

1 MYKALAI KONTILAI
2 6593 Chimes Tower Avenue
3 Las Vegas, Nevada 89139
4 (858) 459-5282
5 *Plaintiff In Pro Se*

6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

10	_____)	
11	MYKALAI KONTILAI,)	
)	
12	Plaintiff,)	Case No. _____
)	
13	v.)	
)	
14	AJB INVESTMENTS LLC,)	
15	ALBERT J. BRUNO, and)	
16	ROBERT J. BRUNO)	
)	
17	Defendants,)	
)	

18
19 **VERIFIED COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF**

20
21 COMES NOW, Plaintiff MYKALAI KONTILAI (hereinafter, "Plaintiff" or
22 "Kontilai"), in proper person, states as follows for his complaint against defendants AJB
23 INVESTMENTS LLC, ALBERT J. BRUNO, and ROBERT J. BRUNO as follows:

24
25 1. This case is about sophisticated businessmen who knowingly made a risky
26 investment, hoping to reap the larger reward that often results from deals involving larger risks. In
27 making this risky investment, these businessmen had been warned that the investment was risky
28 and expressly disclaimed reliance upon any source other than their own due diligence and own

1 advisors. When it turned out that their investment failed, these sophisticated businessmen would
2 not take personal responsibility for their actions and accept the fact that they chose to enter into
3 this deal based upon their own assessment that the risk was worth taking. Instead, they decided to
4 shift the responsibility to someone else – the Plaintiff, the person who sold them the investment
5 and who had warned them of the risk.

7 2. Even worse and knowing that Plaintiff had nothing to do with the failure of
8 their investment, these businessmen threatened that if the Plaintiff would not give them a full
9 refund of the money they invested, they would seek his criminal prosecution, seek to have the
10 SEC investigate him, interfere with his current and prospective business relations, and “destroy”
11 him and his reputation. Under this extreme duress, Plaintiff agreed to repay them in full.

13 3. When Plaintiff recently could not make a payment under this agreement,
14 defendants reiterated these threats.

16 4. Plaintiff now seeks this Court’s assistance to invalidate this extortionate
17 agreement because he entered into it under duress and to enjoin Defendants from carrying through
18 on their threats.

19 **PARTIES**

21 5. Plaintiff Mykalai Kontilai is a citizen of the State of Nevada. Kontilai is the
22 Chairman of the Board and co-founder of Public Media, Inc., a Nevada corporation, doing
23 business in marketing, advertising, and production. He also is the founder and CEO of Collector’s
24 Coffee, Inc., a Nevada corporation, which company’s business is described in greater detail below.
25 From 1994 to 2001, Kontilai owned and operated the largest volume instructional television
26 (“ITV”) distribution company in the world, Mykalai Kontilai Companies. MK Companies
27 showcased and distributed over 10,000 ITV television programs to the educational television
28

1 who also happened to be well aware of Xyience and the UFC. Due to Kontilai's efforts, the
2 Chicago- based private equity firm invested approximately \$23 million in Xyience in exchange for
3 a substantial block of shares in Xyience.
4

5 13. In consideration for his efforts relating to the funding of Xyience, Kontilai
6 was to receive two million shares of Xyience stock from the private equity firm.

7 14. For the purpose of holding his Xyience stock, Kontilai formed Marvee,
8 LLC ("Marvee"), a Nevada limited liability company, of which he was sole and managing
9 member.
10

11 15. On or about April 28, 2006, Marvee received the two million shares of
12 Xyience stock that Kontilai earned in consideration for his efforts related to the funding of
13 Xyience.

14 **Collector's Coffee, Inc., d/b/a, Collector's Café.**

15 16. Shortly after Marvee acquired ownership of the Xyience stock, Kontilai
16 became engaged in the formation and development of his long-intended business model, which
17 would ultimately become Collector's Coffee, Inc., d/b/a Collector's Café ("CCI").
18

19 17. CCI was originally formed as a California corporation on May 14, 2007 and
20 is now a Nevada corporation, having been re-domesticated in Nevada, pursuant to merger, on
21 February 22, 2008.
22

23 18. CCI is a "C" corporation, with Kontilai serving as President and CEO, Co-
24 Founder, Gary L. Ferrell ("Ferrell") serving as Chairman, and two additional outside board
25 members. The operations of CCI are controlled by duly executed and adopted By-Laws. The
26 company currently has approximately 30 shareholders and is in the process of raising capital
27 through a private offering.
28

1 19. CCI is simultaneously developing a retail coffee operation, encompassing
2 both coffeehouses and mass retail components, and an auction based collectibles sales operation.
3 The central distinguishing component of the CCI business plan is the marketing support the
4 company will receive from a national – and shortly thereafter, global – primetime public television
5 program called “*Collector’s Café*.”
6

7 20. Through his years of involvement with public broadcasting and
8 programming, Kontilai recognized the opportunity to “brand” a retail business through a television
9 series aired on the public broadcast system. He aligned with CCI Co-Founder, Ferrell – who
10 previously operated one of the largest public broadcast stations in the U.S., and who continues to
11 serve on the board of directors of American Public Television – and then embarked on the
12 development of both the “*Collector’s Café*” series, which is owned and produced by Public
13 Media, Inc., and the CCI business plan.
14

15 21. Since the time that he conceived CCI, Kontilai has devoted the vast
16 majority of his time and financial resources into the establishment, launch, and success of that
17 business. To do so, Kontilai has leveraged and relied upon his extensive contacts and positive
18 reputation in the television and other related industries. Moreover, CCI, primarily through the
19 efforts of Kontilai, has assembled an experienced executive team, including the former COO of
20 the country’s second largest coffee company. During the last twelve (12) months, CCI has also
21 been involved in the process of forming strategic relationships with some of the country’s leading
22 retail, franchise and collectibles auction companies.
23

24
25 **The Marvee Sales**

26 22. Because the formation and development of CCI required significant capital
27 resources, and after having been approached about the potential sale of a portion of his interest in
28

1 Marvee, Kontilai elected to raise CCI start-up capital by offering for sale to third parties a portion
2 of his Marvee membership interest.

3 23. Before selling membership interests in Marvee, all potential buyers
4 executed Non-Disclosure Agreements (“NDAs”), which facilitated the disclosure of confidential
5 information about Xyience. In these NDAs, the buyers affirmed that they were qualified and
6 experienced in business activities related to those of Marvee. As is typical of such agreements, the
7 NDAs also obligated the potential buyers to maintain the confidentiality of the information about
8 Xyience that they obtained from Kontilai.

9 24. Marvee’s sales of its membership interests to actual buyers were
10 memorialized in a standard Purchase of Membership Interests and Contract Rights Under
11 Operating Agreement (the “Purchase Contract”). In this Purchase Contract, every buyer warranted
12 and represented: (a) to having had a full and fair opportunity to review Kontilai’s agreements with
13 Xyience independently and with counsel; (b) to being an “accredited investor” under the securities
14 laws.

15 25. More critically, in this Purchase Contract, every buyer warranted and
16 represented and warranted that (hereinafter, the “No Reliance Provision”):

17
18 Buyer is aware that all investments involve a certain risk of loss of and up to the
19 total amount of Buyers’ investment. Buyer further represents and warrants that
20 Buyer has had a reasonable opportunity to review this Agreement and other
21 information relating to the Company and Xyience, Inc. Buyer has also been
22 afforded an opportunity to ask questions of and receive answers from the Company,
23 and all such questions, if any, have been answered to the full satisfaction of the
24 Buyer. The Buyer further represents and warrants that Buyer has had the
25 opportunity to review this Agreement with Buyer’s own legal counsel or business
26 or tax advisor. Buyer is relying solely on such counsel or business or tax advisor, if
27
28

1 any, and not on any statements or representations of the Company or any of its
2 agents relative to entering into this Agreement and for tax or legal advice with
3 respect to this investment or the transactions contemplated by this Agreement.
4

5 26. In the Purchase Contract, neither Kontilai nor Marvee made any warranties
6 or representations regarding the financial condition or prospects of Xyience. Indeed, Kontilai had
7 no independent knowledge about the financial condition or prospects of Xyience other than the
8 information Xyience provided to him.
9

10 27. During the time period from October 2006 to July 2007, via Marvee,
11 Kontilai sold to 58 buyers a total membership stake in Marvee of approximately 60%, which
12 constituted the equivalent of approximately 1,200,000 shares of Xyience stock. This left Kontilai
13 with an approximate 40% interest in Marvee, which constituted the equivalent of approximately
14 800,000 shares of Xyience stock.
15

16 28. While willing to sell a portion of his Xyience shares to fund his new CCI
17 venture, Kontilai intentionally retained his substantial interest in Marvee because he believed,
18 based upon information that Xyience had provided to him, that while risky, Xyience was a very
19 promising investment.
20

21 29. Kontilai, directly or through his agents, informed the vast majority of the
22 foregoing buyers that the primary motivating factor for the sale of a portion of his Marvee interest
23 was to utilize the funds he earned for the development of CCI.
24

25 30. In fact, Kontilai invested the vast majority of the funds earned from the sale
26 of membership interests in Marvee into his CCI venture.
27

28 31. The time period from August 2007 to the present, and in particular the later
part of 2007 and early 2008, was a critical one for Kontilai and CCI. During this period, Kontilai

1 was actively soliciting investors, recruiting employees, business partners, and forming a board of
2 directors.

3 **AJB Investments and the Brunos**

4
5 32. In or about October 2006, Kontilai was informed by a friend from Chicago,
6 Saul Rodriguez, that defendant Robert Bruno was interested in exploring the possibility of
7 acquiring an interest in Xyience via the purchase of a membership interest in Marvee.

8 33. In or about October and November 2006, Kontilai met with Robert on
9 multiple occasions in Las Vegas, Nevada, during which he presented the details of the
10 Marvee/Xyience investment opportunity. Kontilai and his counsel also engaged in telephone
11 discussions, from Las Vegas, with Albert, during which Albert stated that he was concerned that
12 this was a risky investment. Kontilai agreed, responding that this was a very high-risk investment,
13 and urged the Brunos to go forward with the investment only if they were comfortable with it.
14 Kontilai's statements of caution also were confirmed in written e-mail correspondence to the
15 Brunos.
16
17

18 34. The Brunos executed the NDA that all other potential Marvee investors had
19 executed, thereby affirming that the Brunos were qualified and experienced in business activities
20 related to those of Marvee.
21

22 35. The Brunos then proceeded with extensive due diligence regarding the
23 Xyience/Marvee investment. Not only did Robert himself investigate the investment, the Brunos'
24 counsel and accountant were involved in the due diligence as well.

25 36. During the due diligence process, Kontilai directly and through his agents
26 provided the Brunos and their advisors with extensive documentation about Xyience, including a
27 PowerPoint presentation, existing agreements, financial estimates, and related marketing
28

1 materials.

2 37. Xyience had provided all of the foregoing materials to Kontilai directly or
3 to his counsel, and Xyience had represented to Kontilai and his counsel that these materials were
4 accurate and complete. Moreover, Kontilai informed the Brunos and their advisors that this was
5 the case.
6

7 38. On or about December 14, 2006, the Brunos and other members of AJB
8 acquired an interest in Marvee via defendant AJB by executing the same Purchase Contract other
9 Marvee members executed. Under the Purchase Contract, for \$1,119,598.00, AJB acquired a
10 9.33% membership interest in Marvee, which interest, calculated on a pro rata basis, constitutes
11 the ownership of 186,593 shares of stock in Xyience.
12

13 39. In this Purchase Contract, AJB warranted and represented that it: (a) had a
14 full and fair opportunity to review Kontilai's agreements with Xyience independently and with
15 counsel; (b) to being an "accredited investor" under the securities laws.
16

17 40. AJB also agreed to the No Reliance Provision quoted above.

18 41. In the Purchase Contract, neither Kontilai nor Marvee made any warranties
19 or representations to AJB regarding the financial condition or prospects of Xyience.
20

21 42. To the contrary, between the date that Kontilai first met the Brunos and the
22 date they purchased their interest in Marvee via AJB, Kontilai advised them on multiple
23 occasions, both orally and in writing, that the Xyience/Marvee investment was risky and that there
24 were no guarantees that it would succeed.

25 43. Every time the Brunos expressed doubts about moving forward with the
26 investment, Kontilai urged them not to enter into a transaction about which they felt any level of
27 discomfort.
28

1 44. Kontilai gave the Brunos foregoing warnings of risk even though there was
2 no need to do so. The Brunos were and represented to Kontilai that they were sophisticated
3 business people with significant investment experience – that is, individuals who knew and had
4 reason to know that investment a start-up venture such as Xyience was inherently risky.
5

6 45. Throughout the time that Kontilai and the Brunos discussed the
7 Xyience/Marvee investment, Kontilai had no independent knowledge regarding the financial
8 condition or prospects of Xyience. His knowledge was based upon the information Xyience
9 provided to him and his counsel, which information Kontilai then forwarded to the Brunos and
10 their advisors in response to due diligence inquiries.
11

12 46. If at the time that Kontilai was in discussions with the Brunos there were
13 material, nonpublic financial or other problems at Xyience, Kontilai was unaware of them and thus
14 necessarily could not and did not disclose such problems to the Brunos (and the other buyers of
15 interests in Marvee). Indeed, although risky, Kontilai believed that his stake in Xyience was a
16 promising investment and thus intentionally did not sell a significant portion of the shares he had
17 acquired in Xyience.
18

19 47. Kontilai invested substantially all of the approximately \$1.1 million he
20 earned from the sale of the 9.33% membership interest in Marvee to AJB into CCI.
21

22 **The Duress.**

23 48. In or about early 2007, Robert informed Kontilai in a series of emails, and
24 in telephone discussions with Kontilai's counsel, Robert K. Sparks ("Sparks"), that an Internet
25 website was publishing adverse reports about Xyience. Robert recounted that the website alleged,
26 *inter alia*, that: (a) Xyience's president, Pike, had been convicted of at least one crime and was
27 the subject of various lawsuits; (b) the SEC was investigating Xyience; (c) Xyience was the
28

1 subject or would be the subject of various lawsuits; and (d) Xyience was having financial
2 problems.

3 49. Despite being aware of the information he read on the website, Robert
4 engaged in efforts to market the Marvee/Xyience investment to others.

5 50. In late 2007, Robert informed Kontilai, and Kontilai became aware through
6 other sources, about news reports that Xyience may face bankruptcy.

7 51. Immediately thereafter, the Brunos and AJB began a campaign of threats
8 and intimidation designed to force Kontilai to refund to them the approximately \$1.1 million they
9 paid via AJB for the 9.33% membership interest in Marvee.

10 52. In or about January 2008, Xyience filed for bankruptcy under Chapter 11,
11 which as would be expected had a significant adverse effect upon the value of Xyience's stock.
12 Kontilai personally lost the equivalent value of his remaining Marvee membership interest, which
13 represented in excess of 800,000 shares of Xyience stock

14 53. In multiple exchanges, defendants accused Kontilai of having misled them
15 about the Xyience/Marvee investment by failing to disclose material adverse information about
16 Xyience to them, including, most significantly, the financial condition of Xyience at the time of
17 the AJB purchase of its Marvee interest. They did so even though they expressly had disclaimed
18 reliance upon anyone other than their own advisors and presented Kontilai with no proof that
19 Kontilai knew or had reason to know of adverse facts beyond those disclosed prior to the AJB
20 purchase.

21 54. Indeed, Kontilai did not disclose these adverse facts to the Brunos for the
22 simple reason that he was unaware of those facts, and he told this to the Brunos.

23 55. Nevertheless, defendants persisted with their threats and baseless
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25
26
27
28

1 accusations regarding Kontilai's alleged malfeasance.

2 **The Face-to-Face Threats.**

3 56. On or about the last week of November 2007, in a good faith effort to
4 address defendants' concerns, Kontilai's attorney, Robert K. Sparks ("Sparks"), flew to Chicago
5 and met with Albert, Robert, and Rodriguez, the friend of the Brunos who had helped facilitate the
6 Marvee-AJB transaction.
7

8 57. Kontilai caused Sparks to go to this meeting despite the fact that he: (a)
9 was free of any continuing obligation and/or liability to AJB as arising from the AJB purchase of
10 the interest in Marvee; and (b) himself had suffered as significant loss as a result of Xyience's
11 demise.
12

13 58. At this meeting, Albert claimed that Kontilai "stole our money, and lied to
14 us." Albert then threatened to sue Kontilai to recover the AJB investment regardless of the cost of
15 such litigation
16

17 59. Also at that meeting, Sparks informed Robert and Albert that, solely as a
18 good faith gesture, due to the fact that the vast majority of Marvee members are acquaintances of
19 Kontilai and close friends and/or family of Sparks, Kontilai was in the process of transferring a
20 matching number of shares of CCI stock to Marvee – thus protecting Marvee members from
21 having lost money invested as a result of the Xyience bankruptcy.
22

23 60. Upon being informed of Kontilai's offer to replace their interest in a defunct
24 Xyience with an interest in CCI, Albert and Robert summarily dismissed the offer and stated that
25 repayment of the AJB investment was the only act which would prevent the undertaking of their
26 threatened actions.
27

28 61. On or about February 13, 2008, in specific response to Robert's threat that

1 if the matter was not resolved by the end of February 2008, he would seek a criminal prosecution
2 of Kontilai and would commence a civil action (during which he would demand deposition
3 testimony from all Marvee members), Sparks again flew to Chicago and met with Robert and
4 AJB's counsel.
5

6 62. At this meeting, Robert continually stated that Kontilai had lied to the
7 Brunos and was a "crook." Then Robert threatened to contact other Marvee investors and the
8 Securities and Exchange Commission to inform them of Kontilai's alleged malfeasance.
9

10 63. Robert also threatened substantially as follows:

11 We want our money back. We will get our money back. If we don't get our
12 money back, I'll go to the U.S. Attorney, with whom I already have talked, and I
13 will see to it that I destroy Mykalai. Mykalai will never do business with anyone if
14 I can help it. This coffee company [CCI] will never go public and Mykalai will
15 never be able to do anything with that company again.
16

17 64. In response, Sparks told Robert that, not only was Robert threatening to
18 harm Kontilai, but also to harm all other members of Marvee, in that they would all become CCI
19 shareholders once the intended transaction was complete.
20

21 65. Robert continually responded that he did not care about the interests of any
22 other Marvee members, that he intended to contact each of the Marvee members to inform them of
23 his opinions as to Kontilai, that he wanted the money paid by AJB to be repaid immediately and
24 that if the money is not repaid, he will do everything in his power to destroy Kontilai and his
25 business relationships.
26

27 66. Sparks responded that if Robert would contact other Marvee members for
28 that ill-intended purpose, Kontilai would be forced to defend himself by bringing suit against
Robert, Albert and AJB.

1 67. Moreover, Sparks stated to Robert and his counsel that, should the Brunos
2 and AJB act upon their threats, there would need to be an immediate meeting of all Marvee
3 members so that the potential effect of those actions on the interest of all members could be
4 discussed.
5

6 68. Robert's attorney then inquired as to what sort of claims Kontilai could
7 bring. Sparks informed him that, at a minimum, Robert's contacting of Marvee members and
8 individuals and entities involved with the development of CCI would constitute tortious
9 interference with the business relations of Kontilai and CCI.
10

11 69. Thus, Robert knew and had reason to know that if he would in fact contact
12 other Marvee investors or parties doing business with CCI, it could constitute a tort. This did not
13 deter the Brunos from making further threats.

14 70. Sparks conveyed all of these threats to Kontilai, and informed Kontilai that
15 he believed that the Brunos would carry through these threats. Kontilai likewise believed that the
16 Brunos would act on these threats.
17

18 **The Multiple Telephonic Threats.**

19 71. During the approximate time period between December 2007 and execution
20 of a Settlement Agreement on April 4, 2008, in multiple telephone conversations, Robert told
21 Sparks that Robert was "going to the U.S. Attorney, and had already talked with them" about
22 Kontilai. Robert also told Sparks that he would seek Kontilai's "prosecution." Robert said that
23 Kontilai "will go to prison" and that Robert would "see to it that he goes to" prison.
24

25 72. In addition threats of criminal prosecution, in multiple conversations with
26 Sparks, Robert repeatedly threatened to interfere with Kontilai's business relations with CCI and
27 Marvee.
28

1 73. Robert threatened to destroy Kontilai's name so that he would be unable to
2 pursue his coffee and collectibles business, CCI. He also threatened to contact the directors of
3 CCI to tell them about Kontilai's alleged misconduct, noting specifically that he had the ability to
4 make contact with one of the more notable directors – a former baseball star.
5

6 74. As explained in paragraph 31, above, the time period during which
7 defendants engaged in their campaign of intimidation was a critical one for Kontilai and CCI.
8 Defendants knew and had reason to know that this was the case. This is because in presenting
9 defendants with the offer of an interest in CCI to replace their interest in Xyience, Sparks provided
10 defendants with information about the CCI venture and its prospects. Defendants thus knew and
11 had reason to know that their threats – even if baseless – could and would harm Kontilai and CCI.
12

13 75. Furthermore, Robert said that he would contact every member of Marvee to
14 tell them about Kontilai's alleged misconduct and to initiate a revolt against Kontilai.
15

16 76. At the time Robert made these threats, Kontilai was in the process of
17 negotiating agreements with the other Marvee members to replace their indirect ownership in
18 Xyience with indirect ownership in CCI, not from obligation, but in a good faith effort to preserve
19 and protect the personal relationships which existed between Kontilai, Sparks and the investors.
20 As explained above, Kontilai had made the same offer to the defendants, but defendants rejected
21 it. Instead, Robert and the other defendants opted to threaten to interfere with Kontilai's
22 prospective contracts with the other members of Marvee, and to strong-arm Kontilai into
23 refunding their full investment in Marvee.
24

25 77. Virtually every member of Marvee, other than defendants, agreed to
26 Kontilai's offer to replace their indirect interest in Xyience stock with an indirect interest in CCI
27 stock. These members also released Kontilai and Marvee from all claims related to Marvee or
28

1 Xyience.

2 78. Again, Sparks conveyed all of these telephonic threats to Kontilai, and
3 informed Kontilai that he believed that the Brunos would carry through these threats. Kontilai
4 believed that the Brunos would act on these threats.
5

6 **The Threats Via Third Parties.**

7 79. Business associates of the Brunos also informed Kontilai and Sparks of the
8 Brunos threats.

9 80. One such business associate, Rodriguez, recounted to both Kontilai and
10 Sparks, Robert's threat that "if he [Kontilai] doesn't pay the money back, I'll destroy him. I have
11 friends at the [Chicago] Tribune. I will have him thrown in jail."
12

13 81. Another business associate, Joe Pennacchio, conveyed to both Kontilai and
14 Sparks, Robert's threats to "destroy" Kontilai, "put him in jail," and "if he comes to town, I'll kick
15 the living crap out of" Kontilai.
16

17 82. Sparks and Kontilai believed that the Brunos would act upon the threats that
18 the foregoing third parties recounted to Kontilai and Sparks.

19 **Kontilai Executes the Settlement Agreement Under Extreme Duress.**

20 83. Robert and Albert dictated the terms of a settlement agreement by using the
21 threats detailed in the preceding paragraphs including threats to ruin Kontilai's reputation via
22 contacts with the media, Internet, and Kontilai's business associates, threats to interfere with CCI,
23 Marvee, and Kontilai's agreements to provide Marvee members with shares in CCI, and threats to
24 instigate criminal and regulatory proceedings against Kontilai.
25

26 84. Believing that Robert and Albert would make good on their threats, Kontilai
27 agreed under duress to refund, in full, the money invested by Robert, Albert, and other members
28

1 of AJB.

2 85. The terms of the Settlement Agreement demonstrate the real and
3 omnipresent threat Robert and Albert posed. According to the terms of the Settlement Agreement,
4 Robert and Albert agreed not to “disparage” Kontilai, but only so long as he paid them the money.
5

6 86. Defendants forced Kontilai to agree that if he ever defaulted on the
7 Settlement Agreement, they could “disparage” him at will. Specifically, the agreement provides in
8 Paragraph 6 entitled “Non-disclosure and Non-disparagement” that

9 The parties hereto agree, warrant, and represent that they will not make or publish
10 in any way to anyone any disparaging remarks or statements about the parties
11 hereto with respect to the terms of this agreement or the disputes that are being
12 resolved hereby, except as required by law or compulsion of the court, including
13 subpoena. However, in the event of a breach of this agreement by any party it is
14 expressly understood that the non-disparagement provisions contained in this
15 paragraph are released as to the non-breaching party (only) and the non-breaching
16 party hereto is free to disclose to third persons any and all facts, disparaging or
17 otherwise about the other

18 87. Also as part of the Settlement Agreement, Robert and Albert agreed not to
19 instigate any spurious criminal or regulatory proceedings, but again, only so long as Kontilai paid
20 them the money. Specifically, the Settlement Agreement provides that

21 AJB and each of its Members and Managers on their own behalf of their respective
22 agents, representatives, attorneys, and family members, warrant and affirm that,
23 provided that Kontilai fully complies with all terms and conditions of the
24 Agreement . . . they will not contacted any third-party, including but not limited to
25 governmental or administrative agencies or enforcement bodies, for the purpose of
26 commencing or otherwise prompting investigation or other action relative to the
27 subject matter herein.
28

1
2 88. Thus, defendants forced Kontilai to consent to defendants' (a) tortious
3 interference with his actual and prospective business relations and contracts, (b) disparagement
4 and defamation of his name, character, and reputation, and (c) contacts with criminal and
5 regulatory authorities, if he did not agree to and comply with the terms of the Settlement
6 Agreement.
7

8 **The Duress Continues to this Day.**

9 89. Because Kontilai was under duress, the first payment due under the
10 Settlement Agreement was made on or about April 8, 2008.
11

12 90. Under the Settlement Agreement a second payment for \$306,532.00 was
13 due on August 8, 2008.

14 91. Recognizing several weeks prior to the due date that it was unlikely he
15 would have funds available to timely make this second payment, Kontilai caused Sparks to contact
16 AJB via Robert. In so doing, Kontilai wanted to avoid the defendants carrying through on their
17 threats.
18

19 92. On or about the week of July 21, 2008, Sparks informed Robert of
20 Kontilai's likely inability to make this second payment on or before August 8, 2008, and proposed
21 an alternative payment schedule. Robert summarily rejected the proposal and renewed his prior
22 threats by informing Sparks that: (a) there would be no negotiation or extension and if the money
23 was not paid on time; (b) he would contact the U.S. Attorney; and (c) he would initiate a civil
24 action to seek enforcement of the Settlement Agreement.
25

26 93. On August 12, 2008, Sparks returned from a family vacation and returned a
27 voicemail message from Robert. During that conversation, Robert inquired as to why the payment
28 had not been made and Sparks again informed Robert that Kontilai simply does not have the funds

1 available.

2 94. Robert responded to Sparks by renewing his threats and continuing the
3 duress. Robert stated that he would forward an e-mail setting forth terms that would be acceptable
4 to AJB and emphasized that if Kontilai and AJB were unable to reach an agreement on terms of
5 payment in the immediate future, he intended to contact the U.S. Attorney to seek the criminal
6 prosecution of Mr. Kontilai and to commence a civil action against Kontilai.
7

8 95. Kontilai, via an e-mail to Sparks, received the proposal from AJB/Bruno,
9 the terms of which were unreasonable, onerous, and punitive.
10

11 96. In a final, desperate effort to protect his good name and the interests of the
12 members of Marvee and the shareholders of CCI, Kontilai subsequently retained counsel to
13 attempt to further engage AJB in dialogue to resolve the dispute. Thereafter, extensive negotiation
14 ensued. However, the demands of AJB remained overly burdensome and onerous. Discussions
15 ultimately ceased.
16

17 97. Although Kontilai continues to feel extreme pressure to comply with the
18 terms of the Settlement Agreement, he has decided to seek this Court's protection. He decided to
19 stand up to defendants' bullying even though he knows that it may have dire consequences that
20 cannot be fixed with time or money if Defendants decide to make good on their threats to
21 "destroy" him and his business and to seek his criminal prosecution.
22

23 **FIRST CLAIM FOR RELIEF – RECISSION**

24 1. Kontilai incorporates all of the preceding allegations in his Complaint into
25 this First Claim for Relief.

26 2. Kontilai executed the Settlement Agreement with Defendants under duress
27 sufficient to deprive him of the exercise of his own free will.
28

1 3. The wrongful threats of Defendants caused and have continued to cause
2 Kontilai's duress.

3 4. Specifically, the following threats individually and in conjunction with one
4 another caused and continue to cause Kontilai's duress:
5

6 (a) Threats to instigate criminal prosecution.

7 (b) Threats to instigate regulatory investigations by the SEC.

8 (c) Threats to "destroy" Kontilai's financial reputation.

9 (d) Threats to "destroy" and to interfere with Kontilai's business
10 interests.
11

12 5. Kontilai is entitled to rescind the Settlement Agreement because a contract
13 such as the Settlement Agreement is voidable because it is the product of duress.

14 6. The parties can be returned to their positions that existed before the
15 Settlement Agreement was signed. First, Kontilai received no consideration under the Settlement
16 Agreement other than the release. With the Settlement Agreement rescinded, the defendants will
17 no longer be bound by the release. Second, Kontilai paid the defendants an initial payment under
18 the Settlement Agreement on or about April 4, 2008. With the Settlement Agreement rescinded,
19 that payment should be returned to Kontilai.
20

21 7. According to the terms of the Settlement Agreement, the defendants
22 retained their interest in Marvee until such time as Kontilai returned the full amount of their
23 original investment. As the defendants still have their full interest in Marvee, upon rescission,
24 Defendants will be in the same position they were in before the Settlement Agreement was
25 executed.
26
27
28

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Mykalai Kontilai demands judgment as follows:

1. Rescission of the Settlement Agreement;
2. A refund of the monies Kontilai already has paid under the Settlement Agreement, including prejudgment interest;
3. A temporary restraining order, preliminary injunction, and permanent injunction barring defendants from: (a) publishing or disseminating information, disparaging or otherwise, about Kontilai in the media, Internet, press, or via contacts with third parties; (b) contacting any employees, agents, officers, or directors of Collector's Coffee, Inc. or Public Media, Inc.; (c) contacting other members of Marvee or their agents and employees; and (d) contacting any government authority or body (local, state, or federal) with respect to Kontilai, Marvee, Collector's Coffee, Inc., or Public Media, Inc.;
4. An award of attorneys' fees and costs associated with this action; and
5. An award of such other relief that this Court may deem just and proper.

Dated: July 28, 2009

PLAINTIFF MYKALAI KONTILAI

State of California
County of San Diego

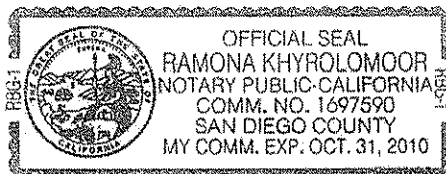
Subscribed and sworn to (or affirmed) before me on this 28th day of July (month), 2009 (year), by Mykalai Kontilai, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Ramona Khyrolo Moor
(Signature of Notary)

Mykalai Kontilai

By: [Signature] 7.28.09

MYKALAI KONTILAI
6593 Chimes Tower Avenue
Las Vegas, Nevada 89139
(858) 459-5282
Plaintiff In Pro Se



Attachment 1

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Mykalai Kontlial, 6593 Chimes Tower Ave., Las Vegas, NV 89139

(b) County of Residence of First Listed Plaintiff Clark
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
N/A

DEFENDANTS

AJB Investments, LLC, Albert J. Bruno and Robert J. Bruno, 4701 N. Cumberland Ave., Suite 29, Norridge, IL 60706

County of Residence of First Listed Defendant Cook (Illinois)
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- | | | | | | | | |
|---|---------------------------------------|---------|---------------------------------------|---|---------|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | PTF DEF | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | PTF DEF | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | | <input type="checkbox"/> 3 | Foreign Nation | | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACTS	TORTS	LABOR	PROPERTY RIGHTS	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefit <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane-Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Arbitrat <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 930 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISON/DETENTION <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
			LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS--Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Section 1332

Brief description of cause:
Rescission of Agreement / Injunctive Relief

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ _____

CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE N/A DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

MAUS 7-28-09

FOR OFFICE USE ONLY

RECIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Attachment 2

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MYKALAI KONTILAI,

Plaintiff,

v.

AJB INVESTMENTS LLC,
ALBERT J. BRUNO, and
ROBERT J. BRUNO

Defendants,

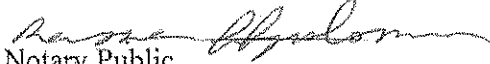
Case No. _____

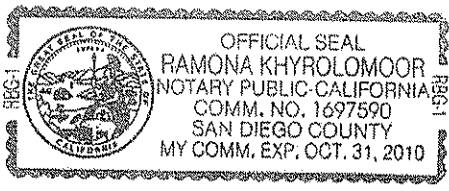
VERIFICATION

I, MYKALAI KONTILAI, am the plaintiff in the above-captioned action. Except for those facts alleged upon information and belief, I have personal knowledge of the facts stated in the foregoing Verified Complaint for Injunctive and Other Relief and swear under penalty of perjury such facts are true and correct. With respect to those facts in the foregoing Verified Complaint for Injunctive and Other Relief alleged upon information and belief, I hereby verify that the statements are true and correct to the best of my knowledge, information, and belief.


7-28-09
MYKALAI KONTILAI

State: CA
County: San Diego
Subscribed and sworn before me this 28TH
day of July, 2009 by: Mykalai Kontilai who
personally appeared and pronounced


Notary Public



Attachment 3

1 answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil
2 Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose
3 name and address are:

4
5 MYKALAI KONTILAI
6 6593 Chimes Tower Avenue
7 Las Vegas, Nevada 89139
8 (858) 459-5282
9 *Plaintiff In Pro Se*

10 If you fail to respond, judgment by default will be entered against you for the relief
11 demanded in the complaint. You also must file your answer or motion with the court.

12 CLERK OF COURT

13
14 Date: _____

15 _____
16 *Signature of Clerk or Deputy Clerk*

Attachment 4

1 answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil
2 Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose
3 name and address are:

4
5 MYKALAI KONTILAI
6 6593 Chimes Tower Avenue
7 Las Vegas, Nevada 89139
8 (858) 459-5282
9 *Plaintiff In Pro Se*

10 If you fail to respond, judgment by default will be entered against you for the relief
11 demanded in the complaint. You also must file your answer or motion with the court.

12 CLERK OF COURT

13
14 Date: _____

15 _____
16 *Signature of Clerk or Deputy Clerk*

Attachment 5

1 MYKALAI KONTILAI
2 6593 Chimes Tower Avenue
3 Las Vegas, Nevada 89139
4 (858) 459-5282
5 *Plaintiff In Pro Se*

6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

<p>10 MYKALAI KONTILAI,</p> <p>11</p> <p>12 Plaintiff,</p> <p>13 v.</p> <p>14 AJB INVESTMENTS LLC,</p> <p>15 ALBERT J. BRUNO, and</p> <p>16 ROBERT J. BRUNO</p> <p>17 Defendants,</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Case No. _____</p>
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18
19 **SUMMONS IN A CIVIL ACTION**

20
21 **To: ROBERT J. BRUNO**
22 **4701 N. Cumberland Ave., Suite 29**
23 **Norridge, IL 60706**

24 A lawsuit has been filed against you.

25
26 Within 20 days after service of this summons on you (not counting the day you received it)
27 - or 60 days if you are the United States or a United States agency, or an officer or employee of the
28 United States described in Fed. R. Civ. P. 12 (a)(2) or (3) - you must serve on the plaintiff an

1 answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil
2 Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose
3 name and address are:

4
5 MYKALAI KONTILAI
6 6593 Chimes Tower Avenue
7 Las Vegas, Nevada 89139
8 (858) 459-5282
9 *Plaintiff In Pro Se*

10 If you fail to respond, judgment by default will be entered against you for the relief
11 demanded in the complaint. You also must file your answer or motion with the court.

12 CLERK OF COURT

13
14 Date: _____

15 _____
16 *Signature of Clerk or Deputy Clerk*