

04/13/2009 15:49

8187888104

PSSW&P

PAGE 03/40

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Wayne E. Beaudoin, Esq. (SBN 184896)</b> Law Office of Wayne E. Beaudoin, A Professional Corporation 15165 Ventura Boulevard, Ste. 400, Sherman Oaks, CA 91403.		<b>CM-010</b>  FOR COURT USE ONLY  <b>FILED BY FAX</b> <b>ALAMEDA COUNTY</b>  April 13, 2009  CLERK OF THE SUPERIOR COURT By Denise Dalton, Deputy
TELEPHONE NO.: <b>818.205.2815</b> FAX NO.: <b>818.788.8104</b> ATTORNEY FOR (Name): <b>Plaintiffs and All others Similarly Situated</b>		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <b>Alameda</b> STREET ADDRESS: <b>1225 Fallon Street</b> MAILING ADDRESS: <b>1225 Fallon Street</b> CITY AND ZIP CODE: <b>Oakland 94612</b> BRANCH NAME: <b>Alameda County Courthouse</b>		<b>CASE NUMBER:</b> <b>RG09446774</b>
<b>CASE NAME:</b> <b>Madrones v. SurroGenesis, et al.</b>		CASE NUMBER: JUDGE: DEPT:
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)	<b>Complex Case Designation</b> <input type="checkbox"/> <b>Counter</b> <input type="checkbox"/> <b>Joinder</b> Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1-6 below must be completed (see instructions on page 2).

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

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37)	<b>Provisionally Complex Civil Litigation</b> (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
<b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23)	<b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (28)	<b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20)
<b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input checked="" type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35)	<b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38)	<b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42)
<b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (38)	<b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case  is  is not complex under rule 3.400 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 checked="" 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 checked="" 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 checked="" type="checkbox"/> Substantial amount of documentary evidence  | f. <input type="checkbox"/> Substantial postjudgment judicial supervision   |
3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive
4. Number of causes of action (specify): **Eleven.**
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 GM-015.)

Date: April 13, 2009  
Wayne E. Beaudoin

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed in sanctions).
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. 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 collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

**FILED BY FAX**  
**ALAMEDA COUNTY**

April 13, 2009

CLERK OF  
THE SUPERIOR COURT  
By Denise Dalton, Deputy

CASE NUMBER:  
**RG09446774**

1 **Wayne E. Beaudoin, State Bar No. 184896**  
2 **LAW OFFICE OF WAYNE E. BEAUDOIN**  
3 **A Professional Corporation**  
4 **15165 Ventura Boulevard, Suite 400**  
5 **Sherman Oaks, CA 91403**  
6 **Telephone No.: (818) 205-2815**  
7 **Fax No.: (818) 788-8104**

8 **Theodore A. Penny, State Bar No. 62382**  
9 **Daniel L. Warshaw, State Bar No. 185365**  
10 **PEARSON, SIMON, WARSHAW & PENNY, L.L.P.**  
11 **15165 Ventura Boulevard, Suite 400**  
12 **Sherman Oaks, CA 91403**  
13 **Telephone: (818) 788-8300**  
14 **Facsimile: (818) 788-8104**

15 **Attorneys for Plaintiffs, Individually and on Behalf of All Others Similarly Situated**

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
17 **FOR THE COUNTY OF ALAMEDA**

18 **BETH MADRONES and**  
19 **MARCIO MADRONES, Individually and on**  
20 **Behalf of all Others Similarly Situated,**

21 **Plaintiffs,**

22 **v.**

23 **SURROGENESIS USA, INC., a California**  
24 **Corporation;**  
25 **SURROGENESIS, INC., a Nevada**  
26 **Corporation;**  
27 **SURROGENESIS USA, LLC, a Delaware**  
28 **Limited Liability Company;**  
**TONYA A. COLLINS, an individual;**  
**MICHAEL CHARLES INDEPENDENT**  
**FINANCIAL HOLDINGS GROUP, INC., a**  
**Nevada Corporation;**  
**JACK KISEROW, an individual, and DOES 1**  
**through 250, inclusive,**

**Defendants.**

Case No.

**CLASS ACTION**

**CLASS ACTION COMPLAINT FOR:**

1. BREACH OF CONTRACT;
2. FRAUD;
3. CONVERSION;
4. VIOLATION OF PENAL CODE § 496;
5. UNLAWFUL, FRAUDULENT & UNFAIR BUSINESS PRACTICES ACT (CAL. BUS. & PROF. CODE § 17200 ET. SEQ.);
6. BREACH OF FIDUCIARY DUTY;
7. NEGLIGENCE;
8. NEGLIGENT MISREPRESENTATION;
9. ACCOUNTING;
10. CONSTRUCTIVE TRUST; and
11. CIVIL CONSPIRACY.

**DEMAND FOR JURY TRIAL**

///

///

**SUMMONS  
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

SURROGENESIS USA, INC., a California Corporation;  
SURROGENESIS, INC., a Nevada Corporation;  
(Continued on Attachment 1)

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

**BETH MADRONES and  
MARCIO MADRONES, Individually and on Behalf of all Others  
Similarly Situated.**

**SUM-100**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**FILED BY FAX**

**ALAMEDA COUNTY**

**April 13, 2009**

**CLERK OF  
THE SUPERIOR COURT  
By Denise Dalton, Deputy**

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en este corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.courtinfo.ca.gov/selfhelp/espanol](http://www.courtinfo.ca.gov/selfhelp/espanol)), en la biblioteca de leyes de su condado o en la corte que le queda más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio Web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol](http://www.courtinfo.ca.gov/selfhelp/espanol)) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:  
(El nombre y dirección de la corte es):

Alameda County Superior Court - Alameda County Courthouse  
1225 Fallon Street  
Oakland, CA 94612

**RG09446774**

CASE NUMBER:  
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

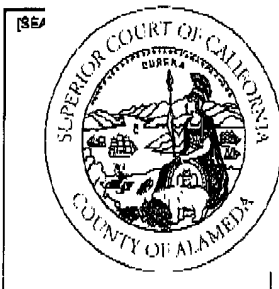
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Wayne E. Beaudoin, Esq. 818.205.2815  
15165 Ventura Blvd., Ste. 400, Sherman Oaks, CA 91403

*Denise A Dalton*  
Clerk

DATE:  
(Fecha) April 13, 2009

Clerk, by \_\_\_\_\_, Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



**NOTICE TO THE PERSON SERVED: You are served**

- 1.  as an individual defendant.
- 2.  as the person sued under the fictitious name of (specify):
- 3.  on behalf of (specify):
  - under:  CCP 416.10 (corporation)  CCP 416.60 (minor)
  - CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)
  - CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)
  - other (specify):
- 4.  by personal delivery on (date):

1 Wayne E. Beaudoin, State Bar No. 184896  
2 LAW OFFICE OF WAYNE E. BEAUDOIN  
3 *A Professional Corporation*  
4 15165 Ventura Boulevard, Suite 400  
5 Sherman Oaks, CA 91403  
6 Telephone No.: (818) 205-2815  
7 Fax No.: (818) 788-8104

8 Theodore A. Penny, State Bar No. 62382  
9 Daniel L. Warshaw, State Bar No. 185365  
10 PEARSON, SIMON, WARSHAW & PENNY, L.L.P.  
11 15165 Ventura Boulevard, Suite 400  
12 Sherman Oaks, CA 91403  
13 Telephone: (818) 788-8300  
14 Facsimile: (818) 788-8104

15 Attorneys for Plaintiffs, Individually and on Behalf of All Others Similarly Situated

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 FOR THE COUNTY OF ALAMEDA

18 BETH MADRONES and  
19 MARCIO MADRONES, Individually and on  
20 Behalf of all Others Similarly Situated,

21 Plaintiffs,

22 v.

23 SURROGENESIS USA, INC., a California  
24 Corporation;  
25 SURROGENESIS, INC., a Nevada  
26 Corporation;  
27 SURROGENESIS USA, LLC, a Delaware  
28 Limited Liability Company;  
29 TONYA A. COLLINS, an individual;  
30 MICHAEL CHARLES INDEPENDENT  
31 FINANCIAL HOLDINGS GROUP, INC., a  
32 Nevada Corporation;  
33 JACK KISEROW, an individual, and DOES 1  
34 through 250, inclusive,

35 Defendants.

Case No.

**CLASS ACTION**

CLASS ACTION COMPLAINT FOR:

1. BREACH OF CONTRACT;
2. FRAUD;
3. CONVERSION;
4. VIOLATION OF PENAL CODE § 496;
5. UNLAWFUL, FRAUDULENT & UNFAIR BUSINESS PRACTICES ACT (CAL. BUS. & PROF. CODE § 17200 ET. SEQ.);
6. BREACH OF FIDUCIARY DUTY;
7. NEGLIGENCE;
8. NEGLIGENT MISREPRESENTATION;
9. ACCOUNTING;
10. CONSTRUCTIVE TRUST; and
11. CIVIL CONSPIRACY.

DEMAND FOR JURY TRIAL

///

///

1 Individual and representative plaintiffs BETH MADRONES and MARCIO  
2 MADRONES (hereinafter collectively referred to as "Plaintiffs") on behalf of themselves and all  
3 others similarly situated, complain as follows:

4 **INTRODUCTION**

5 1) Plaintiffs bring this action on their own behalf and on behalf of all persons  
6 similarly situated. The class that plaintiffs represent is composed of all persons that utilized the  
7 services of defendants SURROGENESIS USA, INC. and/or SURROGENESIS, INC. and/or  
8 SURROGENESIS USA, LLC (hereinafter collectively referred to herein as  
9 "SURROGENESIS") and the services of defendant MICHAEL CHARLES INDEPENDENT  
10 FINANCIAL HOLDINGS GROUP, INC. (hereinafter referred to herein as "MICHAEL  
11 CHARLES") by depositing funds with defendant MICHAEL CHARLES to be held in trust for  
12 the purposes of funding Plaintiffs' third-party assisted surrogate reproduction. Plaintiffs, and  
13 each of them, deposited funds with defendant MICHAEL CHARLES, at the advice and/or  
14 insistence of SURROGENESIS, which represented to Plaintiffs that MICHAEL CHARLES was  
15 an independent, licensed and bonded escrow company. Subsequently, after depositing  
16 approximately \$2,500,000.00 with defendant MICHAEL CHARLES to hold in trust, Plaintiffs,  
17 and each of them, were informed by SURROGENESIS that their funds were lost, missing or  
18 otherwise inaccessible.

19 2) Plaintiffs are informed and believe, and thereon allege, that the named Defendants  
20 herein, including those DOE Defendants yet to be identified, are directly or indirectly  
21 responsible for the loss of Plaintiffs' funds deposited with defendant MICHAEL CHARLES, by  
22 breach of contract, fraud, conversion, negligence or some other wrongful act from which  
23 Defendants are liable to Plaintiffs for the loss of their funds.

24 **VENUE**

25 3) The venue is proper in this Court. Plaintiffs, and each of them, entered into  
26 written contracts with defendant SURROGENESIS which provide that any dispute arising under  
27 their agreements shall be brought in the County of Alameda, State of California. In addition,

1 Defendants conduct business, market and provide their services in the County of Alameda, State  
2 of California.

3 **THE PARTIES**

4 **THE PLAINTIFFS**

5 4) Individual and representative plaintiff BETH MADRONES is a resident of Lake  
6 In The Hills, Illinois, who contracted with SURROGENESIS for the latter to assist her with  
7 third-party assisted reproduction services and, at the recommendation and/or insistence of  
8 SURROGENESIS, deposited funds with defendant MICHAEL CHARLES.

9 5) Individual and representative plaintiff MARCIO MADRONES is a resident of  
10 Lake In The Hills, Illinois, who contracted with SURROGENESIS for the latter to assist him  
11 with third-party assisted reproduction services and, at the recommendation and/or insistence of  
12 SURROGENESIS, deposited funds with defendant MICHAEL CHARLES.

13 **THE DEFENDANTS**

14 6) Plaintiffs are informed and believe and thereon allege that at all times alleged  
15 herein defendant SURROGENESIS USA, INC. is a California Corporation doing business  
16 throughout the United States of America and, in particular, Modesto, California.

17 7) Plaintiffs are informed and believe and thereon allege that at all times alleged  
18 herein defendant SURROGENESIS, INC. is a defunct Nevada Corporation doing business  
19 throughout the United States of America and has its principal place of business in Modesto,  
20 California.

21 8) Plaintiffs are informed and believe and thereon allege that at all times alleged  
22 herein defendant SURROGENESIS USA, LLC is a Delaware Limited Liability Company, doing  
23 business throughout the United States of America and has its principal place of business in  
24 Modesto, California.

25 9) Plaintiffs are informed and believe and thereon allege that defendant TONYA A.  
26 COLLINS (hereinafter referred to herein as "COLLINS") is an individual and resident of  
27 Grapevine, Texas and the President and Chief Operating Officer ("CEO") of SURROGENESIS

1 USA, INC.; SURROGENESIS, INC. and SURROGENESIS USA, LLC. Plaintiffs are further  
2 informed and believe and thereon allege that at all times alleged herein, defendant COLLINS  
3 was an owner, officer, employee and/or agent of defendant MICHAEL CHARLES  
4 INDEPENDENT FINANCIAL HOLDING GROUP, INC. Plaintiffs are further informed and  
5 believe and thereon allege that at all times alleged herein, defendant COLLINS performed the  
6 acts alleged herein while she was a resident of Modesto, California.

7 10) Plaintiffs are informed and believe and thereon allege that at all times alleged  
8 herein defendant MICHAEL CHARLES INDEPENDENT FINANCIAL HOLDING GROUP,  
9 INC. (hereinafter referred to herein as "MICHAEL CHARLES") is a Nevada Corporation, doing  
10 business throughout the United States of America and has its principal place of business in  
11 Modesto, California.

12 11) Plaintiffs are informed and believe and thereon allege that defendant JACK  
13 KISEROW (hereinafter referred to herein as "KISEROW") is an individual and resident of  
14 Sparks, Nevada, and the owner and an officer of defendant MICHAEL CHARLES. Plaintiffs  
15 are informed and believe and thereon allege that at all times alleged herein, defendant  
16 KISEROW performed the acts alleged herein while acting as an owner, officer, agent and  
17 representative of MICHAEL CHARLES, doing business in Modesto, California.

18 12) The true names and capacities, whether individual, corporate, associate or  
19 otherwise of Defendants DOES 1 through 250, inclusive, and each of their roles in this case, are  
20 known to plaintiffs who therefore sue said Defendants by such fictitious names pursuant to Code  
21 of Civil Procedure § 474. Plaintiffs further allege that each of said fictitious Defendants is in  
22 some manner responsible for the acts and occurrences set forth herein. Plaintiffs will amend the  
23 Complaint to show their true names and capacities when the same are ascertained, along with  
24 their roles and the manner in which each fictitious Defendant is responsible.

25 13) Plaintiffs are informed and believe, and thereon allege, that at all times mentioned  
26 herein, each and every Defendant was the agent, servant, employee, joint venturer, partner,  
27 subsidiary, and/or co-conspirator of each other Defendant and, that in performing or failing to  
28

1 perform the acts herein alleged, each was acting individually as well as through and in the  
2 foregoing alleged capacity and within the course and scope of such agency, employment, joint  
3 venture, partnership, subsidiary and/or conspiracy, and each other Defendant ratified and  
4 affirmed the acts and omissions of the other Defendants. Plaintiffs are further informed and  
5 believe that each Defendant, in taking the actions alleged herein and/or ratifying the actions  
6 alleged herein, acted within the course and scope of such authority and, at the same time, for  
7 their own financial and individual advantage, as well as in the course and scope of such  
8 employment, agency and as an alter ego therein.

9 14) Whenever, in this complaint, reference is made to any actions of  
10 SURROGENESIS, such allegations shall mean that the directors, officers, employees or agent(s)  
11 of said entity did perform or authorize the alleged acts or actively engaged in the management,  
12 direction and control of such entity and were acting within the course and scope of their  
13 employment. Whenever, in this complaint, reference is made to any actions of COLLINS, or  
14 any other person who is an employee or agent of SURROGENESIS, such allegations shall also  
15 mean SURROGENESIS, acting by and through said individual.

16 15) Whenever, in this complaint, reference is made to any actions of MICHAEL  
17 CHARLES, such allegations shall mean that the directors, officers, employees or agent(s) of said  
18 entity did perform or authorize the alleged acts or actively engaged in the management, direction  
19 and control of such entity and were acting within the course and scope of their employment.  
20 Whenever, in this complaint, reference is made to any actions of KISEROW, or any other person  
21 who is an employee or agent of MICHAEL CHARLES, such allegations shall also mean  
22 MICHAEL CHARLES, acting by and through said individual.

23 **CLASS ACTION ALLEGATIONS**

24 16) Plaintiffs bring this action on behalf of themselves and as a class consisting of all  
25 persons and entities of the following proposed class:

26 All persons in the United States who have contracted with SURROGENESIS and  
27 deposited funds with MICHAEL CHARLES, whose funds are now stolen, lost, missing, or  
28



1 otherwise inaccessible to them.

2 17) This class action seeks disgorgement of profits, restitution, injunctive relief and  
3 actual and punitive damages, where allowed. Excluded from the Plaintiff class are Defendants,  
4 members of Defendants' immediate families, officers, directors, employees of Defendants and  
5 any subsidiary affiliate entity in which a Defendants have a controlling interest, and the legal  
6 representatives, heirs, successors and assigns of any excluded person or entity.

7 18) Plaintiffs' claims are typical of the claims of the class because plaintiffs and all  
8 class members sustained damages which arise out of Defendants' conduct as alleged herein.

9 19) Plaintiffs are representative parties who will fully and adequately protect the  
10 interests of the class members, and who have retained class counsel who are experienced and  
11 competent in both class and unfair business practices litigation. Plaintiffs have no interests  
12 which are contrary to or in conflict with those of the class they seek to represent. The number  
13 and identity of the members of the class are determinable from Defendants' records.

14 20) Plaintiffs know of no difficulty to be encountered in the management of this  
15 action which would preclude its maintenance as a class action. Relief concerning plaintiffs'  
16 rights under the laws alleged herein and with respect to the class would be appropriate.

17 21) A class action is superior to other methods for the fair and efficient adjudication  
18 of litigation, since individual joinder of all members of each class is impracticable. Even if any  
19 class member could afford individual litigation, it would be unduly burdensome to the individual  
20 courts. Individual litigation magnifies the delay and expense to all parties. By contrast, the class  
21 action device presents far fewer management difficulties and provides the benefits of unitary  
22 adjudication, economies of scale, and comprehensive supervision by a single court.  
23 Concentrating this litigation in one forum would promote judicial economy and efficiency and  
24 promote parity among the claims of individual class members as well as judicial consistency.

25 22) A class action presents fewer management difficulties than individual litigation,  
26 conserves the resources of the parties and the court system and protects the rights of each class  
27 member. Notice of the pendency of any resolution of this action can be provided to class  
28

1 members by mail, print, broadcast, Internet and multimedia publication. A class action will be  
2 more efficient, and save judicial resources and reduce litigation costs, so that Defendants are able  
3 to pay more of any recovery or other relief to class members as opposed to paying attorneys' fees  
4 and costs in duplicative litigation.

5 23) There is a well defined community of interests in the question of law and fact  
6 between plaintiffs and the class. Questions of law and fact common to the members of the  
7 aforesaid class predominate over any questions which may affect only individual members, in  
8 that Defendants have acted on grounds generally applicable to the entire class. Among the  
9 questions of law and fact common to the class are:

10 a. Whether defendant SURROGENESIS contracted with Plaintiffs to provide  
11 Plaintiffs with an independent trust company tasked with properly safeguarding Plaintiffs' funds;

12 b. Whether defendant SURROGENESIS breached its contracts with Plaintiffs to  
13 provide Plaintiffs with an independent trust company tasked with properly safeguarding  
14 Plaintiffs' funds;

15 c. Whether defendant SURROGENESIS owed Plaintiffs a fiduciary duty to ensure  
16 that Plaintiffs funds were deposited with an independent trust company that would properly  
17 safeguard Plaintiffs' funds;

18 d. Whether defendant SURROGENESIS breached its fiduciary duty to ensure that  
19 Plaintiffs funds were deposited with an independent trust company that would properly safeguard  
20 Plaintiffs' funds;

21 e. Whether defendant MICHAEL CHARLES owed Plaintiffs a fiduciary duty to  
22 properly safeguard Plaintiffs' deposited funds from loss or theft;

23 f. Whether defendant MICHAEL CHARLES breached its fiduciary duty to  
24 Plaintiffs to properly safeguard Plaintiffs' deposited funds from loss or theft;

25 g. Whether Defendants converted Plaintiffs' deposited funds for his, her or its own  
26 benefit;

1 h. Whether Defendants misrepresented to Plaintiffs that Plaintiffs' funds would be  
2 deposited with an independent trust company tasked with properly safeguarding Plaintiffs'  
3 funds;

4 i. Whether Defendants' misrepresentations were made intentionally, with the intent  
5 to defraud Plaintiffs into depositing their funds with MICHAEL CHARLES;

6 j. Whether Defendant misrepresentations were made negligently, resulting in  
7 Plaintiffs into depositing their funds with MICHAEL CHARLES;

8 k. Whether Defendants' conduct was unlawful;

9 l. Whether Defendants were unjustly enriched because of their misrepresentations;

10 m. Whether the members of the class have sustained damages and, if so, what is the  
11 proper measure of damages;

12 n. Whether the members of the class are entitled to punitive damages; and

13 o. Whether the members of the class are entitled to other equitable relief.

14 **FIRST CAUSE OF ACTION**

15 **(Breach of Contract – Against SURROGENESIS and DOES 1-25)**

16 24) Plaintiffs hereby incorporate by reference paragraphs 1 through 23 inclusive of  
17 this Complaint, as though fully set forth in this cause of action. This cause of action is asserted  
18 by all Plaintiffs against defendant SURROGENESIS.

19 25) Plaintiffs, and each of them, entered into a written contract with  
20 SURROGENESIS (the "SurroGenesis Contract") in substantively the identical form as that  
21 attached hereto and incorporated herein as Exhibit "A".

22 26) Pursuant to the terms of the Contract, SURROGENESIS promised to set up an  
23 "independent" trust fund for the purpose of making fee payments to Plaintiffs' intended  
24 surrogates and for the payment of other expenses related to the surrogacy process. Plaintiffs, and  
25 each of them, understood that the term "independent" meant that the their funds would be  
26 delivered in trust to a company unrelated in any manner to SURROGENESIS, its officers and  
27 employees, and acting in accordance with the SurroGenesis Contract terms, which would then

1 ensure the safety and availability of Plaintiffs' funds for the purposes of satisfying their financial  
2 obligations with their intended surrogates.

3 27) SURROGENESIS, in addition to requiring that Plaintiffs agree to the  
4 SurroGenesis Contract, further required that Plaintiffs, and each of them, agree to and execute an  
5 "Agreement For Management Of Trust Account", in substantively the identical form as that  
6 attached hereto and incorporated herein as Exhibit "B".

7 28) The Agreement For Management of Trust Account provided that  
8 SURROGENESIS was to administer Plaintiffs' trust accounts, the funds of which were to be  
9 deposited with a company identified by SURROGENESIS to be held for safekeeping for the  
10 benefit of Plaintiffs. According to the terms of the Agreement For Management Of Trust  
11 Account, the funds deposited with the trust company were to be clearly segregated from any  
12 accounts holding funds to which SURROGENESIS, after withdrawing its fees, had any claim.

13 29) The company that SURROGENESIS identified and selected for handling Plaintiffs'  
14 trust accounts, and each of them, was MICHAEL CHARLES.

15 30) Plaintiffs are informed and believe and thereon allege that SURROGENESIS  
16 breached the SurroGenesis Contract with Plaintiffs, and each of them, in that MICHAEL  
17 CHARLES was not an "independent" trust company. Rather, Plaintiffs are informed and believe  
18 and thereon allege that MICHAEL CHARLES was, for all intents and purposes, operated and  
19 controlled by COLLINS, the President and CEO of SURROGENESIS. Had Plaintiffs, and each  
20 of them, known that MICHAEL CHARLES was operated and controlled by COLLINS, they  
21 would never have agreed to MICHAEL CHARLES holding their funds in trust.

22 31) Starting in or about November 2008, Plaintiffs were made aware that their  
23 intended surrogates were not receiving payments from MICHAEL CHARLES pursuant to their  
24 surrogacy agreements, or that the payments sent to the surrogates, in the form of checks drawn  
25 from Plaintiffs' trust accounts held by MICHAEL CHARLES, were being rejected as "NSF" for  
26 insufficient funds in those accounts.



1 37) Plaintiffs are informed and believe that SURROGENESIS and DOES 26-50  
2 intended for Plaintiffs to reasonably rely on the representation in the SurroGenesis Contract that  
3 their funds would be held in trust by an “independent” trust company.

4 38) Plaintiffs and the class were unaware of the falsity of the Defendants’  
5 representation that their funds would be held by an “independent” trust company and reasonably  
6 relied upon the misrepresentations made by SURROGENESIS and DOES 26-50.

7 39) Had Plaintiffs and the class known that MICHAEL CHARLES was operated and  
8 controlled by SURROGENESIS and/or COLLINS, they would never have agreed to MICHAEL  
9 CHARLES holding their funds in trust.

10 40) Plaintiffs and the class have incurred damages as a result of SURROGENESIS  
11 and DOES 26-50’s intentional misrepresentations, as Plaintiffs and the class have either lost the  
12 approximate \$2,500,000.00 in funds they deposited with MICHAEL CHARLES, or have  
13 otherwise been denied the use or access to those funds. In addition, Plaintiffs have suffered from  
14 emotional distress, financial distress, annoyance and anxiety, as a result of Defendants’ actions  
15 alleged herein, and seek damages in an amount to be determined at trial for the same.

16 **THIRD CAUSE OF ACTION**

17 **(Conversion – Against SURROGENESIS, COLLINS,**

18 **MICHAEL CHARLES and DOES 51-100)**

19 41) Plaintiffs hereby incorporate by reference paragraphs 1 through 40 inclusive of  
20 this Complaint, as though fully set forth in this cause of action.

21 42) At all times herein mentioned, Plaintiffs and the class were, and still are, the  
22 owners and were, and still are, entitled to possession of the approximately \$2,500,000.00 in  
23 funds Plaintiffs deposited in trust with MICHAEL CHARLES.

24 43) Defendants, despite having knowledge that these trust funds belong to Plaintiffs,  
25 continue to hold Plaintiffs’ trust funds, refuse to return Plaintiffs’ trust funds and have reaped  
26 financial gain from their wrongful retention of Plaintiffs’ trust funds.

1 44) As a direct and proximate cause of Defendants' conversion of Plaintiffs' trust  
2 funds, Plaintiffs and the class have suffered damages, the full nature and extent of which are  
3 presently unknown to Plaintiff, but estimated to be approximately \$2,500,000.00, which will be  
4 determined according to proof at trial. In addition, Plaintiffs have suffered from emotional  
5 distress, financial distress, annoyance and anxiety, as a result of Defendants' actions alleged  
6 herein, and seek damages in an amount to be determined at trial for the same.

7 45) Defendants' acts alleged above were willful, wanton, malicious, and oppressive,  
8 and therefore justify the awarding of exemplary and punitive damages.

9 **FOURTH CAUSE OF ACTION**

10 **(Violation of Penal Code § 496 - Receiving and/or Concealing Stolen Property –**  
11 **Against SURROGENESIS, COLLINS, MICHAEL CHARLES and DOES 51-100)**

12 46) Plaintiffs hereby incorporate by reference paragraphs 1 through 51 inclusive of  
13 this Complaint, as though fully set forth in this cause of action.

14 47) Plaintiffs are informed and believe, and thereon allege, that at all times relevant to  
15 this Complaint, Defendants violated California Penal Code section 496 by obtaining property  
16 belonging to Plaintiffs by theft and knowingly withholding the property from Plaintiffs or by  
17 aiding in obtaining and knowingly withholding said property.

18 48) Plaintiffs have been injured by Defendants' violation of California Penal Code  
19 section 496.

20 49) Pursuant to California Penal Code section 496(c), Plaintiffs and the class are  
21 entitled to three times the amount of their actual damages, an amount to be proven at trial, cost of  
22 suit, and their reasonable attorneys' fees for prosecuting this action.

23 **FIFTH CAUSE OF ACTION**

24 **(Unfair, Fraudulent & Unfair Business Practices Act – Cal. Bus. & Prof. Code §§17200 et.**  
25 **seq. – Against All Defendants)**

26 50) Plaintiffs hereby incorporate by reference paragraphs 1 through 49 inclusive of  
27 this Complaint, as though fully set forth in this cause of action.





1 **SIXTH CAUSE OF ACTION**

2 **(Breach of Fiduciary Duty – Against SURROGENESIS, COLLINS, MICHAEL**  
3 **CHARLES, KISEROW and DOES 1-50)**

4 58) Plaintiffs hereby incorporate by reference paragraphs 1 through 34 inclusive of  
5 this Complaint, as though fully set forth in this cause of action.

6 59) Defendants SURROGENESIS, COLLINS, MICHAEL CHARLES, KISEROW  
7 and DOES 1 -50, and each of them, owed Plaintiffs a fiduciary duty to make sure that the funds  
8 Plaintiffs deposited in trust with MICHAEL CHARLES would be kept safe, secure, protected  
9 from theft and available to Plaintiffs to fund their third-party surrogacy contracts and related  
10 expenses.

11 60) Defendants SURROGENESIS, COLLINS, MICHAEL CHARLES, KISEROW  
12 and DOES 1-50, and each of them, breached their fiduciary duties to Plaintiffs and the class in  
13 that they failed to arrange for Plaintiffs’ funds to be handled by an independent trust company,  
14 failed to safeguard the funds from theft and/or otherwise failed to ensure that Plaintiffs’ funds  
15 would be available to them for funding their third-party surrogacy contracts and related  
16 expenses.

17 61) As a direct result of Defendants’ breach of their fiduciary duties, Plaintiffs and the  
18 class have been damaged in the amount of approximately \$2,500,000.00, as Plaintiffs have either  
19 lost the funds they deposited with MICHAEL CHARLES, or have otherwise been denied the use  
20 or access to those funds. In addition, Plaintiffs and the class have suffered from emotional  
21 distress, financial distress, annoyance and anxiety, as a result of Defendants’ actions alleged  
22 herein, and seek damages in an amount to be determined at trial for the same.

23 **SEVENTH CAUSE OF ACTION**

24 **(Negligence – Against All Defendants)**

25 62) Plaintiffs hereby incorporate by reference paragraphs 1 through 34 inclusive of  
26 this Complaint, as though fully set forth in this cause of action.



1 SURROGENESIS and/or COLLINS.

2 68) Plaintiffs are informed and believe that SURROGENESIS and DOES 1-50  
3 intended for Plaintiffs to reasonably rely on the representation in the SurroGenesis Contract that  
4 their funds would be held in trust by an “independent” trust company.

5 69) Plaintiffs and the class were unaware of the falsity of the representation that their  
6 funds would be held by an “independent” trust company and reasonably relied upon the  
7 misrepresentations made by SURROGENESIS and DOES 1-50, as they had no reason not to  
8 believe the representations at the time they were made.

9 70) Had Plaintiffs and the class known that MICHAEL CHARLES was operated and  
10 controlled by COLLINS, they would never have agreed to MICHAEL CHARLES holding their  
11 funds in trust.

12 71) Plaintiffs and the class have incurred damages as a result of SURROGENESIS  
13 and DOES 1-50’s intentional misrepresentations, as Plaintiffs have either lost the approximate  
14 \$2,500,000.00 in funds they deposited with MICHAEL CHARLES, or have otherwise been  
15 denied the use or access to those funds. In addition, Plaintiffs and the class have suffered from  
16 emotional distress, financial distress, annoyance and anxiety, as a result of Defendants’ actions  
17 alleged herein, and seek damages in an amount to be determined at trial for the same.

18 **NINTH CAUSE OF ACTION**

19 **(Accounting – Against All Defendants)**

20 72) Plaintiffs hereby incorporate by reference paragraphs 1 through 71 inclusive of  
21 this Complaint, as though fully set forth in this cause of action.

22 73) Plaintiffs and the class are unable to ascertain the exact amount of funds they  
23 placed in trust with MICHAEL CHARLES and the amount of funds, if any, that remain in any of  
24 Defendants’ possession, custody or control. An unknown balance is due to Plaintiffs that cannot  
25 be ascertained without and accounting, the means by which are within the knowledge of  
26 Defendants.



1 themselves to: (1) misrepresent to Plaintiffs and the class that their trust funds would be handled  
2 by an “independent” trust company; (2) entice Plaintiffs and the class into depositing their trust  
3 funds with MICHAEL CHARLES; and (3) convert Plaintiffs’ trust funds for their own use and  
4 benefit as set forth herein.

5 81) In furtherance of said conspiracy and agreement, the aforementioned Defendants  
6 engaged in fraudulent representations, omissions and concealment of facts, acts of cover-up and  
7 statements calculated to obtain Plaintiffs’ trust funds for the benefit of Defendants and as set  
8 forth in detail in the foregoing paragraphs, which are hereby incorporated herein as though set  
9 forth in full.

10 82) All of the actions of Defendants set forth in the preceding paragraphs,  
11 incorporated herein, were in violation of the rights of Plaintiffs and the class and committed in  
12 furtherance of the aforementioned conspiracies and agreements. Moreover, each of the  
13 aforementioned Defendants lent aid and encouragement and knowingly financed, ratified and  
14 adopted the acts of the other. As a proximate result of the wrongful acts herein alleged, Plaintiffs  
15 and the class have suffered significant damage, which is estimated to be \$2,500,000.00, or  
16 otherwise determined at trial.

17 83) These acts constituted malicious conduct which was carried on by said  
18 Defendants with willful and conscious disregard for Plaintiffs’ rights with the intention of  
19 misappropriating Plaintiffs’ trust funds or otherwise causing injury, and was despicable conduct  
20 that subjected Plaintiffs to a cruel and unjust hardship so as to justify an award of exemplary and  
21 punitive damages. Accordingly, punitive damages should be awarded against Defendants to  
22 punish them and deter them and other such persons from committing such wrongful and  
23 malicious acts in the future.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiffs, on behalf of themselves and all other similarly situated,  
26 pray for relief and judgment against Defendants as follows:



1           11. For such other and further relief at law or in equity, to which Plaintiff may show  
2 itself entitled to or as this Court deems just and proper.

3 DATED: April \_\_\_\_, 2009           LAW OFFICE OF WAYNE E. BEAUDOIN  
4   *A Professional Corporation*

5  
6   By: \_\_\_\_\_  
7   Wayne E. Beaudoin  
8   Attorneys for Plaintiffs, Individually and on behalf of  
9   All Others Similarly Situated

10 DATED: April \_\_\_\_, 2009           PEARSON SIMON WARSHAW & PENNY LLP

11  
12   By: \_\_\_\_\_  
13   Daniel L. Warshaw  
14   Attorneys for Plaintiffs, Individually and on behalf of  
15   All Others Similarly Situated

1 **DEMAND FOR JURY TRIAL**

2 Plaintiffs, Individually and on behalf of All Others Similarly Situated, hereby demand  
3 that this matter be tried by jury.

4 DATED: April \_\_\_\_, 2009

LAW OFFICE OF WAYNE E. BEAUDOIN  
*A Professional Corporation*

6  
7 By: \_\_\_\_\_  
8 Wayne E. Beaudoin  
9 Attorneys for Plaintiffs, Individually and on behalf of  
All Others Similarly Situated

10 DATED: April \_\_\_\_, 2009

PEARSON SIMON WARSHAW & PENNY LLP

12  
13 By: \_\_\_\_\_  
14 Daniel L. Warshaw  
15 Attorneys for Plaintiffs, Individually and on behalf of  
16 All Others Similarly Situated  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27