrongful conduct of Defendants WPT Enterprises, Inc. ("WPT") and Steve Lipscomb ("Lipscomb"), which has unlawfully interfered with the right of television host and actress, Plaintiff Shana Hiatt ("Plaintiff"), to pursue employment in the television industry. Citing an illegal and unenforceable non-compete clause in a draft of an agreement that Plaintiff never signed, WTP and Lipscomb have threatened Plaintiff and her future employers with legal action in the event that Plaintiff appears on a poker-

1 themed television program produced by someone other than WPT, and engaged in various anti-
2 competitive acts in violation of Business & Professions Code Section 16600 and California's
3 strong public policy favoring an individual's right to pursue any lawful employment and
4 enterprise of her choice. Because of Defendants' insistence on engaging in this wrongful
5 scheme, Plaintiff seeks (a) a declaration that the non-compete clause asserted by WPT is illegal
6 and unenforceable, (b) injunctive relief to prevent Defendants from unlawfully interfering with
7 Plaintiff's right to seek gainful employment, and (c) monetary damages attributable to
8 Defendants' conduct.

9 **THE PARTIES**

10 2. Plaintiff is now, and at all times material hereto has been, a resident of Los
11 Angeles, California, residing within the West District of the Los Angeles Superior Court.

12 3. Plaintiff is informed and believes and thereon alleges that Defendant WPT is now,
13 and at all times material hereto has been, a Delaware corporation with its principal place of
14 business in Los Angeles County, California, and that WPT was formerly known and conducted
15 business as World Poker Tour, LLC.

16 4. Plaintiff is informed and believes and thereon alleges that Defendant Steve
17 Lipscomb is now, and at all times material hereto has been, a principal of WPT and an individual
18 residing in Los Angeles County, California.

19 5. Plaintiff is ignorant of the true names and capacities of the defendants sued herein
20 as Does 1 through 10, inclusive, and therefore sues said defendants by such fictitious names.

21 Plaintiff will amend this Complaint to allege the true names and capacities of such fictitiously
22 named defendants when the same have been ascertained. Plaintiff is informed and believes and
23 based thereon alleges that each of the fictitiously named defendants is responsible in some
24 manner for the occurrences, acts and omissions alleged herein and that Plaintiff's damages were
25 proximately caused by their conduct.

26 6. Defendants WPT, Lipscomb and Doe Defendants 1 through 10 shall sometimes be
27 collectively referred to as the "Defendants."

28 7. Plaintiff is informed and believes and thereon alleges that Defendants were the

1 agents, employees, partners, joint venturers, co-conspirators, owners, principals, and employers
2 of the remaining Defendants, and are and at all times herein mentioned were acting within the
3 course and scope of that agency, employment, partnership, conspiracy, ownership or joint
4 venture.

5 8. Plaintiff is informed and believes and based thereon alleges that WPT was and is
6 completely owned, controlled, dominated, used, managed and operated by and on behalf of
7 Lipscomb, and that WPT intermingled its assets and identities with Lipscomb to such an extent
8 that WPT is the alter ego of Lipscomb, and is merely a shell company by which Lipscomb
9 conducts business. Plaintiff is further informed and believes and thereon alleges that WPT failed
10 to maintain a separate and distinct corporate identity such that adherence to the fiction of the
11 separate existence of WPT would promote injustice and sanction fraud upon Plaintiff.

12 **THE FACTS LEADING TO THIS DISPUTE**

13 9. On or about June 20, 2003, Plaintiff entered into a written agreement entitled
14 "Television Player Agreement - Nonunion - Direct" with World Poker Tour, LLC, later known as
15 WPT Enterprises, Inc. ("WPT"), to appear in a television series airing on the Travel Channel
16 entitled *World Poker Tour* (the "Agreement"). A true and correct copy of the Agreement is
17 attached as Exhibit "A" hereto. The Agreement provided, among other things, that it was for a
18 one-year term commencing June 20, 2003, and that WPT had five options, each for an additional
19 year of Plaintiff's services on the World Poker Tour program, which were exercisable not later
20 than 12 weeks after the expiration of the term.

21 10. WPT subsequently exercised its first option for an additional, second year of
22 Plaintiff's services under the Agreement for the period between June 20, 2004 and June 19, 2005.
23 On or about January 26, 2005, WPT exercised its option for a third year of Plaintiff's services
24 under the Agreement, for the period from June 20, 2005 through June 19, 2006.

25 11. During the production of *World Poker Tour* in early 2005, Plaintiff became aware
26 that defamatory statements were being made about her and her husband by the brother of a senior
27 executive of WPT. Plaintiff's counsel drafted and sent on February 10, 2005 a letter demanding
28 that the brother of the WPT executive cease and desist from communicating further false and

1 defamatory statements. After this letter was delivered, Plaintiff began experiencing harassment
2 and a deliberate attempt by WPT representatives to make her extremely uncomfortable during
3 production of *World Poker Tour* episodes. The conduct of WPT and its representatives created a
4 hostile work environment.

5 12. Because of the actions of the WPT representatives and the hostile environment
6 that Plaintiff was experiencing, Plaintiff approached Defendant Steve Lipscomb, a principal of
7 WPT, in the spring of 2005 and told Lipscomb that Plaintiff needed to leave the show. Lipscomb
8 informed Plaintiff that WPT and Lipscomb would allow Plaintiff to leave.

9 13. WPT never exercised its option for a fourth year of Plaintiff's services under the
10 Agreement, although—under the terms of the Agreement—its option had to be exercised on or
11 before September 11, 2006. Accordingly, the Agreement expired by its terms.

12 14. Beginning in the spring of 2005, counsel for Plaintiff and counsel for WPT began
13 negotiating over the possibility of a written release and settlement agreement between the parties.
14 A true and correct copy of a draft of this agreement is attached as Exhibit "B" hereto ("the
15 Release"). Plaintiff never reviewed in detail or signed any draft of the Release. Meanwhile,
16 WPT hired one or more replacements for Plaintiff on *World Poker Tour*.

17 15. In 2006, Plaintiff was approached by and has engaged in discussions with NBC
18 Universal, Inc. ("NBC") regarding potential employment to appear in two poker-related
19 television shows in development at NBC, entitled *Poker After Dark* and *Heads Up Poker*
20 *Championship*. However, in August and September 2006, Lipscomb on behalf of WPT and
21 himself individually, contacted NBC and informed NBC that Plaintiff was prohibited from
22 working for NBC or from appearing in any poker-related television show because WPT
23 contractually controls Plaintiff's rights. WPT through Lipscomb has represented to third parties
24 that WPT "owns [Plaintiff] in poker." Plaintiff is informed and believes that Defendants are
25 relying on an illegal and unenforceable "non-compete" clause contained in Paragraph 4 of the
26 draft Release that was discussed between counsel for the parties but never signed (see Exhibit
27 "B").

28 16. Plaintiff has already been replaced as the host of the *World Poker Tour* program

1 produced by WPT. Courtney Friel was initially hired as a host to replace her. Plaintiff is
2 informed and believes that Ms. Friel was subsequently fired and replaced by a third female host
3 for future episodes.

4 **FIRST CAUSE OF ACTION**

5 **(Against All Defendants For Declaratory Relief)**

6 17. Plaintiff repeats, realleges, adopts and incorporates by reference each and every
7 allegation contained in Paragraphs 1 through 16, inclusive, as though fully set forth herein.

8 18. An actual dispute and controversy has arisen and exists between Plaintiff, on the
9 one hand, and Defendants, on the other hand, in that Plaintiff contends, among other things, as
10 follows:

11 (a) That the purported exclusivity/non-compete clause contained in Paragraph
12 4 of the draft Release is illegal and unenforceable pursuant to California Business & Professions
13 Code Section 16600 and other applicable law;

14 (b) That Defendants are not entitled to enforce the provisions of Paragraph 4
15 of the draft Release against Plaintiff in the event that Plaintiff obtains employment on a future
16 television program, or any other future employment whatsoever;

17 (c) That Plaintiff is not legally prohibited by the terms of any agreement with
18 WPT from pursuing future employment endeavors, including employment as a host of a poker-
19 related television program; and

20 (d) That Defendants failed to timely exercise the option on Plaintiff's services
21 under the Agreement.

22 19. Plaintiff is informed and believes and thereon alleges that Defendants dispute the
23 contentions of Plaintiff as described above and contend that Plaintiff is bound by the provisions
24 of Paragraph 4 of the draft Release, and that the provisions of Paragraph 4 of the draft Release
25 are binding and enforceable under California law.

26 20. A judicial declaration is necessary and appropriate at this time in order that
27 Plaintiff may ascertain the respective rights, responsibilities and obligations of the parties
28 pursuant to their written agreements, including but not limited to the Release. Plaintiff requests

1 that the Court enter a judgment declaring the parties' respective rights, responsibilities and
2 obligations in connection with the allegations and contentions described above.

3 **SECOND CAUSE OF ACTION**

4 **(Against All Defendants For Intentional Interference**

5 **With Prospective Economic Advantage)**

6 21. Plaintiff repeats, realleges, adopts and incorporates by reference each and every
7 allegation contained in Paragraphs 1 through 16, inclusive, as though fully set forth herein.

8 22. At all relevant times, Defendants knew of the prospective employment of Plaintiff
9 with NBC as described above, which was likely to result in employment and financial gain for
10 Plaintiff.

11 23. In August and September 2006, including on or about September 19, 2006, WPT
12 through its chief executive officer, Defendant Lipscomb, contacted NBC and informed NBC that
13 Plaintiff was precluded from working for NBC or from appearing in any poker-related television
14 shows. WPT through Lipscomb has informed third parties that it "owns [Plaintiff] in poker."
15 Plaintiff is informed and believes that Defendants are relying on the illegal and unenforceable
16 "non-compete" clause, which constitutes an element of "wrongfulness" independent of the
17 interference with Plaintiff's prospective economic advantage.

18 24. As a direct and proximate result of Defendants' conduct as alleged above, Plaintiff
19 has sustained damages in a sum in excess of the jurisdictional minimum of this Court, the exact
20 amount of which will be proven at the time of trial.

21 25. The conduct of Defendants as alleged herein was willful and intentional and
22 undertaken with fraud, oppression and malice and with a conscious disregard of the rights of
23 Plaintiff. Accordingly, Plaintiff is entitled to an award of exemplary or punitive damages against
24 Defendants in an amount to be determined at trial.

25 **THIRD CAUSE OF ACTION**

26 **(For Temporary Restraining Order and Preliminary and Permanent Injunctive Relief)**

27 26. Plaintiff repeats, realleges, adopts and incorporates by reference each and every
28 allegation contained in Paragraphs 1 through 16, 18 through 20, 22 and 23, inclusive, as though

1 fully set forth herein.

2 27. The actions of Defendants as alleged hereinabove have caused, and unless
3 restrained and enjoined by the Court, will continue to cause, great and irreparable harm to
4 Plaintiff which cannot adequately be measured or compensated by money alone.

5 28. By reason of the foregoing, Plaintiff is entitled to a temporary restraining order
6 and preliminary and permanent injunctive relief enjoining Defendants and any and all of their
7 agents, servants, assigns and all others acting in concert with and/or on behalf of Defendants, or
8 having knowledge or notice of the injunction, from engaging in any conduct seeking to prevent
9 or prohibit Plaintiff from seeking employment with a third party other than WPT.

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PRAYER

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WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

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ON THE FIRST CAUSE OF ACTION:

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1. For a declaration of the parties' respective rights, responsibilities and obligations
15 with respect to their written agreements including, but not limited to, the Release, including a
16 declaration as follows:

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(a) That the purported exclusivity/non-compete clause contained in Paragraph
18 4 of the draft Release is illegal and unenforceable pursuant to California Business & Professions
19 Code Section 16600 and other applicable law;

20

(b) That Defendants are not entitled to enforce the provisions of Paragraph 4
21 of the draft Release against Plaintiff in the event that Plaintiff obtains employment on a future
22 television program, or any other future employment whatsoever;

23

(c) That Plaintiff is not legally prohibited by the terms of any agreement with
24 WPT from pursuing future employment endeavors, including employment as a host of a poker-
25 related television program; and

26

(d) That Defendants failed to timely exercise the option on Plaintiff's services
27 under the Agreement.

28

2. For a temporary restraining order and preliminary and permanent injunctive relief

1 enjoining and restraining Defendants from engaging in any conduct seeking to prevent or prohibit
2 Plaintiff from seeking employment with a third party other than WPT;

3 **ON THE SECOND CAUSE OF ACTION:**

- 4 3. For compensatory damages in an amount according to proof at trial;
5 4. For a temporary restraining order and preliminary and permanent injunctive relief
6 enjoining and restraining Defendants from engaging in any conduct seeking to prevent or prohibit
7 Plaintiff from seeking employment with a third party other than WPT;
8 5. For punitive or exemplary damages according to proof at trial;

9 **ON THE THIRD CAUSE OF ACTION:**

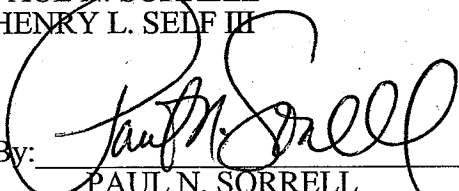
- 10 6. For a temporary restraining order and preliminary and permanent injunctive relief
11 enjoining and restraining Defendants from engaging in any conduct seeking to prevent or prohibit
12 Plaintiff from seeking employment with a third party other than WPT;

13 **ON ALL CAUSES OF ACTION:**

- 14 7. For interest at the maximum rate allowable by law;
15 8. For costs of suit incurred herein; and
16 9. For such other and further relief as the Court may deem appropriate.

18 DATE: September 22, 2006

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22 By: 
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