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:  
SEAN PENN, an individual, Index No. \_\_\_\_\_  
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Plaintiff, :  
:  
- against - :  
: **COMPLAINT**  
: **AND JURY DEMAND**  
:  
LEE DANIELS, an individual, and :  
:  
JOHN DOES 1-100, :  
:  
:  
Defendants. :  
:  
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## NATURE OF THE ACTION

2. Specifically, in purporting to “defend” the ongoing legal and related troubles of actor Terrence Howard (“Howard”), the star of Daniels’ television show “Empire”—who has reportedly, and publicly, *admitted* to physically abusing at least one woman and reportedly been

arrested approximately five times for violent acts against women—Daniels has falsely asserted and/or implied that Penn is guilty of ongoing, continuous violence against women. In fact, in purported “defense” of Howard’s long reported history of domestic abuse, Daniels stated, “That poor boy, [Terrence] ain’t done nothing different than Marlon Brando or Sean Penn, and all of a sudden he’s some f-in’ demon. That’s a sign of the time, of race, of where we are right now in America.”

3. Daniels’ statements are egregious on several levels. *First*, in his purported “defense” of Howard, Daniels not only appears to acknowledge Howard’s guilt, he also seems to condone Howard’s reported misconduct. *Second*, Daniels’ “defense” of Howard (and his improper invocation of two of the greatest actors and humanitarians of our time, Brando and Penn, in doing so) is apparently part of a misguided campaign to profit and further bolster and brand his show “Empire” (on the eve of the *The Emmy Awards*, when the statements were made). *Third*, and most problematic, Daniels falsely equates Penn with Howard, even though, while he has certainly had several brushes with the law, Penn (unlike Howard) has never been arrested, much less convicted, for domestic violence, as his ex-wives (including Madonna) would confirm and attest. Nor has Penn admitted to “slap[p]ing” a woman or abusing others (as Howard has also reportedly admitted, reportedly asserting that he was acting in self-defense).<sup>1</sup>

4. In making his false and defamatory statements, Daniels well knew that they would be published throughout the United States and abroad, which they have been. Moreover,

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<sup>1</sup> See, e.g., Whitmarsh Police Department Investigative Report, 01-08359, Sept. 17, 2001, providing that “HOWARD broke the front door down and ran through the house breaking the screen door in the kitchen. HOWARD then grabbed the victim’s left arm and punched her twice with a closed fist in the left side of her face” (Par. 4); “Officer Ward of the Whitmarsh PD was the first officer to arrive. When Officer Ward asked HOWARD what happened he stated ‘I broke the door down and hit my wife.’” (Par. 5) (emphasis added); “Upon my arrival I [Whitmarsh PD Officer] witnessed fresh damage to the front door and marks on the victim’s face and arm from being struck (Par. 6); see also “Terrence Howard’s Dangerous Mind,” *Rolling Stone Magazine* (Sept. 14, 2015) (“She was talking to me real strong, and I lost my mind and slapped her in front of the kids,” among other admissions.)

Daniels also knew or should have known that many publications would carry those statements in their headlines or as part of their cover stories, as a result of his claim that Howard “was no different than . . . Penn.” By way of illustration only, the September 16, 2015 edition of *The Daily Mail.com* carries this as its headline, in bold print: **“I slapped her in front of the kids’: Terrence Howard admits he hit his first wife and got physical with the second . . . but *Empire* creator Lee Daniels says he’s no ‘different than Marlon Brando or Sean Penn’** (emphasis in original).

### **THE PARTIES**

5. Plaintiff Sean Penn is a citizen and resident of California. Plaintiff is an internationally-known film actor recognized for his humanitarian work, journalism, and advocacy for peace and human rights.

6. Defendant Lee Daniels is a citizen and resident of New York. Defendant is an actor, director, and producer of the television series “*Empire*,” featuring actor Terrence Howard.

7. The true names and capacities, whether corporate, associate, individual or otherwise of defendants DOES 1 through 100, inclusive, are unknown to Plaintiff, who therefore sues said defendants by such fictitious names. Upon information and belief, Plaintiff alleges that each of the defendants designated as a DOE is legally responsible in some manner for the events and happenings referred to in this Complaint and unlawfully caused his injuries and damages to Plaintiff alleged in this Complaint. Plaintiff will amend this Complaint to name such other defendants as soon as they are identified through discovery or otherwise.



### **JURISDICTION AND VENUE**

8. This Court has jurisdiction over this matter because defendant is a resident of this State, regularly and routinely conducts business in this State, and the statements giving rise to the cause of action asserted herein were disseminated in this State.

9. Venue is proper in this Court pursuant to C.P.L.R. § 503 because defendant resides within this County.

### **BACKGROUND**

10. Sean Penn is an American icon. His highly-successful film career has spanned over three decades and includes five Academy Award nominations and two Academy Awards for Best Actor, for his performances in “Mystic River” and “Milk.”

11. In 2002, Penn was presented with the Modern Master Award at the Santa Barbara Film Festival, and in 2003, he became the youngest recipient ever to receive the Donostia Lifetime Achievement Award from the San Sebastian Film Festival. In 2004, he was honored with the John Steinbeck Award for outspoken torch-bearers in the creative arts. In 2008, Penn received the Desert Palm Achievement Award for Acting, after being presented in 2007 with the Director of the Year Award for “Into the Wild” from the Palm Springs International Film Festival. In 2008, Penn also served as President of the Jury for the Cannes International Film Festival and later that year he was named a Knight in the French Legion of Honor.

12. Penn’s humanitarian work is also well known and prodigious. Among many other things, Penn traveled to New Orleans in the immediate aftermath of Hurricane Katrina to help its victims. More recently, in January 2010, also on his own time and at his own expense, Penn travelled to Haiti immediately after that country’s devastating earthquake, and he quickly thereafter established one of the world’s leading and most successful NGO’s in Haiti, the J/P

Haitian Relief Organization (“J/P HRO”), a charitable organization dedicated to saving lives and efficiently building sustainable programs with and for the Haitian people. Since its inception, J/P HRO has raised tens of millions of dollars in support for the country of Haiti and its residents.

13. Today, as J/P HRO’s Chief Executive Officer, Penn directs a predominantly Haitian staff of over 350 development professionals, supporting families in areas affected by the earthquake transition to resilient, sustainable, and prosperous communities through J/P HRO’s four integrated programs: (i) Medical, (ii) Camp & Relocations Management, (iii) Engineering & Construction and (iv) Community Development.

14. For his humanitarian efforts, Penn has received numerous honors and awards, including the Commander’s Award for Service (US Army 82nd Airborne Division); 82nd Airborne Award for Meritorious Service; the Operation Unified Response JTF Haiti Certificate from Lieutenant General, US Army Commander P.K. Keen; the 1st Recon 73rd Division Coin of Excellence; 2nd Brigade Combat Team Coin of Excellence; Commendation of Excellence United States Southern Command; Award of Excellence by the Deputy Commander US Southern Command; the 2010 Hollywood Humanitarian Award from the Hollywood Film Festival; the 2011 Stanley Kramer Award from the Producers Guild of America; the Children’s and Families Global Development Fund Humanitarian Award, presented by the Ambassador of the Republic of Haiti; and the International Humanitarian Service Award from the American Red Cross. In July 2010, Penn was knighted by Haitian President Rene Preval in a ceremony in Port-Au-Prince.

15. In addition, in early 2012, Penn was named Ambassador-at-Large for Haiti and was later formally presented with this honor by President Michel Martelly at a ceremony in Port-Au-Prince, Haiti.

16. Penn was also presented with the 2012 Peace Summit Award at the 12th World Summit of Nobel Peace Laureates. This extraordinary tribute was presented to Penn by the Permanent Secretariat of the World Summit of Nobel Peace Laureates for Penn's work to rebuild and aid the victims of the devastating 2010 earthquake in Haiti, as well as his ongoing advocacy for peace and human rights protections worldwide. Further, in December 2012, he was also named Special Advisor to Haiti's Prime Minister Laurent Lamothe.

17. As a journalist, Penn has written for *Time*, *Interview*, *Rolling Stone*, and *The Nation*. In 2004, Penn wrote a two-part feature in *The San Francisco Chronicle* after a second visit to war-torn Iraq. In 2005, he wrote a five-part feature in the same paper, reporting from Iran during the election leading up to the Ahmadinejad regime. Penn's landmark interviews with Venezuelan President Hugo Chavez and Cuba's President Raul Castro were published in *The Nation* and *The Huffington Post*. And Penn's interview with President Castro was Castro's first-ever interview with an international journalist.

18. Lee Daniels is a noted and successful actor, director, and producer, whose television credits include the television show "Empire," which stars Terrence Howard and on which he is the co-creator, director, writer, and producer.

19. On or about September 15, 2015 but no later than September 17, 2015, in an interview with Lacey Rose of *The Hollywood Reporter* ("*THR*") that was posted online in advance of its September 25 print issue, *THR* reported in its cover story article that Daniels "can't help himself" from commenting on Howard's "saga," *i.e.*, the substantial negative press he has received as a result of numerous, repeated, and ongoing allegations of domestic abuse. As Daniels stated:



“That poor boy,” [Terrence] ain’t done nothing different than Marlon Brando or Sean Penn, and all of a sudden he’s some f—in’ demon,” says Daniels. “That’s a sign of the time, of race, of where we are right now in America.”

20. Daniels’ statements were immediately disseminated through *THR*’s online magazine, <http://www.hollywoodreporter.com>, and picked up by numerous additional blogs, entertainment news sites, and mainstream news sites such as *The Huffington Post*, *Eonline*, and *The Daily Mail*, among many others.

**FIRST CAUSE OF ACTION**  
**(Defamation/Defamation Per Se)**

21. Plaintiff repeats, realleges, and incorporates each and every allegation contained in Paragraphs 1 through 20 as though fully set forth herein.

22. Penn’s claims arise out of and are for damages with regard to false and defamatory statements made by Daniels. Specifically, in September, 2015, Daniels made the above-referenced defamatory statements about Penn, which were false, unprivileged, and published.

23. Daniels, upon information and belief, made his defamatory statements for improper purposes, with knowledge that the statements would be published throughout and outside of the United States. In fact, the defamatory statements have been published throughout and outside of the United States.

24. The above-pled misconduct by Daniels constitutes the tort of defamation.

25. Upon information and belief, Daniels intentionally portrayed Penn in the above-referenced manner knowing that his depiction was false and untrue or with reckless and wanton disregard for the truth.

26. The above-referenced false and defamatory statements made by Daniels have caused Penn great anguish and emotional distress and have exposed him to pre-judgments and

false judgments, which have injured Penn's credibility and reputation in his personal life, occupation, and philanthropic activities, the latter of which are particularly important in view of Penn's significant and high-profile positions as (i) CEO of J/P HRO, (ii) lead fundraiser for J/P HRO, and (iii) Ambassador-at-Large to Haiti.

27. Since Daniels' defamatory statements, both expressly and by implication, are ones that would tend to harm the reputation of Penn and/or deter third persons from associating or dealing with Penn in the conduct of his profession as actor, humanitarian, journalist, fundraiser for and CEO of his charitable organization J/P HRO, and international ambassador for peace and human rights, while also exposing him to public contempt, ridicule, aversion and disgrace, Penn is presumed to have suffered injury and damages, and Daniels has committed defamation *per se*.

28. Daniels' statements, further, both expressly and by implication, are defamatory *per se* as, when compared to Howard in particular, they falsely and outrageously impute serious criminal behavior—repeated violence against women—to Penn. In such a case, damages resulting from Defendant's defamatory statements are also presumed as a matter of law.

29. However, as a direct and proximate result of the aforementioned acts by Defendant, Defendant has, upon information and belief, caused harm to Penn, which includes, but is not limited to general and specific damages in an amount not presently known but subsequently ascertainable and believed to be not less than ten million dollars (\$10,000,000), including damage to, among other things, Penn's reputation, standing in the community, and work as CEO and lead fundraiser for J/P HRO, as a result of Defendant's actions.

30. Upon information and belief, Penn alleges that the aforementioned acts of Defendant were done intentionally or with conscious disregard of Penn's rights, and with the intent to vex, injure, or annoy Penn, such as to constitute oppression, fraud, malice, or wanton



and reckless disregard of the truth, thus entitling Penn to exemplary and punitive damages in an amount appropriate to punish or set an example of Defendant and to deter such conduct in the future, which amount will be proved at trial.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment in his favor and against Defendant:

1. Awarding Plaintiff general and special damages against Defendant in an amount not less than ten million dollars (\$10,000,000) or according to proof, together with interest thereon at the legal rate;

2. Awarding Plaintiff compensatory, exemplary, and punitive damages in an amount sufficient to punish and deter Defendant, the exact sum of which to be determined as appropriate to the Court;

3. Awarding Plaintiff attorneys' fees and the costs of suit incurred herein, to the extent permitted by law;

4. Awarding Plaintiff pre-judgment and post-judgment interest; and

5. Such other relief as the Court deems just and proper.

Dated: September 22, 2015

Respectfully submitted,

By:   
Mathew S. Rosengart

1840 Century Park East, Suite 1900  
Los Angeles, CA 90067-2101  
(310)-586-3889

200 Park Avenue  
New York, New York 10166  
rosengartm@gtlaw.com

Anne C. Reddy  
200 Park Avenue

New York, New York 10166  
reddya@gtlaw.com  
(212) 801-9200

*ATTORNEYS FOR PLAINTIFF SEAN PENN*