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**FILED**  
 Superior Court of California  
 County of Los Angeles

DEC 05 2017

Shari R. Wilton, Executive Officer/Clerk  
 By:  Deputy  
 Shari R. Wilton

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 13 **FOR THE COUNTY OF LOS ANGELES**  
 14 **CENTRAL DISTRICT**

15 MICHAEL BARNES, an individual; and  
 16 MICHAEL BARNES LAW FIRM, a professional  
 17 corporation,

18 Plaintiff,

19 vs.

20 ZOSEA ASP HOLDINGS, LLC, a Delaware  
 21 limited liability company; PAUL SPEAKER, an  
 22 individual; TERRANCE HARDY, an individual;  
 23 JONATHAN MILLER, an individual; JAMS, INC.,  
 24 a Delaware corporation; and DOES 1 through 20  
 25 inclusive,

26 Defendants,

Case No.: **BC 685618**

**COMPLAINT for:**

- 27 **(1) DECLARATORY RELIEF**
- 28 **(2) INJUNCTIVE RELIEF**

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1 Plaintiffs, Michael Barnes and Michael Barnes Law Firm P.C. (collectively us, "Barnes" or  
2 "Plaintiffs"), allege:

3 **INTRODUCTORY ALLEGATIONS:**

4 1. This is a story of naked greed and orchestrated concealment. Defendants Zosca,  
5 Paul Speaker and Terrance Hardy have hit a turbo run in a venture they invested no money in. In a  
6 flurry of insider transactions, they attempted to eat out a minority block of three people who own  
7 5% of the company. Defendant Jonathan Miller approved these insider transactions.

8 2. Michael Barnes and his law firm represented a company called Zosca Media  
9 Holdings Inc., which was a start-up owned by defendants Paul Speaker and Terrance Hardy. In  
10 December 2013, Barnes expertly closed a complicated deal for Zosca Media whereby Zosca  
11 Media acquired the world professional surfing league (now called the World Surf League) with  
12 \$25 million invested by a Forbes 400 billionaire in a simultaneous transaction. Paul Speaker and  
13 Terrance Hardy remained as controlling owners and managers of the new Zosca joint venture with  
14 the billionaire who invested all \$25 million of its capitalization. It was a massive success for  
15 Zosca, Paul Speaker and Terrance Hardy, and it made worldwide headlines. The billionaire was so  
16 impressed with Barnes' work that he declared that Barnes was one of "the most quietly impressive  
17 and productive professionals I have encountered in my career."

18 3. In 2016, Zosca announced that its World Surf League was being combined with the  
19 Kelly Slater Wave Company, which was co-owned by Terrance Hardy and the same billionaire  
20 who had funded Zosca. Once combined, the billionaire investor would have invested  
21 approximately \$50 million into the combined company, and it was natural that he expected Zosca  
22 to relinquish its voting control over the combined venture. An investment bank appraised the value  
23 of the combined surf league-wave pool venture at \$600 million, which resulted in Zosca's 50%  
24 share now being worth \$100 million to \$300 million, depending upon dilution. It was another big  
25 success for defendants Zosca, Paul Speaker, Terrance Hardy and Zosca's chairman Jonathan  
26 Miller.

27 4. Defendant Paul Speaker had been serving as the CEO of the World Surf League  
28 that was owned by Zosca and the billionaire, but in 2016 Paul Speaker was terminated by the

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1 billionnaire, with the approval of defendants Terrance Hardy and Jonathan Miller. Defendant Paul  
2 Speaker negotiated an exit deal for himself, the key terms of which included his sale of 60% of his  
3 Zosca stake back to Zosca, with Zosca then reducing its ownership share in the surf league in  
4 exchange for a \$12 million cash payment from the billionnaire. Zosca then gave that \$12 million to  
5 Paul Speaker. Defendants Terrance Hardy and Jonathan Miller approved the sale.

6 5. A year earlier, Michael Barnes and two other persons had been admitted as small  
7 equity owners of the Zosca venture. They had contractual rights to be bought out upon a change of  
8 control of Zosca or Zosca's subsidiaries, and also the right to tag-along in exit sales such as Paul  
9 Speaker's exit sale of 60% of his Zosca stake. This posed an expensive problem for Terrance  
10 Hardy and Jonathan Miller, who didn't want their new wave pool merger deal with the billionnaire  
11 to be upset, and also for Paul Speaker, who was being terminated and did not want to reduce his  
12 \$12 million cash buyout for part of his Zosca share. Defendants decided to circumvent the  
13 minority owners' rights to choose to exit at that \$600 million combined value, which would have  
14 required that Zosca (or the billionnaire funding the combination) pay at least \$5 million to the  
15 Zosca minority holders (including Barnes).

16 6. Defendants Terrance Hardy and Paul Speaker were each "conflicted" as to their  
17 self-dealing transactions with the wave pool merger and Paul Speaker's exit package, and they and  
18 Zosca owed Michael Barnes (and the other Zosca minority owners) a duty of "fairness". But rather  
19 than heeding their fiduciary duty of entire fairness, defendants instead elected to by pass the  
20 minority owners. Defendants concealed from Michael Barnes (and the other Zosca minority  
21 owners) that a change of control was occurring, and concealed Paul Speaker's exit deal. Instead  
22 breaking Paul Speaker's sale of his Zosca stake into discrete parts that would be revealed  
23 piecemeal over time, to side-step the minority's rights to exit along with Paul Speaker. This  
24 scheme not only breached defendants' contract with their minority members, but also violated  
25 their legal obligation of "fairness" owed to the minority members, including Michael Barnes.

26 7. Michael Barnes attempted for almost a year to get defendants to provide the  
27 contractually and legally required information regarding Zosca which would have revealed the  
28 self-dealing transactions, to no avail. In September 2017, Michael Barnes commenced a

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1 confidential arbitration against defendants to obtain the concealed documents and reports owed by  
 2 defendants to the Zosca members. Defendants' response was not to defend the merit of their  
 3 actions, but rather to allege that Michael Barnes was not entitled to any documents because of  
 4 some nebulous "malpractice" and "conflict" by Barnes, claims which of course were never made to  
 5 Barnes before, and only raised years later when defendants were faced with the legal obligation to  
 6 produce evidence that would expose their self-dealing transactions and their schemes against the  
 7 Zosca minority owners. Barnes had stopped representing Zosca long before he was admitted as a  
 8 Zosca member, and had completely complied with all ethical rules when he was Zosca's counsel.  
 9 Further, Michael Barnes' admission as an owner was negotiated and papered by Zosca's big-firm  
 10 independent legal counsel, which to this date still represents Zosca.

11 8. Defendants' "malpractice" and "conflict" claims are mere red herrings to divert  
 12 attention from their schemes of concealment and breach of their duties owing to Michael Barnes.

13 9. This suit seeks to dismiss defendants' specious allegations that they have filed in a  
 14 confidential arbitration.

15 **JURISDICTION**

16 10. This matter arose as a result of the cross-claim for legal malpractice and fiduciary  
 17 breach improperly filed by defendants Zosca ASP Holdings, LLC, Paul Speaker, Terrance Hardy,  
 18 and Jonathan Miller in the arbitration proceeding currently pending before the Honorable Terry  
 19 Friedman (Ret.) at JAMS, Reference No. 1210034620 (the "Arbitration Proceeding").

20 11. Jurisdiction over this proceeding is based on Code of Civil Procedure section  
 21 410.10. Michael Barnes is admitted to practice law in California. Michael Barnes Law Firm PC is  
 22 a California professional corporation situated in the county of Los Angeles, State of California.  
 23 Legal services provided by Barnes to Zosca ASP Holdings, LLC arose in the county of Los  
 24 Angeles, State of California. Barnes' alleged acts and/or omissions, if any, giving rise to Zosca  
 25 ASP Holdings, LLC's purported legal malpractice claim occurred in the county of Los Angeles,  
 26 State of California.

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1       12. All rights, obligations, and/or duties sued upon between the parties were made and  
2 entered into and were performed in the county of Los Angeles, State of California.

3   PARTIES

4       13. Plaintiff Michael Barnes is an individual residing in the county of Los Angeles,  
5 State of California at all relevant times alleged in this action.

6       14. Plaintiff Michael Barnes Law Firm P.C. is a California corporation with its  
7 principal place of business at 100 Wilshire Blvd., Suite 700, Santa Monica, CA 90401 qualified to  
8 do and doing business in California at all relevant times alleged in this action.

9       15. Defendant Zosca ASP Holdings, LLC is a Delaware Limited Liability Company  
10 not registered with the California Secretary of State or qualified to do business in California, but  
11 which has an office and conducts business in California located at 147 Bay Street, Santa Monica,  
12 CA 90405.

13       16. Defendant Paul Speaker is an individual residing in the county of Los Angeles,  
14 State of California at all relevant times alleged in this action.

15       17. Defendant Terrance Hardy is an individual residing in the county of Los Angeles,  
16 State of California at all relevant times alleged in this action.

17       18. Plaintiffs are informed and believe and thereon allege that defendant Jonathan  
18 Miller is an individual residing in the county of Los Angeles, State of California at all relevant  
19 times alleged in this action.

20       19. Defendant JAMS, Inc. is a Delaware corporation registered with the California  
21 Secretary of State to do business and doing business in California with a headquarters located at  
22 18881 Von Karman Ave., Suite 350, Irvine, CA 92612.

23       20. Plaintiffs are informed and believe and based thereon allege that each of the  
24 fictionally named defendants is responsible in some manner for the acts described herein and that  
25 any loss suffered by Plaintiffs was proximately caused by such defendants' acts. When Plaintiffs  
26 ascertain the true names and capacities of the Doe defendants, Plaintiffs will, if necessary, amend  
27 this complaint to include their true names and capacities.

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**GENERAL ALLEGATIONS**

1  
 2           21. The Barnes Law Firm represented a company called Zosea Media Holdings Inc.  
 3 ("Zosea, Inc."), a Delaware corporation which was formed in 2012 and owned and managed by  
 4 defendants Paul Speaker and Terrance Hardy. In December 2012, Barnes expertly consummated a  
 5 complicated acquisition and funding for Zosea, Inc. and its controlled subsidiaries, by which a  
 6 Forbes 400 billionaire invested \$25 million in a subsidiary of Zosea Inc. in order to buy the "ASP"  
 7 professional surf league (now called the World Surf League), with Paul Speaker and Terrance  
 8 Hardy remaining in place as controlling owners of the venture despite their not having invested  
 9 any money in such venture. It was a massive success for Zosea, Paul Speaker, and Terrance  
 10 Hardy. Barnes was paid a cash fee for his work. Terrance Hardy and Paul Speaker induced Barnes  
 11 (and two other persons) to perform work in part with promises of an equity interest in the venture.  
 12 Defendant Jonathan Miller had funded seed capital for a small equity interest in the Zosea venture.

13           22. On December 7, 2012, a certificate of formation of Zosca ASP Holdings, LLC  
 14 ("Zosca ASP") was filed with the Delaware Secretary of State. However, Zosca ASP is not and  
 15 has never been registered or qualified to do business in California.

16           23. In June 2012, Zosea Inc. entered into a term sheet with the billionaire whereby the  
 17 billionaire would invest \$25 million into a venture controlled by Defendants Speaker and Hardy,  
 18 which venture would purchase the ASP professional surf league. In December 2012, Zosca ASP  
 19 entered into a joint venture agreement with an affiliate of such billionaire; that joint venture  
 20 company is called "ASP Holdings LLC." Concurrently in December 2012, ASP Holdings LLC  
 21 acquired the world professional surf league, then called the Association of Surfing Professionals  
 22 but later renamed the World Surf League. Barnes Law Firm handled the legal aspects of the  
 23 acquisition of the league, as well as the joint venture terms between Zosea and the billionaire.

24           24. Following the successful December 2012 acquisition and funding closing, Barnes  
 25 performed some limited post-closing work for Zosca ASP, specifically negotiating and finalizing a  
 26 long form ASP Holdings LLC operating agreement between Zosca ASP and the billionaire. That  
 27 post-closing work was completed in January 2014, and Michael Barnes Law Firm's engagement  
 28 terminated shortly thereafter when Zosea retained the 120-person law firm Bremer Whyte Brown

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1 & O'Meara ("Bremer Whyte") as counsel.

2 25. Before and upon Barnes' termination of its legal services, Barnes provided a  
3 number of written conflict notices to defendants Terrance Hardy and Paul Speaker and their Zosea  
4 affiliates with respect to the organizational structuring of Zosea Inc. and its subsidiaries, and  
5 Barnes insisted that the Zosea group engage independent counsel on the matter because of  
6 Speaker's and Hardy's inducements to give Barnes a small piece of equity. Concurrently with  
7 Barnes' services terminated in early 2014, Barnes provided to Zosea and its new counsel an  
8 internal initial draft of an operating agreement that would dove-tail with the just-completed  
9 operating agreement of the joint venture subsidiary, ASP Holdings LLC (which was the entity  
10 with the billionaire).

11 26. At Barnes' insistence and occasioned by his termination of representation, in April  
12 2014, Defendants Zosea, Paul Speaker and Terrance Hardy engaged a new law firm, Bremer  
13 Whyte, for all matters pertaining to their Zosea venture. Such Bremer Whyte confirmed directly to  
14 Barnes that it had been engaged to take over the Zosea matters.

15 27. As of April 2014, Barnes no longer represented Zosea Inc., Zosea ASP or any  
16 related company or person, or any other Defendant.

17 28. Bremer Whyte took over the drafting of the Zosea organizational agreement.

18 29. For the remainder of 2014 and through 2015, Bremer Whyte completely  
19 restructured the contemplated corporate structure of the Zosea group. Barnes no longer  
20 represented the Zosea group in any manner, and Barnes was not involved in such restructuring by  
21 Brown Whyte and others

22 30. In early 2015, Michael Barnes inquired of Zosea as to the status of the Zosea  
23 agreements being prepared by Zosea and its legal counsel Bremer Whyte. In May 2015 (over a  
24 year after Barnes's representation had terminated), Michael Barnes received a draft operating  
25 agreement prepared by Bremer Whyte, which proposed to issue to Michael Barnes a membership  
26 interest in Zosea ASP Holdings, LLC.

27 31. In mid-July 2015, Zosea's law firm Bremer Whyte again asked Michael Barnes for  
28 his signature on its proposed operating agreement for Zosea ASP that Bremer Whyte had drafted.



1 Michael Barnes (as a prospective member being offered a membership interest) advised  
 2 defendants and Bremer Whyte that he disagreed with certain buy-sell and tag-along provisions that  
 3 Bremer Whyte and Zosea ASP had drafted into the proposed agreement. Michael Barnes also  
 4 objected that the draft had been dispatched to him, with changes having apparently been  
 5 concealed, because they did not appear in any marked copy. Negotiations between Michael Barnes  
 6 and the Bremer Whyte law firm ensued, and later in July 2015, Bremer Whyte dispatched a  
 7 revised draft to Michael Barnes with changes. Such final version of the operating agreement of  
 8 Zosea ASP was signed by Michael Barnes and returned to Bremer Whyte in late July 2015.  
 9 approximately 15 months after Barnes' representation of Zosea or any affiliates had ceased.

10 32. Upon receiving Michael Barnes's signature, the Bremer Whyte attorney advised  
 11 Michael Barnes that the attorney would obtain the signatures of Zosea ASP and its managers and  
 12 the other new members, and that he would revert to Michael Barnes with such countersigned  
 13 copies. Michael Barnes never received any such countersigned copies. However, Michael Barnes  
 14 did receive a "K-1" from Zosea ASP in September 2015, leading Michael Barnes to assume that  
 15 the Zosea ASP operating agreement that he had signed, had been signed by all other persons and  
 16 that Michael Barnes had been admitted as a member of Zosea ASP. The operating agreement of  
 17 Zosea ASP that was provided by Bremer Whyte to Michael Barnes in late July 2015, and the  
 18 Zosea ASP K-1 received by Michael Barnes a few months later, listed Michael Barnes as a 3%  
 19 member of Zosea ASP. Accordingly, Michael Barnes became a member of Zosea ASP Holdings  
 20 LLC sometime between late July 2015 and later in 2015 when the other Zosea ASP parties signed  
 21 the operating agreement, at least 15 months after Barnes had stopped representing any Zosea  
 22 entity.

23 33. Following press reports in May 2016 that ASP Holdings had combined with the  
 24 Kelly Slater Wave Company, and Michael Barnes' receipt of a hare-homes sale notice from  
 25 defendants on October 5, 2016, Michael Barnes attempted to obtain information and documents  
 26 that Zosea was obligated to provide to Michael Barnes. Michael Barnes' efforts were rebuffed by  
 27 defendants, and Michael Barnes was forced to commence an arbitration proceeding in September  
 28 2017 pursuant to paragraph 10.10 of the Zosea ASP operating agreement, for the limited purpose

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1 of obtaining the financial information and documentation that Zosca ASP was obliged to provide  
2 to all of its members, including Michael Barnes.

3 34. Rather than Defendants complying with their duties and obligations to provide the  
4 requested information, Defendants responded in the arbitration by accusing Barnes of legal  
5 malpractice, conflict of interest and breach of fiduciary duty for having become a member of  
6 Zosca ASP. Zosca ASP seeks to rescind Michael Barnes' 3% interest in the Zosca ASP, despite  
7 the fact that Barnes did not represent of Zosca ASP when he was admitted as a member. Further,  
8 Barnes had never represented the three individual defendants suing Barnes for malpractice and  
9 conflict – Paul Speaker, Terrance Hardy, or Jonathan Miller. In addition, Barnes obtained a written  
10 waiver from Zosca in 2013, when he still represented the company, and over the course of many  
11 months while Barnes represented the company, Barnes issued over a half dozen written conflict  
12 notices to Zosca, Paul Speaker and Terrance Hardy prior to the April 2014 termination of Barnes'  
13 representation. Further, as a direct result of Barnes' written notices to the Defendants, including  
14 that they obtain new independent counsel to structure Zosca's affairs and admit members,  
15 Defendants did engage new counsel - Bremer Whyte - who actively structured the Zosca group of  
16 companies for almost a year and a half, and negotiated with the four persons (Michael Barnes,  
17 Jonathan Miller and two other minority members) who were to be admitted to Zosca ASP as  
18 minority members, as to the terms of their admission and the members' rights with respect to their  
19 admission. Defendants' legal malpractice and conflict of interest claims against Barnes are a  
20 transparent attempt to conceal defendants' wrongful scheme.

21 35. Paragraph 10.10 of Zosca ASP Holdings, LLC's operating agreement entitled  
22 Arbitration of Disputes; Jurisdiction, states:

23 10.10.1 Any claim, dispute, disagreement or matter in question  
24 with respect to this Agreement shall be referred to and finally  
25 resolved by binding arbitration administered by JAMS and  
26 conducted pursuant to its Comprehensive Arbitration Rules and  
27 Procedures by one arbitrator appointed in accordance with such  
28 rules, who shall be a former judge. The arbitrator shall apply the  
Expedited Procedures in such rules. The place of arbitration shall  
be Los Angeles County, California. This clause shall not preclude  
parties from seeking provisional remedies in aid of arbitration from  
a court of appropriate jurisdiction.

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1 [Emphasis added.]

2 36. The arbitration provision in the Zoseca ASP operating agreement is limited to those  
 3 claims that are "with respect to" the agreement. This provision does not include any and all  
 4 matters whatsoever between the parties, and Zoseca ASP's legal malpractice claims – however  
 5 specious – against Barnes all pre-date the late July 2015 consummation of the operating  
 6 agreement, and do not concern the agreement itself. Moreover, the Barnes Law Firm was never a  
 7 party to the operating agreement, and there is no basis to apply the arbitration provision to an  
 8 uninvolved, third party. Simply put, as specifically set forth in Barnes' response filed with JAMS  
 9 dated November 29, 2017 (see Exhibit A, attached hereto), the arbitration provision does not apply  
 10 to Zoseca ASP's legal malpractice claims against Barnes. Barnes did not agree to arbitrate any legal  
 11 malpractice claims between the parties. The arbitration is an improper forum to determine the  
 12 legal malpractice claims. The arbitrator has no jurisdiction to determine this issue. Therefore,  
 13 Zoseca ASP Holdings, LLC must be enjoined from proceeding further with its improperly filed  
 14 counter-claim for legal malpractice against Barnes.

15 37. Michael Barnes Law Firm, PC is not a party to the Zoseca ASP operating  
 16 agreement.

17 **FIRST CAUSE OF ACTION**  
 18 **FOR DECLARATORY RELIEF**  
 19 **(Against All Defendants)**

20 38. Barnes realleges and incorporates herein paragraphs 1 through 37 above as though  
 21 fully set forth herein.

22 39. An actual controversy has arisen and now exists as Barnes alleges and Defendants  
 23 deny that:

24 A. The arbitration provision in the Zoseca ASP operating agreement does not  
 25 include Zoseca ASP's legal malpractice claim (and related affirmative defenses) against Barnes.

26 B. Barnes did not represent and had no attorney-client relationship with  
 27 Jonathan Miller, Paul Speaker, or Terrance Hardy as individuals against which they may claim  
 28 malpractice. In fact, each was represented by separate counsel of their own choosing, as was Zoseca

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1 ASP.

2 C. The Michael Barnes Law Firm P.C. is not and was not a party to the Zosea  
3 ASP Holdings, LLC operating agreement, and therefore, cannot be compelled into the arbitration  
4 proceeding by Zosea ASP Holdings, LLC via its cross-claim filed therein.

5 D. The arbitrator at JAMS has no authority or jurisdiction to determine  
6 whether or not Zosea ASP Holdings, LLC's legal malpractice claim against Barnes (and related  
7 affirmative defenses) comes within the scope of the contractual arbitration clause under Zosea  
8 ASP Holdings, LLC's operating agreement.

9 E. Zosea ASP Holdings, LLC is not registered or qualified to do business in  
10 California, and thus is not entitled or empowered to initiate a proceeding in California pursuant to  
11 the California Corporations Code sections 17708.07(a). The claim for malpractice against Barnes  
12 (and the related claim all sounding in tort and malpractice) were initiated in the arbitration  
13 proceeding, but such initiation is barred by section 17708.07(a).

14 40. Barnes desires a judicial determination and declaration of Barnes' and defendants'  
15 rights and duties with respect to Zosea ASP Holdings, LLC's legal malpractice (and related) claim  
16 and affirmative defenses filed as a cross claim in the arbitration proceeding.

17 41. A judicial determination of Barnes' and defendants' rights and duties is necessary  
18 at this time in order to resolve the pending dispute.

19 **SECOND CAUSE OF ACTION**

20 **FOR INJUNCTIVE RELIEF**

21 **(Against All Defendants)**

22 42. Barnes realleges and incorporates herein paragraphs 1 through 41 above as though  
23 fully set forth herein.

24 43. For the reasons set forth herein, Barnes will suffer irreparable harm if defendants  
25 are permitted to proceed and progress with its cross-claim for legal malpractice filed in the  
26 arbitration proceeding against Barnes. Defendants must be restrained and enjoined from  
27 progressing or advancing its improperly filed cross-claim for legal malpractice in the arbitration  
28 proceeding against Barnes.

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1           44.       Accordingly, Barnes requests that the court issue a temporary restraining order,  
2 preliminary injunction, and permanent injunction enjoining said defendants from proceeding with  
3 its legal malpractice cross-claim against Barnes in the arbitration proceeding, and directing JAMS  
4 to dismiss Zosea's improper claim forthwith.

5           45.       Defendants have also pled affirmative defenses against Michael Barnes in the  
6 arbitration, which are directly derived from the defendants' claims of malpractice or fiduciary  
7 breach by Barnes. Specifically, those affirmative defenses are the First, Second, Third, Fourth,  
8 Fifth, Eighth, Twelfth, Thirteenth, Fifteenth, Seventeenth, Eighteenth, Nineteenth, Twenty-Third,  
9 Twenty-Fourth, Twenty-Fifth, Twenty-Sixth, Twenty-Ninth and Thirtieth affirmative defenses.  
10 Barnes requests that the court issue a temporary restraining order, preliminary injunction, and  
11 permanent injunction enjoining said defendants from proceeding with such legal malpractice-  
12 related affirmative defenses against Barnes in the arbitration proceeding, and directing JAMS to  
13 dismiss those specific affirmative defenses.

**PRAYER**

14           WHEREFORE, Plaintiffs pray for judgment as follows:

15           **AS TO THE FIRST CAUSE OF ACTION FOR DECLARATORY RELIEF:**

16           1.       For a declaration of the rights and duties of all parties in this litigation that the  
17 Zosea Defendants' cross-claim for legal malpractice filed in the arbitration proceeding against  
18 Barnes is improper in that:

19           A.       The arbitration provision in the Zosca ASP Holdings, LLC operating  
20 agreement does not include Zosea ASP Holdings, LLC's legal malpractice claim (and related  
21 affirmative defenses) against Barnes.

22           B.       Barnes did not represent and had no attorney-client relationship with  
23 Jonathan Miller, Paul Speaker, or Terrance Hardy as individuals against which they may claim  
24 malpractice.

25           C.       The Michael Barnes Law Firm is not and was not a party to the Zosca ASP  
26 Holdings, LLC operating agreement, and therefore, cannot be compelled into the arbitration  
27 proceeding by Zosca ASP Holdings, LLC via its cross-claim filed therein, nor can affirmative  
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1 defenses related to the cross-claim be maintained therein.

2           D.     The arbitrator at JAMS has no authority or jurisdiction to determine  
3 whether or not Zosca ASP Holdings, LLC's legal malpractice claim and related against Barnes  
4 comes within the scope of the contractual arbitration clause under Zosca ASP Holdings, LLC's  
5 operating agreement.

6           E.     Zosca ASP Holdings, LLC is not registered or qualified to do business in  
7 California, and thus is not entitled or empowered to initiate a proceeding in California pursuant to  
8 the California Corporations Code sections 17708.07(a), and that such a proceeding includes the  
9 filing of the cross claims.

10 AS TO THE SECOND CAUSE OF ACTION FOR INJUNCTIVE RELIEF:

11           2.     For a temporary restraining order, a preliminary injunction, and a permanent  
12 injunction enjoining defendants from proceeding with its legal malpractice cross-claim against  
13 Barnes in the arbitration proceeding, and an order requiring defendants to show cause as to why  
14 they should not be so enjoined;

15           3.     For a permanent injunction enjoining defendants alleged therein from proceeding  
16 with its legal malpractice cross-claim against Barnes in the arbitration proceeding;

17           4.     For an order directing JAMS to dismiss defendants' improper cross-claim for legal  
18 malpractice filed in the arbitration proceeding;

19           5.     For an order directing JAMS to dismiss defendants' improper affirmative defenses  
20 filed in the arbitration proceeding;

21 AS TO ALL CAUSES OF ACTION:

22           6.     For costs of suit incurred herein;

23           7.     For reasonable attorney's fees to the fullest extent permitted by law;

24           8.     For pre-judgment and post-judgment interest; and

25           9.     For such other and further relief as the court may deem just and proper.

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1 DATED: December 5, 2017

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4 *Candie Y. Chang*  
5 ROBERT GARRETT  
6 CANDIE Y. CHANG  
7 Attorneys for plaintiffs Michael Barnes,  
8 and Michael Barnes Law Firm  
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Signature

ALTERNATE PARTY WITHOUT ATTORNEY (Name, Address, Phone, as required)

Robert Garrett, (SBN 062836)  
Candie Y. Chang, (SBN 215019)  
Garrett & Tully, P.C.  
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TELEPHONE: (626) 577-9500 FAX: (626) 577-0813

ATTORNEY FOR PARTY: Plaintiff's, Michael Barnes and Michael Barnes Law Firm

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles

STREET ADDRESS: 11 North Hill Street  
MAILING ADDRESS: 11 North Hill Street  
CITY AND ZIP CODE: Los Angeles 90012  
COURT NAME: Central District

CASE NAME: Michael Barnes, et al. v. Zosco ASP Holdings, I.T.C., et al.

FOR COURT USE ONLY

**FILED**  
Superior Court of California  
County of Los Angeles

DEC 05 2017

Shari R. Sanchez, Executive Officer/Clerk  
By: *[Signature]* Deputy  
Shari R. Sanchez

**CIVIL CASE COVER SHEET**

1.  Unlimited (Amount demanded exceeds \$25,000)  Limited (Amount demanded is \$25,000 or less)

Complex Case Designation  
 County  Judicial  
Filed with first appearance by defendant  
OCA Rule of Court, rule 3.402

CASE NUMBER: **BC 085618**

ADD:   
COT:

Items 1-8 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case

- |   |  |   |
|---|--|---|
| <p><b>Auto Tort</b></p> <p><input type="checkbox"/> Auto (27)</p> <p><input type="checkbox"/> Uninsured motorist (45)</p> <p><b>Other PIP/UMD (Personal Injury/Property Damage/Wrongful Death) Tort</b></p> <p><input type="checkbox"/> Asbestos (24)</p> <p><input type="checkbox"/> Product liability (24)</p> <p><input type="checkbox"/> Medical auto torts (45)</p> <p><input type="checkbox"/> Other PIP/UMD (20)</p> <p><b>Non PIP/UMD (Other) Tort</b></p> <p><input type="checkbox"/> Business torts for business practice (27)</p> <p><input type="checkbox"/> Civil rights (05)</p> <p><input type="checkbox"/> Detainer (13)</p> <p><input type="checkbox"/> Fraud (18)</p> <p><input type="checkbox"/> Intellectual property (10)</p> <p><input checked="" type="checkbox"/> Professional negligence (25)</p> <p><input type="checkbox"/> Other non-PIP/UMD tort (25)</p> <p><b>Employment</b></p> <p><input type="checkbox"/> Wrongful termination (33)</p> <p><input type="checkbox"/> Other employment (15)</p> | <p><b>Contract</b></p> <p><input type="checkbox"/> Breach of contract/warranty (09)</p> <p><input type="checkbox"/> Rule 3.740 collections (03)</p> <p><input type="checkbox"/> Other collections (08)</p> <p><input type="checkbox"/> Insurance coverage (19)</p> <p><input type="checkbox"/> Other contract (32)</p> <p><b>Real Property</b></p> <p><input type="checkbox"/> Eminent domain/takeover condemnation (14)</p> <p><input type="checkbox"/> Wrongful eviction (33)</p> <p><input type="checkbox"/> Other real property (38)</p> <p><b>Unlawful Detainer</b></p> <p><input type="checkbox"/> Commercial (21)</p> <p><input type="checkbox"/> Residential (32)</p> <p><input type="checkbox"/> Other (28)</p> <p><b>Judicial Review</b></p> <p><input type="checkbox"/> Appeal/fiduciary (32)</p> <p><input type="checkbox"/> Petition re administrative award (11)</p> <p><input type="checkbox"/> Will of intestate (02)</p> <p><input type="checkbox"/> Other judicial review (30)</p> | <p><b>Professionally Complex Civil Litigation</b><br/>(Cal. Rules of Court, rules 3.400-3.403)</p> <p><input type="checkbox"/> Arbitral/Traffic regulator (03)</p> <p><input type="checkbox"/> Construction related (13)</p> <p><input type="checkbox"/> Mass tort (40)</p> <p><input type="checkbox"/> Securities litigation (26)</p> <p><input type="checkbox"/> Environmental law/cost (30)</p> <p><input type="checkbox"/> Insurance coverage claims arising from the above listed professionally complex case types (11)</p> <p><b>Enforcement of Judgment</b></p> <p><input type="checkbox"/> Enforcement of judgment (20)</p> <p><b>Miscellaneous Civil Complaint</b></p> <p><input type="checkbox"/> RICO (27)</p> <p><input type="checkbox"/> Other complaint not specified above (34)</p> <p><b>Miscellaneous Civil Petition</b></p> <p><input type="checkbox"/> Partnership and business governance (31)</p> <p><input type="checkbox"/> Other petition not specified above (42)</p> |
|---|--|---|

2. This case  is  is not complex under rule 3.401 of the California Rules of Court. If the case is complex mark the factors requiring exceptional judicial management:
- |  |  |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties   | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial pretrial and judicial supervision  |
3. Remedies sought (check all that apply): a.  monetary b.  non-monetary; declaratory or injunctive relief c.  punitive
4. Number of causes of action (priority):  Two (2)
5. This case  is  is not a class action suit
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-0151)

Date: December 5, 2017  
Candie Y. Chang, Esq.

*[Signature: Candie Y. Chang]*  
Candie Y. Chang, Esq.

**NOTICE**

- Plaintiff must file this cover sheet with the first page filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.740.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.401 of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collection case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

**CIVIL CASE COVER SHEET**

Call Rules of Court, (916) 222-2000, or visit www.courtinfo.ca.gov  
Call number of court in which case is filed

Case Solutions by 10/19



INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Table with 3 columns: Auto Tort, Contract, Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403), Real Property, Unlawful Detainer, Judicial Review, Employment, Enforcement of Judgment, Miscellaneous Civil Complaint, Miscellaneous Civil Petition.

440377710 Barnes v. Zosea ASP Holdings, et al	CASE NUMBER
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BC 6 8 5 6 1 8

**CIVIL CASE COVER SHEET ADDENDUM AND  
STATEMENT OF LOCATION  
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court.

**Step 1:** After completing the Civil Case Cover Sheet (Judicial Council form CM-010), find the exact case type in Column A that corresponds to the case type indicated in the Civil Case Cover Sheet.

**Step 2:** In Column B, check the box for the type of action that best describes the nature of the case.

**Step 3:** In Column C, circle the number which explains the reason for the court filing location you have chosen.

**Applicable Reasons for Choosing Court Filing Location (Column C)**

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>1. Class actions must be filed in the Stanley Mosk Courthouse, Central District.</li> <li>2. Permissive filing in central district.</li> <li>3. Location where cause of action arose.</li> <li>4. Mandatory personal injury filing in North District.</li> <li>5. Location where performance required or defendant resides.</li> <li>6. Location of property or permanently garaged vehicle.</li> </ul> | <ul style="list-style-type: none"> <li>7. Location where plaintiff resides.</li> <li>8. Location wherein defendant's respondent functions wholly.</li> <li>9. Location where one or more of the parties reside.</li> <li>10. Location of Labor Commissioner Office.</li> <li>11. Mandatory filing location (1) Labor Cases – unlawful detention, limited non-collection, limited collection, or personal injury.</li> </ul> |
|--|---|

Auto Tort  
  
 Other Personal Injury/Property Damage/Wrongful Death Tort

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1, 4, 11
	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death - Uninsured Motorist	1, 4, 11
Other Personal Injury/Property Damage/Wrongful Death Tort	<input type="checkbox"/> A6070 Associates Property Damage	1, 11
	<input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	1, 11
	<input type="checkbox"/> A7280 Product Liability (not asbestos or toxic/environmental)	1, 4, 11
	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1, 4, 11
	<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1, 4, 11
	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1, 4, 11
	<input type="checkbox"/> A7230 Intentional Tort (Injury/Property Damage/Wrongful Death (e.g. assault, vandalism, etc.))	1, 4, 11
	<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress	1, 4, 11
	<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1, 4, 11

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Case No: **Barnes v Zoske ASIP Holdings, et al.** Date Filed: \_\_\_\_\_

Non-Personal Injury/Property Damage/Wrongful Death Tort

A Civil Case Cover Sheet Category No.	B Type of Action (check only one)	C Applicable Reasons - See Chapter 400
Business Tort (17)	<input type="checkbox"/> A6025 Other Commercial/Business Tort (not tortious breach of contract)	1, 2, 3
Civil Rights (28)	<input type="checkbox"/> A6026 Civil Rights Tort/Retaliation	1, 2, 3
Defamation (19)	<input type="checkbox"/> A6010 Defamation (slandered by)	1, 2, 3
Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1, 2, 3
Professional Negligence (25)	<input checked="" type="checkbox"/> A6017 Legal Malpractice	1, 2, 3
	<input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1, 2, 3
Other (25)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage Tort	1, 2, 3

Employment

Wrongful Termination (36)	<input type="checkbox"/> A6131 Wrongful Termination	1, 2, 3
Other Employment (36)	<input type="checkbox"/> A6134 Other Employment Complaint Case	1, 2, 3
	<input type="checkbox"/> A6138 Labor Commission Appeals	3

Contract

Breach of Contract/Warranty (not Insurance) (12)	<input type="checkbox"/> A6064 Breach of Lease/Lease Contract (not Unlawful Eviction or wrongful eviction)	2, 3
	<input type="checkbox"/> A6060 Contract/Arbitrarily Breach - Seller Plaintiff (not in financial distress)	2, 3
	<input type="checkbox"/> A6019 Negligent Breach of Contract/Arbitrarily (no fraud)	1, 2, 3
	<input type="checkbox"/> A6020 Other Breach of Contract/Warranty (not financial negligence)	1, 2, 3
Subcontract (36)	<input type="checkbox"/> A6012 Contract Case - Seller Plaintiff	4, 5, 11
	<input type="checkbox"/> A6012 Other Promissory Note/Other Contract Case	5, 11
	<input type="checkbox"/> A6094 Subcontract Case - Purchased Debt (Charged Off Consumer Debt Purchased on or after July 1, 2014)	5, 6, 11
Insurance Coverage (10)	<input type="checkbox"/> A6015 Insurance Coverage (no complex)	1, 2, 3, 4
Other Contract (37)	<input type="checkbox"/> A6009 Contract Dispute	1, 2, 3, 3
	<input type="checkbox"/> A6031 Tortious Contract Dispute	1, 2, 3, 3
	<input type="checkbox"/> A6027 Other Contract Dispute (not breach/financial distress/negligence)	1, 2, 3, 3, 3

Real Property

Unlawful Detainer - Commercial (21)	<input type="checkbox"/> A6200 Unlawful Detainer - Commercial (not drug or wrongful eviction) <span style="float: right;">Number of parcels: _____</span>	2, 8
Wrongful Eviction (33)	<input type="checkbox"/> A6203 Wrongful Eviction Case	2, 8
Other Real Property (25)	<input type="checkbox"/> A6215 Mortgage Foreclosure	2, 8
	<input type="checkbox"/> A6232 Quiet Title	2, 8
	<input type="checkbox"/> A6260 Other Real Property (not civil or criminal tortious/contract/foreclosure)	2, 8

Unlawful Detainer

Unlawful Detainer - Commercial (21)	<input type="checkbox"/> A6201 Unlawful Detainer - Commercial (drug or wrongful eviction)	5, 11
Unlawful Detainer - Residential (22)	<input type="checkbox"/> A6202 Unlawful Detainer - Residential (not drug or wrongful eviction)	5, 11
Unlawful Detainer - Post-Foreclosure (34)	<input type="checkbox"/> A6261 Unlawful Detainer Post-Foreclosure	2, 8, 11
Unlawful Detainer - Drugs (35)	<input type="checkbox"/> A6232 Unlawful Detainer - Drugs	2, 8, 11

LA307 (Rev. 12/14)

LA307 (Rev. 12/14)  
LA307 Appendix (Rev. 12/14)

**CIVIL CASE COVER SHEET ADDENDUM  
AND STATEMENT OF LOCATION**

Local Rule 2.0  
Page 2 of 4

3404 - TITLE <b>Barnes v. Zosca ASP Holdings, et al.</b>	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
<b>Judicial Review</b>	Asset Forfeiture (05)	<input type="checkbox"/> AB100 Asset Forfeiture Case	2, 3, 6
	Petition re Arbitration (11)	<input type="checkbox"/> AB115 Petition to Compel/Confirm/Vacate Arbitration	2, 6
	Writ of Mandate (02)	<input type="checkbox"/> AB151 Writ - Administrative Mandamus <input type="checkbox"/> AB152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> AB153 Writ - Other Limited Court Case Review	2, 8
	Other Judicial Review (59)	<input type="checkbox"/> AB150 Other Writ/Judicial Review	2, 8
<b>Provisionally Complex Litigation</b>	Anti-trust/Trade Regulation (03)	<input type="checkbox"/> AB003 Anti-trust/Trade Regulation	1, 2, 8
	Construction Defect (10)	<input type="checkbox"/> AB007 Construction Defect	1, 2, 3
	Claims Involving Mass Tort (40)	<input type="checkbox"/> AB008 Claims Involving Mass Tort	1, 2, 8
	Securities Litigation (28)	<input type="checkbox"/> AB035 Securities Litigation Case	1, 2, 8
	Toxic Tort/Environmental (30)	<input type="checkbox"/> AB039 Toxic Tort/Environmental	1, 2, 3, 8
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> AB014 Insurance Coverage/Subrogation (complex case only)	1, 2, 5, 8
<b>Enforcement of Judgment</b>	Enforcement of Judgment (20)	<input type="checkbox"/> AB141 Sister State Judgment	2, 5, 11
		<input type="checkbox"/> AB160 Abstract of Judgment	2, 5
		<input type="checkbox"/> AB107 Confession of Judgment (non-domestic relations)	2, 9
		<input type="checkbox"/> AB140 Administrative Agency Award (not unpaid taxes)	2, 9
		<input type="checkbox"/> AB114 Petition/Certificate for Entry of Judgment on Unpaid Tax	2, 9
		<input type="checkbox"/> AB112 Other Enforcement of Judgment Case	2, 9, 5
<b>Miscellaneous Civil Complaints</b>	RICO (27)	<input type="checkbox"/> AB553 Racketeering (RICO) Case	1, 2, 8
	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> AB330 Operatory Relief Only	1, 2, 8
		<input type="checkbox"/> AB340 Injunctive Relief Only (not domestic harassment)	2, 8
		<input type="checkbox"/> AB311 Other Commercial Complaint Case (not tort/non-complex)	1, 2, 8
<input type="checkbox"/> AB000 Other Civil Complaint (non-tort/non-complex)	1, 2, 8		
<b>Miscellaneous Civil Petitions</b>	Partnership/Corporate Governance (21)	<input type="checkbox"/> AB113 Partnership and Corporate Governance Case	2, 8
	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> AB121 Civil Harassment	2, 3, 9
		<input type="checkbox"/> AB123 Workplace Harassment	2, 3, 9
		<input type="checkbox"/> AB124 Elder/Dependent Adult Abuse Case	2, 3, 9
		<input type="checkbox"/> AB180 Decision Contest	2
		<input type="checkbox"/> AB110 Petition for Change of Name/Change of Gender	2, 7
		<input type="checkbox"/> AB111 Petition for Relief from Late Claim Law	2, 3, 6
<input type="checkbox"/> AB100 Other Civil Petition	2, 9		

CASE TITLE Barnes v. Zosea ASP Holdings, et al.	CASE NUMBER
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**Step 4: Statement of Reason and Address:** Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected. Enter the address which is the basis for the filing location, including zip code (No address required for class action cases).

<b>REASON:</b> <input type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10. <input type="checkbox"/> 11.			<b>ADDRESS:</b> 111 North Hill Street
<b>CITY:</b> Los Angeles	<b>STATE:</b> CA	<b>ZIP CODE:</b> 90012	

**Step 5: Certification of Assignment:** I certify that this case is properly filed in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., §392 et seq., and Local Rule 2.3(a)(1)(E)].

Dated, December 5, 2017

*Candice S. Chong*  
 (SIGNATURE OF ATTORNEY FILING PARTY)

**PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:**

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form LACIV 100, LASC Approved 03-04 (Rev 02/16).
5. Payment in full of the filing fee, unless there is court order for waiver, partial or scheduled payments.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conforming by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

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