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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 9 **COUNTY OF LOS ANGELES, WEST DISTRICT**

10

11 TIMOTHY HUTTON, an individual,

12 Plaintiff,

13 vs.

14 ELECTRIC ENTERTAINMENT, INC., a
 15 California corporation; and DOES 1 through
 50, inclusive,

16 Defendant.

Case No. **22SMCV00260**

**COMPLAINT FOR BREACH OF ORAL
 CONTRACT**

DEMAND FOR JURY TRIAL

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1 Plaintiff Timothy Hutton (“Plaintiff” or “Hutton”), for his complaint against Defendants
2 Electric Entertainment (“Electric”) and Does 1 through 50, inclusive (collectively, “Defendants”),
3 hereby allege as follows:

4 **INTRODUCTION**

5 1. Hutton is an actor who has worked in the entertainment industry for more than 40
6 years. He first gained notoriety for his Academy Award-winning role in *Ordinary People* (1980).
7 Over his illustrious career, he has appeared in more than 80 films and televisions shows, including
8 as the lead character Nate Ford in the acclaimed and successful TV series, *Leverage*. Since the
9 TNT show ended in 2012, fans of the show have been clamoring for a reboot. Meanwhile, Hutton
10 continued his steady acting work, on projects such as Netflix’s *The Haunting of Hill House*
11 (2018); Amazon’s *Tom Clancy’s Jack Ryan* (2018); *Beautiful Boy* (2018); Fox’s *Almost Family*
12 (2019); and ABC’s *American Crime* (2015), for which Hutton received an Emmy nomination for
13 best actor.

14 2. In the fall of 2019, the show’s producer and owner of Electric, Dean Devlin, saw an
15 opportunity to produce a *Leverage* reboot on Amazon’s new streaming service, IMDb TV, the
16 streaming platform that had acquired certain streaming rights to the original series. As a first step
17 in the process, Devlin approached Hutton to gauge his interest in appearing in the Reboot. Indeed,
18 Devlin freely acknowledged that Hutton’s sign-on was a key element in moving the project
19 forward and obtaining the “green light” from Amazon. Armed with Hutton’s preliminary
20 commitment, Devlin said he would then go to the rest of the cast.

21 3. Devlin officially offered the Reboot to Hutton in late 2019 and, upon Hutton’s
22 acceptance, the deal was handed over to the parties’ transactional attorneys to negotiate and
23 formalize an agreement for Hutton to work on the Reboot.

24 4. Starting on December 13, 2019, Hutton’s transactional counsel and Electric’s
25 transactional counsel negotiated the material terms of Hutton’s deal to star in and executive
26 produce the Reboot, as well as direct at least one episode. Hutton and Electric ultimately closed
27 their deal on February 14, 2020. Hutton’s contract with Electric for the Reboot explicitly included
28 a “pay-or-play” provision *upon close* of the deal, guaranteeing Hutton’s compensation for the

1 Reboot regardless of whether Electric actually utilized his services in the production of the series.
2 Hutton’s representatives insisted that he be locked upon close in return for granting Electric the
3 successive options *it* needed to secure a commitment from Amazon. Otherwise, Hutton would
4 have been in the impossible position of being tied for four years to a project—and, therefore,
5 unable to accept other roles at the beginning of pilot season—without Electric having the
6 corresponding obligation to *pay* him for that exclusive four-year option.

7 5. Having secured the services of the lead on the Reboot, Electric turned to filling out
8 the rest of the cast, scouting film locations, and the like. Then, as discussed in more detail below,
9 BuzzFeed News “reported” the completely unsubstantiated claims by a Canadian woman that
10 Hutton sexually assaulted her 38 years ago while he was in Canada shooting a film.

11 6. This article was the culmination of an extortion attempt that began in December
12 2017, when, out of the blue, Hutton received a letter from Jeff Herman, an oft-disciplined Florida
13 attorney. The letter demanded Hutton pay **\$1.5 million** or be sued for sexual assault.

14 7. Hutton completely and unequivocally denies any encounter ever occurred. This
15 salacious claim is completely fabricated.

16 8. When her extortion attempts did not yield the desired results, the accuser shopped
17 her bogus story to multiple media outlets—again in an attempt to pressure Hutton to buy her
18 silence. All passed on the story except for BuzzFeed, the New York-based internet media, news,
19 and entertainment company best known for its online quizzes, “listicles,” and publication of the
20 so-called “Steele Dossier.” And as discussed in more detail below, even Buzzfeed actually
21 declined to run the story, *twice*, based on myriad problems with the accuser’s credibility.

22 9. Then, in early March 2020, mere weeks after Hutton had closed the deal with
23 Electric, BuzzFeed recklessly published the false claim under the guise of “reporting” that the
24 accuser had filed a criminal complaint against Hutton *four months earlier* with the Vancouver
25 Police Department (“VPD”). Not only did this complaint postdate by several months *his* complaint
26 to the FBI about the (failed) extortion plot; but Hutton was completely unaware of her complaint
27 until the eve of publication. In any event, when the VPD and the Crown Counsel in British
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1 Columbia (the prosecutors in Canada) ultimately investigated the complaint, they found no
2 evidence to support it and cleared Hutton.

3 10. But Electric did not wait for this investigation to play out. Nor did Electric conduct
4 its *own* investigation. In fact, although Hutton provided Electric with myriad declarations and
5 other evidence, it did not even contact any of the individuals who were alleged to have knowledge
6 of the false claim.

7 11. Instead, without conducting any investigation or any genuine inquiry whatsoever,
8 Electric used the BuzzFeed article to remove Hutton from the Reboot. Even worse—because a
9 pay-or-play provision does not, by definition, require the studio to use the actor’s services—
10 Electric refused to pay Hutton the \$3+ million Electric owes him under the parties’ February 2020
11 agreement. It has not budged.

12 12. Electric went on to produce the Reboot, entitled *Leverage: Redemption*, which was
13 released on July 9, 2021. In December, the Reboot was renewed for a second season.

14 13. By this complaint, Hutton seeks to hold Electric accountable for its flagrant breach
15 of contract and resulting damages to Hutton.

16 **JURISDICTION AND VENUE**

17 14. Jurisdiction is proper in the Superior Court for the State of California for the
18 County of Los Angeles pursuant to Code of Civil Procedure section 410.10. Venue is proper in
19 Los Angeles County, California pursuant to sections 392 *et seq.* of the Code of Civil Procedure
20 because Los Angeles County is where Electric has its principal place of business, is where the
21 breach of contract at issue occurred, and is where Hutton’s causes of action arose. Venue is proper
22 in the West Judicial District of Los Angeles pursuant to Los Angeles County Local Rule
23 2.3(a)(1)(B) because Defendant resides in that district, and Hutton’s cause of action arose there.

24 **PARTIES**

25 15. Plaintiff Timothy Hutton is an individual residing in the State of New York. Hutton
26 is an acclaimed and award-winning actor with over four decades of experience in the industry and
27 over 80 acting credits to his name. Relevant here, he played the lead role of Nate Ford on the
28 original *Leverage* series, which aired on TNT from 2008 to 2012. Most recently, Hutton appeared

1 in ABC’s *Women of the Movement*, the six-episode limited series, which premiered in January
2 2022 and centered on Mamie Till Mobley, the mother of Emmet Till, and her role in the Civil
3 Rights movement following his murder.

4 16. Hutton is informed and believes, and on that basis alleges, that Defendant Electric
5 Entertainment, Inc. (“Electric”) is a corporation organized and existing under the laws of the State
6 of California, with its principal place of business located in Los Angeles County, California.
7 Electric, an independent studio headed by producer Dean Devlin and his partners Marc Roskin and
8 Rachel Olschan-Wilson, produced both the original *Leverage* and the Reboot. Devlin worked as
9 the executive producer, a director, and one of the writers on the original series, and was a co-
10 showrunner on the Reboot.

11 17. Hutton is unaware of the true names and capacities of the defendants sued as DOES
12 1 through 50, inclusive, and Hutton therefore sues these defendants by fictitious names. Hutton is
13 informed and believes, and on that basis alleges, that each of the Doe Defendants is in some
14 manner liable to Hutton. Hutton will amend this complaint to state the true names and capacities
15 of DOES 1 through 50 when their names and capacities, along with their responsibility for the
16 actionable conduct alleged herein, have been ascertained.

17 18. Hutton is informed and believes, and on that basis alleges, that Defendants were at
18 all times mentioned the agents, servants, principals, alter egos, and employees of each other, or
19 otherwise acting with the full knowledge and consent of each other. Hutton is further informed and
20 believes, and on that basis alleges, that in doing all of the things alleged in this complaint,
21 Defendants were acting within the scope and authority of their agency, servitude or employment
22 or otherwise within the scope of such knowledge and consent. As such, each of the Defendants is
23 responsible for the liabilities of the other Defendants, as alleged herein.

24 **FACTUAL ALLEGATIONS**

25 **A. Hutton and Electric Enter into an Agreement for the Reboot**

26 19. In the fall of 2019, seven years after the series finale of the original, Devlin
27 approached Hutton about rebooting the show. After Hutton expressed enthusiasm, Electric offered
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1 him his original role in December 2019. As is customary, Electric and Hutton then turned over the
2 deal to their respective transactional attorneys to negotiate the terms.

3 20. Between December 13, 2019 and February 14, 2020, Hutton’s representatives went
4 back and forth with Electric’s representatives, negotiating the terms of Hutton’s deal to star in and
5 executive produce the Reboot, as well as to direct at least one episode per season. Hutton’s
6 attorneys initially proposed that the Reboot be deemed a continuation of *Leverage*, i.e., Season 6
7 of the series, and that the parties should rely on the original deal terms as the starting point for
8 their negotiations. Electric refused. It wanted a new deal with new terms because, on information
9 and belief, the original series was in profits, and Electric did not want to share its profits on the
10 Reboot with the profit participants on the original series (including Hutton).

11 21. During the negotiations, Hutton requested that he be paid at least the same episodic
12 fees as on the last season of *Leverage* in 2012. Although it is standard in the industry for stars to
13 ask for and receive substantial increases in compensation for a series reboot, and although most of
14 the other returning cast members were doubling *their* previous salaries, Hutton’s request upset
15 Devlin. Devlin even threatened to take away Hutton’s directing and executive producing roles if
16 Hutton did not accept a lower fee than his last season on the original series. Hutton, in turn,
17 threatened to walk away from the deal altogether. Ultimately, however, the parties agreed to
18 Hutton’s requested episodic fees, much to Devlin’s chagrin.

19 22. Hutton also required that his contract include a “pay-or-play” provision. A “pay-or-
20 play” term requires a studio to pay the artist even if it later decides not to use the artist’s services.
21 Thus, the studio need not “play” the artist, but it must “pay” him or her. After initially resisting,
22 Electric ultimately agreed to include this provision.

23 23. The negotiation history leaves no doubt on this point. Hutton’s initial offer was for
24 “1st season guaranteed, pay-or-play.” Electric countered that he would be pay-or-play “upon *close*
25 *of financing* and of course [subject to] his availability.” (emphasis added). Hutton’s lawyers stood
26 firm, though, explaining that “we can’t pull him off the market until he is made pay-or-play, so [it]
27 should be done now or Tim can opt out at any time until he’s pay-or-play for the entire first
28 season.” But the possibility of Hutton opting out “at any time” was anathema to Electric, which

1 was insisting on four options, “down from 6,” because it “need[ed] the 4 options for the licensee”
2 (i.e., IMDb TV). In other words, to secure a commitment from IMDb TV, Electric needed to
3 deliver Hutton—and not just for the first season, but for “4 additional seasons.”

4 24. For his part, Hutton was only willing to go up to three options (from his original
5 offer of two) if “the first season [was] confirmed POP [pay-or-play] *on close of* [Hutton’s] *deal*.”
6 (emphasis added). This was a crucial point for Hutton, who was concurrently negotiating to be
7 released from a different network television show (*Almost Family*), and preparing for pilot season.
8 Simply put, he could not find himself in a situation where he sat out pilot season in reliance on the
9 Reboot, only for the Reboot to fall apart (e.g., because Electric could not obtain financing) before
10 he was “locked” and therefore owed his episodic compensation.

11 25. Three days later, Electric’s attorneys agreed to “1 + 3”—i.e., “1” season on a pay-
12 or-play basis with “3” consecutive options. As it turned out, this distinction between being locked
13 upon “close of deal” and “close of financing” was irrelevant—on information and belief, Electric
14 closed financing before dismissing Hutton.

15 26. Later that week, on February 14, 2020, the parties orally finalized the deal and
16 agreed to the following material terms, which is to say, *all* of the material terms in an actor
17 agreement:

- 18 • Seasons/Options: First season guaranteed, pay-or-play on close of deal and
19 receiving clearance from Universal that it would release Hutton from his
20 obligations to the series *Almost Family*; three consecutive, dependent
21 options for up to three additional seasons.
- 22 • Fee: \$175,000 per episode (allocated \$160,000 per episode for acting and
23 \$15,000 per episode for executive producing).
- 24 • Guarantee: All episodes produced (“AEP”), minimum of 13 episodes for
25 the first season; minimum of 10 episodes for subsequent seasons.
- 26 • Directing: At least one episode per season in which he is also engaged to
27 act.
- 28 • MAGR: 2.5% of 100% of MAGR; definition no less favorable than any
other non-financing participant.
- Credit:
 - Performer: First position, single card, main/opening titles grouped
with and in no less favorable size to all other cast.

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- Executive Producer: EP credit on a single card, main/opening titles grouped with and in a no less favorable size to all other EPs.
- Paid ads credit on paid ads taken out by Electric.
- Trailer: Half of a double, with customary first-class amenities, no less favorable than any other cast.
- Temporary/Publicity Travel: First-class, roundtrip flight; first-class hotel accommodations; exclusive ground transportation to/from all airports, accommodations, and sets; non-accountable \$60 per diem; all no less favorable than any other cast.
- Relocation: Each season, \$4,000 per month (if New Orleans) or \$5,000 per month (if Los Angeles) prorated for partial months; three first-class roundtrip flights (if used), exclusive (shared with above-the-line only) ground transportation to/from airports and a full-sized rental car; relocation package no less favorable than any other cast member; approval over any relocation outside of New York, Los Angeles, or New Orleans.
- Exclusivity: Only for TV performing services during productions periods, otherwise non-exclusive provided no third-party services materially interfere.
- Perq Fund: \$300,000 per season, payable prior to the start of principal photography provided that if Hutton elects to have Electric engage an assistant for Hutton or upgrade his trailer to a single star trailer, such costs will be deducted from the perq fund and Hutton must make his election prior to the start of principal photography.

27. Importantly, Electric did *not* insist on including a “morals clause” as a material term. Nor was there any mention during negotiations of incorporating Electric’s “Standard Terms,” or any attempt—let alone an agreement—by Electric to reserve the right to incorporate standard terms upon execution of a “long-form” agreement. And at no point did Electric make signature of a long-form agreement a condition precedent of the Reboot deal.

28. With the terms of the deal finalized, the parties planned to start production in May of 2020. Meanwhile, both sides behaved consistent with their mutual understanding that the deal was done. For example, Devlin started sending information to Hutton and other cast members regarding the filming location (New Orleans), and Hutton began communicating with fellow cast members about potential places to stay during filming—both of which would be highly unusual (almost unprecedented) for a studio/producer or an actor to do while negotiations were still ongoing.

1 29. To be sure, the two sides’ transactional attorneys still planned to prepare a long-
2 form agreement consistent with the material terms they had already agreed to, as is standard
3 practice in the industry. But it is common for parties in the entertainment industry not to start
4 drafting a long-form for months after agreeing on a short-form. In the interim, studios and talent
5 alike can—and do—rely on the short-form.

6 **B. Hutton Is Targeted in a Bizarre Extortion Attempt**

7 30. In the spring of 1983, Hutton was on location in Vancouver shooting the film
8 *Iceman*, one of the first major Hollywood films to be filmed in Canada. During the shoot, Hutton
9 spent little time in his hotel room except when sleeping. He did not host parties, raucous or
10 otherwise, and his only guest was his then live-in girlfriend.

11 31. Unbeknownst to Hutton at the time, the set designer on the film was regularly
12 bringing her 14-year-old daughter to the set. Hutton has no recollection of meeting her in 1983,
13 and he certainly never had sex with her—let alone without consent.

14 32. The first time Hutton ever even heard her name was in December 2017, when her
15 Florida-based lawyer, Jeff Herman, sent a letter demanding **\$1.5 million** “to resolve this claim
16 before suit [was] filed.” At the time, Herman had already publicly admitted to bringing “untrue
17 and provably false allegations” against four industry players, and he was forced to pay a settlement
18 to two of them. Herman had also been sanctioned twice by judges for dishonesty and for making
19 frivolous claims. He was “permanently barred” by a federal judge in Oregon from “appearing in
20 his courtroom” for making “frivolous arguments and misrepresentations” and “claims in bad
21 faith.” And the Florida Supreme Court had found Herman “guilty of professional misconduct” and
22 “suspended [him] from the practice of law in Florida for eighteen months” for activities that were
23 “dishonest and deceitful.”

24 33. Herman claimed that two of the accuser’s friends had witnessed the statutory rape
25 by Hutton and another crew member. In response, Hutton’s lawyers demanded that Herman
26 substantiate the allegations and produce the claimed witness statements. He did nothing of the
27 sort. Instead, he claimed that his client’s mother, her former stepfather, and an unnamed school
28 friend had corroborated her account—without providing any witness statements or declarations.

1 34. After a failed mediation, the accuser sent an email blast to multiple news outlets
2 offering a tip about an Academy Award-winning actor who had assaulted her, without naming the
3 actor. Only one outlet responded: BuzzFeed.

4 35. The woman then attempted to use BuzzFeed’s interest in her story as part of a final
5 push to leverage a payout from Hutton. On a March 2, 2019 call, she and her ex-boyfriend told an
6 acquaintance of the accused *Iceman* crew member that she was pitching her story to the press, but
7 would cease further communications for the right price. The man agreed to introduce the duo to
8 the crew member, but said he wanted nothing more to do with the whole matter.

9 36. Introduction secured, the accuser’s ex-boyfriend then emailed the crew member,
10 offering to help a total stranger “avoid it all” (i.e., the inevitable “media storm”) by having Hutton
11 “fix” things. Instead, the crew member flatly denied the allegations and notified Hutton’s
12 attorneys.

13 **C. BuzzFeed Threatens To, But Does Not, Publish the Allegations—Twice**

14 37. In early July 2019, a BuzzFeed entertainment reporter reached out to Hutton’s
15 representative asking for a comment in response to accusations against him. Hutton’s accuser was
16 now claiming that she had been raped,¹ among other inconsistencies with the initial demand letter.
17 In fact, she had never disclosed her exorbitant monetary demand to the reporter.

18 38. The reporter claimed, among other things, that two men had corroborated the false
19 claim. In response, Hutton’s counsel provided her with evidence of the two extortion attempts,
20 along with sworn declarations from the same two men whom she had supposedly interviewed,
21 which completely contradicted the allegations. In less than two weeks, BuzzFeed represented that
22 it was not moving forward with the story.

23 39. And, for a time, BuzzFeed was true to its word. But in October, a different reporter
24 gave Hutton’s representatives a new deadline to respond to the allegations. This time, the reporter
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28 ¹ That was how the reporter characterized what the accuser had called an “uncomfortable
sexual encounter.”

1 said, BuzzFeed would ignore the men and instead rely on a signed declaration from an eyewitness.
2 Notably, the purported eyewitness refused to provide her name.

3 40. The only problem was that this alleged “eyewitness’s” account did not match the
4 accuser’s version of events shared in the 2017 demand letter or the 2018 mediation, and was
5 refuted by the actual evidence. After Hutton’s representatives offered to release the mediator from
6 his confidentiality obligations—an offer the accuser would not reciprocate—BuzzFeed *again*
7 represented that it would not move forward with the story.

8 41. By this point, Hutton believed that he had finally driven a stake through the story’s
9 heart—after all, he had *twice* provided evidence refuting the accuser’s account and proving that
10 she was lying to BuzzFeed.

11 **D. After the Reboot Agreement Closes, BuzzFeed Takes Another Run at Hutton**

12 42. Incredibly, Hutton was wrong. On February 24, 2020, BuzzFeed once again
13 threatened to move forward with the story. This time, it informed Hutton (and he learned for the
14 first time) that the accuser had filed a criminal complaint in Vancouver *four months earlier*—
15 which is to say, months after *he* had gone to the FBI to report the extortion attempt. Although
16 BuzzFeed—having twice investigated (and twice turned back from) publishing the allegations—
17 was in a uniquely privileged position to assess the motivation behind this belated criminal
18 complaint, it was more interested in hiding behind the reporter’s shield.

19 43. On March 2, 2020, the article went to press. Immediately, the trades speculated
20 about whether the accusations would affect Hutton’s current projects.² Ironically, however, the
21 distributor of the project that they seized on—*The Glorias*, a biopic about the feminist icon—
22 acquired and released the film “as is,” and with full knowledge of the allegations.

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27 ² See, e.g., Matt Donnelly, *Gloria Steinem Biopic Caught in Crosshairs of Timothy Hutton*
28 *Rape Accusation*, Variety (Mar. 2, 2020), online at <https://variety.com/2020/film/news/timothy-hutton-rape-accusation-gloria-steinem-biopic-the-glorias-1203521593/>.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff Timothy Hutton prays for judgment to be entered in his favor and against Defendants, and each of them, as follows:

- A. For monetary damages in an amount to be proven at trial, but no less than \$3.1 million;
- B. For pre-judgment and post-judgment interest at the maximum legal rate;
- C. For costs of suit as allowable by law; and
- D. For such further relief as the Court may deem just and proper.

DATED: February 27, 2022

Respectfully submitted,

KINSELLA WEITZMAN ISER KUMP HOLLEY LLP

By: /s/ Dale F. Kinsella
Dale F. Kinsella
Nicholas Soltman
Attorneys for Plaintiff Timothy Hutton

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DEMAND FOR JURY TRIAL

On all issues so triable, Plaintiff Timothy Hutton demands a jury trial.

DATED: February 27, 2022

Respectfully submitted,

KINSELLA WEITZMAN ISER KUMP HOLLEY LLP

By: /s/ Dale F. Kinsella
Dale F. Kinsella
Nicholas C. Soltman
Attorneys for Plaintiff Timothy Hutton