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Superior Court of California
County of Los Angeles

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES

10 ERIC FULLER, on behalf of himself and all
11 others similarly situated,

12 Plaintiff,

13 v.

14 SCOREBIG, INC. A DELAWARE
15 CORPORATION ; and DOES 1 through 1000,
16 Defendants.

Case No.

BC 6 3 5 7 3 3

**CLASS ACTION COMPLAINT
FOR RELIEF BASED UPON THE
FOLLOWING:**

1. Negligence;
2. Negligent Misrepresentation;
3. Intentional Misrepresentation;
4. Conversion;
5. Breach of Contract;

**UNLIMITED JURISDICTION
PUNITIVE DAMAGES REQUESTED**

18 Plaintiff, on behalf of himself and all others similarly situated, alleges as follows:

19 **NATURE AND BASIS OF CLAIMS**

20 1. This lawsuit arises out of Defendant ScoreBig, Inc.'s ("ScoreBig") and Does 1-1000, and each
21 of them receiving payment from its customers by selling tickets consigned to it by ticket brokers
22 without paying the brokers for the tickets sold. Ticket brokers use computerized point of sale
23 systems to continuously update markets such as ScoreBig, StubHub, Vivid Seats and TicketsNow as
24 to which tickets are offered for sale and at what price. Typically, the broker is paid for the tickets
25 sold through a particular market upon delivery of the tickets. Because most tickets are electronically
26 delivered, a majority of such sales result in near instant delivery of tickets.

27 2. ScoreBig and Does -1000, and each of them sells, or has a role in selling, tickets to consumers
28 who pay for those tickets by credit card. Thus, depending on the arrangement ScoreBig has with the

1 company which processes the credit card charges, Scorebig collects the proceeds of sale within a day
2 or two.

3 3. ScoreBig, like other markets, pays the brokers whose tickets sold through its market upon
4 delivery of the tickets from the broker to ScoreBig either through electronic transfer of a .PDF ticket
5 or by shipment of physical tickets on a commercial carrier such as Federal Express or UPS using a
6 prepaid shipping airbill provided and tracked by ScoreBig.

7 4. Throughout 2016 ScoreBig, and defendants 1-1000, and each of them, has/have delayed
8 payment to the ticket brokers for the tickets which were sold through its market. Upon information
9 and belief, on Friday, September 23, 2016 ScoreBig laid off most of its staff as a result of what has
10 been portrayed in various media outlets as a "liquidity crisis."

11 5. Upon information and belief, instead of paying the ticket brokers whose tickets were sold by
12 ScoreBig, ScoreBig and Does 1-1000, and each of them, used the proceeds of sales to pay its own
13 operating expenses or to pay for tickets sold in other transactions.

14 6. Upon information and belief, ScoreBig and Does 1-1000, and each of them, concealed the
15 practice of using proceeds of selling a particular broker's tickets for purposes other than paying the
16 broker who provided the tickets sold.

17 7. By this action, Plaintiff, on behalf of himself and all others similarly situated, seeks redress
18 for all harm caused by ScoreBig's, and directly or indirectly by Does 1-1000's, failure to pay brokers
19 for the tickets sold and received from ticket brokers.

20 **PARTIES**

21 8. Plaintiff Eric Fuller is a California resident who is over the age of 21, is a ticket broker, and
22 is the owner of Fullatickets.

23 9. On information and belief, at all times relevant herein, Defendant ScoreBig, Inc. was a
24 Delaware corporation doing business in California.

25 10. The true names and capacities of Does 1 through 1000 are unknown to Plaintiff. When their
26 true names and capacities are ascertained, Plaintiff will amend this complaint. Plaintiff is informed
27 and believes, and on that basis alleges, each of the fictitiously named defendants is responsible in
28 some way for the occurrences herein alleged, and those defendants proximately caused Plaintiff and

1 the other putative class member's damages. Each reference in this complaint to "defendant,"
2 "defendants," or a specifically named defendant refers to all defendants including those defendants
3 sued under fictitious names.

4 11. Unless otherwise alleged, whenever reference is made in this complaint to any act of
5 "defendant," "defendants," or a specifically named defendant, such allegation shall mean that each
6 defendant acted individually and jointly with the other defendant(s) named in the complaint.

7 12. Unless otherwise alleged, whenever reference is made in this complaint to any act or
8 omission of any corporate or business defendant, such allegation shall mean that such corporation or
9 other business defendant committed or omitted to act as in this complaint through its officers,
10 directors, employees, agents, and/or representatives while they were acting within the actual or
11 apparent scope of their authority.

12 13. At all relevant times alleged herein, each defendant acted as an agent, representative, partner,
13 joint venturer, employee, assistant, or aide of each of the other defendants and has acted within the
14 course and scope of said agency, representation, partnership, or joint venture.

15 JURISDICTION AND VENUE

16 14. This court has subject matter jurisdiction over this matter pursuant to Article VI,
17 section 10 of the California Constitution because this action is a cause not given by statute to other
18 trial courts, and seeks (among other relief) money damages in excess of \$50,000. Subject matter
19 jurisdiction is further premised on allegations contained in this complaint that defendants, and each
20 of them, committed one or more of the following: negligence, negligent misrepresentation,
21 intentional misrepresentation, conversion, and breach of contract.

22 15. This court has personal jurisdiction over Defendant(s) in this action because
23 Defendant(s) do/does sufficient business in California and has/have sufficient minimum contacts in
24 California to render the exercise of personal jurisdiction over it/them by California courts consistent
25 with traditional notions of fair play and substantial justice.

26 16. Venue is proper in this court because the causes of action alleged herein occurred, at
27 least in part, in Los Angeles County, Los Angeles, California.

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1 CLASS ALLEGATIONS

2 17. Plaintiff brings this Class Action on behalf of himself and on behalf of all other
3 persons similarly situated, defined as follows:

4 All ticket brokers who delivered ticket inventory to defendants, and each of them, who
5 were not compensated for the ticket inventory they provided to defendants in accordance
6 with the terms of the contract between said ticket brokers and defendants, and each of
7 them.

8 18. This action has been brought and may properly be maintained pursuant to Code of
9 Civil Procedure section 382 because:

10 (a) The members of the Class are so numerous it would be impracticable to join them all
11 individually in a single action. The Class is believed to number as many as several thousand
12 members. If the court determines notice to be necessary or appropriate, members of the Class may
13 be notified of the pendency of this action by mail, supplemented or substituted by published notice.

14 (b) Common questions of law and fact exist as to all members of the Class. These
15 questions predominate over any questions which affect only the individual members of the Class.
16 These common legal and factual questions include:

- 17 (1) Whether Defendants, and each of them, were negligent in accepting
18 ticket inventory from plaintiff and the putative class without the ability
19 to pay plaintiff and the putative class for said ticket inventory;
- 20 (2) Whether Defendants, and each of them, negligently misrepresented to
21 plaintiff and the putative class they would pay plaintiff and the
22 putative class for said ticket inventory;
- 23 (3) Whether Defendants, and each of them, intentionally represented to
24 plaintiff and the putative class they would pay plaintiff and the
25 putative class for said ticket inventory;
- 26 (4) Whether Defendants, and each of them, converted ticket inventory of
27 plaintiff and the putative class;
- 28 (5) Whether Defendants, and each of them, breached their contracts with
plaintiff, and the putative class when they accepted ticket inventory

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from plaintiff and the putative class and did not pay plaintiff and the putative class for said ticket inventory.

19. Plaintiff's claims are typical of those of the proposed Class. Like the members of the proposed Class, Plaintiff is a ticket broker who provided ticket inventory who was unpaid by defendants, and each of them, for said ticket inventory. Plaintiff and the members of the proposed Class are similarly situated and were similarly harmed by the same course of unlawful conduct alleged herein. Plaintiff and the members of the proposed Class have sustained the same form of harm arising out of Defendants' violations of California law as alleged herein.

20. Plaintiff will fairly and adequately protect the interests of the members of the Class. Plaintiff is a member of the proposed Class and has no interests adverse to the interests of the proposed Class. Plaintiff is interested in and prays to be fairly compensated for ticket inventory provided to Defendants, and each of them. Plaintiff, and all members of the proposed class, were similarly harmed by Defendants, and each of their, failure to pay for ticket inventory provided to Defendants, and each of them. This harm to Plaintiff and members of the proposed class provides Plaintiff with a substantial stake in this action and the motivation to prosecute it vigorously for him and the proposed Class. Plaintiff has retained experienced and competent counsel familiar with class actions, and the laws alleged to have been violated, and intends to pursue this action vigorously.

21. A class action is superior to other available methods for the fair and efficient adjudication of the litigation because individual joinder of all members of the Class is impracticable. The actual damages suffered by each individual member of the Class are relatively small given the expense and burden of individual prosecution of an individual action. Thus, it would be virtually impossible for the members of the Class to individually redress the wrongs done to them. Even assuming members of the proposed Class could themselves afford to individually litigate individual actions against Defendants, and each of them, such litigation would constitute a highly avoidable inefficiency in the administration of justice by the courts. Further, individualized litigation presents the potential for inconsistent or contradictory judgments.

22. In engaging in the wrongful conduct alleged herein, Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final relief with

1 respect to the Class as a whole, and making appropriate class certification under Code of Civil
2 Procedure section 382 and any other relevant provisions of other statutes alleged herein.

3 **FIRST CAUSE OF ACTION**

4 **Negligence against Defendant ScoreBig, Inc. and Does 1-1000, and each of them**

5 23. Plaintiff incorporates in this cause of action the allegations contained in each and
6 every preceding paragraph of this complaint as if they were set out at length herein.

7 24. Defendants, and each of them, had a duty to Plaintiff and members of the proposed
8 class to act as a reasonably prudent business and/or individual to avoid creating an unjustifiable risk
9 of harm to Plaintiff.

10 25. Defendants, and each of them, breached that duty by accepting ticket inventory from
11 Plaintiff and the proposed class and not paying for said inventory.

12 26. Defendants, and each of their, breach of duty, as alleged herein were the actual and
13 legal cause of harm to plaintiff and the proposed class.

14 27. Defendant's breach of duty to plaintiff and the proposed class was a substantial factor
15 in causing plaintiff and the proposed class harm in an amount to be proved at trial but in excess of
16 the jurisdictional minimums of this court.

17 **SECOND CAUSE OF ACTION**

18 **Negligent Misrepresentation against ScoreBig, Inc. and Does 1-1000 and each of them**

19 28. Plaintiff incorporates in this cause of action the allegations contained in each and
20 every preceding paragraph of this Complaint as if the same were set out at length herein.

21 29. Defendant ScoreBig, Inc., and Does 1-1000, and each of them, represented to
22 Plaintiff and the putative class that ScoreBig, Inc. and Does 1-1000, and each of them, would
23 compensate Plaintiff and the putative class for ticket inventory provided to defendants, and each of
24 them. This representation was an important fact.

25 30. The representation made by ScoreBig, Inc., and Does 1-1000, and each of them to
26 Plaintiff and the putative class was they would compensate Plaintiff and the putative class for ticket
27 inventory plaintiffs provided to defendants, and each of them.

28

1 inventory with a promise to pay plaintiff and the putative class for all ticket inventory sold and then
2 failed to pay plaintiff and the putative class for said ticket inventory.

3 47. Plaintiff and the putative class did not consent not to be paid for ticket inventory
4 provided to and sold by defendant ScoreBig, Inc., and Does 1-1000.

5 48. Plaintiff and the putative class were harmed by defendants' conduct as alleged herein.

6 49. Defendants ScoreBig, Inc. and Does 1-1000's conduct was a substantial factor in
7 causing Plaintiff and the putative class' harm the exact amount of which is unknown at this time but
8 which is in excess of the jurisdictional minimum of this court.

9 **FIFTH CAUSE OF ACTION**

10 **Breach of Contract against ScoreBig, Inc. and Does 1-1000**

11 50. Plaintiff incorporates in this cause of action the allegations contained in each and
12 every preceding paragraph of this Complaint as if the same were set out at length herein.

13 51. Plaintiff and the putative class entered into a contract with defendant ScoreBig, Inc.
14 and Does 1-1000.

15 52. Said contract required plaintiff and the putative class to provide ticket inventory to
16 ScoreBig, Inc. and Does 1-1000 and in exchange ScoreBig, Inc. and Does 1-1000 would pay
17 Plaintiff and the putative class money for all ticket inventory sold by defendants.

18 53. Plaintiff and the putative class did all, or substantially all, of the significant things the
19 contract required of them when they provided available ticket inventory to defendants.

20 54. Defendants, and each of them, failed to do something that the contract required,
21 namely pay Plaintiff and the putative class once ticket inventory provided to defendants by Plaintiff
22 and the putative class was sold by defendants.

23 55. The actions by defendants, and each of them, of not paying Plaintiff and the putative
24 class for ticket inventory provided to defendants by Plaintiff and the Putative class and subsequently
25 sold by Defendants, and each of them, caused Plaintiff and the putative class harm in an amount not
26 yet determined but in excess of the jurisdictional minimum of this court.

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28 **PRAYER FOR RELIEF**

1 WHEREFORE, Plaintiff prays for the following relief on behalf of himself and all others similarly
2 situated:

3 1. For an order certifying the proposed Class under California Code of Civil Procedure
4 section 382; appointing Plaintiff and his counsel to represent the Class; and directing that reasonable
5 notice of this action be given to the Class by Defendant;

6 2. For actual damages;

7 3. For punitive damages;

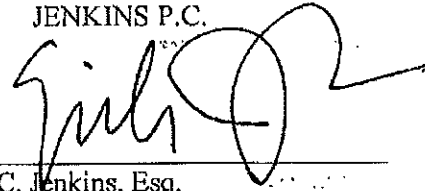
8 4. For costs incurred herein, including attorneys' fees allowable by statute, including but
9 not limited to Code of Civil Procedure section 1021.5; and

10 5. For such other and further legal and equitable relief as this court may deem proper.

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12 Dated: September 28, 2016

JENKINS P.C.



By:

Erik C. Jenkins, Esq.
Attorneys for Plaintiff

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