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CLERK U.S. DISTRICT COURT
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6 Attorneys for Plaintiff
7 **Kim Kardashian**

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 **LACV11-5960 DSF(MANx)**
Civil Action No.

11 **KIM KARDASHIAN, an**
12 **individual,**
13 **Plaintiff,**

COMPLAINT FOR:

14 vs.

- 15 1. **VIOLATION OF THE LANHAM**
16 **ACT; 15 U.S.C. § 1125(a) (UNFAIR**
17 **COMPETITION)**
- 18 2. **VIOLATION OF THE CALIFORNIA**
19 **COMMON LAW RIGHT OF**
20 **PUBLICITY**
- 21 3. **VIOLATION OF THE CALIFORNIA**
22 **STATUTORY RIGHT OF**
23 **PUBLICITY; CIVIL CODE § 3344**

15 **THE GAP, INC., a Delaware**
16 **Corporation; OLD NAVY, LLC,**
17 **a Delaware Limited Liability**
18 **Company; OLD NAVY**
19 **(APPAREL), LLC, a California**
20 **Limited Liability Company;**
21 **GAP (APPAREL), LLC, a**
22 **California Limited Liability**
23 **Company; and DOES 1 - 10**

24 **Defendants.**

DEMAND FOR JURY TRIAL

THE HECKER LAW GROUP
1925 Century Park East, Suite 2300
Los Angeles, California 90067

1 Plaintiff, Kim Kardashian, by and through her attorneys The Hecker Law
2 Group, hereby alleges as follows:

3 **THE PARTIES**

4 1. Plaintiff, Kim Kardashian, is an individual and a resident of Los Angeles,
5 California.

6 2. Defendant, The Gap, Inc. ("The Gap"), is a Delaware corporation with its
7 principal place of business located at 2 Folsom Street, San Francisco, California
8 94105.

9 3. Defendant, Old Navy, LLC ("Old Navy"), is a Delaware Limited
10 Liability Company and a subsidiary of The Gap, with its principal place of business
11 located at 2 Folsom Street, San Francisco, California 94105.

12 4. Defendant, Old Navy (Apparel), LLC ("Old Navy Apparel"), is a
13 California Limited Liability Company and a subsidiary of The Gap, with its principal
14 place of business located at 2 Folsom Street, San Francisco, California 94105.

15 5. Defendant, Gap (Apparel), LLC ("Gap Apparel") is a California Limited
16 Liability Company and a subsidiary of The Gap, with its principal place of business
17 located at 2 Folsom Street, San Francisco, California 94105.

18 6. Plaintiff is currently unaware of the true names and capacities of DOES 1
19 through 20, inclusive, and therefore sues them by those fictitious names. Plaintiff will
20 amend this Complaint to allege their true names and capacities when they are
21 ascertained.

22 7. Defendants, and each of them, are, and at all terms herein were, the alter-
23 ego, principal, agent, employee, employer, joint venturer, customer, and/or otherwise
24 affiliated with one another so as to be liable in such capacity for the acts alleged
25 herein.

26 **JURISDICTION & VENUE**

27 8. This is an action for, *inter alia*, violation of 15 U.S.C. § 1125(a) and
28 violation of the California common law and statutory right of publicity.

1 9. This Court has subject matter jurisdiction over the federal cause of action
2 pursuant to 28 U.S.C. § 1331. This Court has jurisdiction over the state law claims
3 pursuant to 28 U.S.C. § 1367(a).

4 10. Venue for this action is proper in this judicial district pursuant to 28
5 U.S.C. §§ 1391(b) and (c) in that the acts alleged against Plaintiff occurred in this
6 judicial district.

7 **ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF**

8 **KIM KARDASHIAN**

9 11. Kim Kardashian (“Plaintiff”) is an internationally known celebrity,
10 model, television personality, actress, entrepreneur and pop culture icon.

11 12. Plaintiff has attained an extraordinary level of popularity and fame in the
12 United States and around the world, and is the subject of pervasive public interest and
13 attention in contemporary mainstream media, including television, web-based media
14 and print media. She is highly sought after to endorse commercial products and
15 services using her name, likeness, identity and persona.

16 13. Plaintiff is widely recognized as the star of the hit television series
17 "*Keeping Up with the Kardashians*", the most watched television series in the history
18 of *E!* Entertainment Television.

19 14. Plaintiff is among the top celebrities who drive the most consumer traffic
20 to brand advertisers’ websites, according to the celebrity endorsement website Ad.ly.
21 Plaintiff’s official website, kimkardashian.com, receives tens of millions of page
22 views per month and is ranked among the highest of any celebrity.

23 15. Plaintiff has more than eight million followers on Twitter, more than five
24 million “likes” on Facebook, and is among the top personalities searched on the
25 Internet. Microsoft has reported that the term “Kim Kardashian” was the most
26 frequently searched term on Microsoft’s Bing Search engine in 2010, exceeding all
27 other searched terms by 20%.

28 16. Plaintiff has been featured on the covers of dozens of popular and widely

1 circulated magazines, including Cosmopolitan, Glamour, Allure, Harpers Bazaar,
2 People, W, and Shape, and is well known for her distinctive and consistent look,
3 fashion and style.

4 17. Plaintiff has appeared as a guest on numerous television shows, including
5 The Today Show, Regis and Kelly, The View, The Rachel Ray Show, The Tyra
6 Banks Show, America's Next Top Model, Piers Morgan Tonight, The Larry King
7 Show, Late Night With David Letterman, The Tonight Show with Jay Leno, Jimmy
8 Kimmel Live!, Late Night with Jimmy Fallon, and many others. She also has been
9 featured in widely viewed musical performances, including as a celebrity contestant
10 on the hit television series "*Dancing with the Stars*" and in music video productions.

11 18. Plaintiff has selectively endorsed, and continues to selectively endorse, a
12 variety of products and services, including clothing, shoes, fashion accessories,
13 athletic wear, jewelry, perfume, skin care products and fashion styling services.

14 19. Plaintiff is the co-owner, chief fashion stylist and celebrity endorser of
15 ShoeDazzle[®], a fashion apparel and stylist service company. She is the co-owner and
16 a celebrity endorser of the *DASH* designer boutiques which sell fashion clothing and
17 accessories. She is a co-creator and celebrity endorser of the *Kardashian Kollection*
18 for Sears, which includes apparel, accessories, handbags, lingerie, shoes, jewelry and
19 shoes, as well as for the brand *K-Dash by Kardashian* for QVC. Further, she has
20 produced, promoted and endorsed a popular fitness series, "Fit in Your Jeans by
21 Friday", which has held the number one spot on the popular merchandise website
22 Amazon.com.

23 20. Plaintiff has invested substantial time, energy, finances and
24 entrepreneurial effort in developing her considerable professional and commercial
25 achievements and success, as well as in developing her popularity, fame, and
26 prominence in the public eye.

27 21. Plaintiff's name, likeness, identity and persona have come to be
28 associated in the minds of the consuming public with products and services she

1 endorses, including apparel products and entertainment services.

2 22. Plaintiff's name, likeness, identity and persona have become widely
3 known by a substantial segment of the public in the United States and internationally,
4 and thereby have become, and are, valuable commercial assets that symbolize Plaintiff
5 and the level of quality associated with Plaintiff's products, services and entertainment
6 performances, and the goodwill that is associated with them.

7 23. Plaintiff regularly receives substantial financial offers requesting
8 permission for, and seeking the use of, her name, likeness, identity and persona for
9 licensing, endorsing, marketing and promoting products, services and performances.

10 24. Plaintiff maintains strict control over the manner in which her name,
11 likeness, identity and persona are used. Plaintiff exercises careful consideration in
12 selecting and approving products, services or performances that she will permit to
13 license or use her name, likeness, identity or persona. Plaintiff restricts such use and
14 licensing to products, services and performances that are of acceptably high quality to
15 Plaintiff, and for which compensation is commensurate with the exploitation and
16 value thereof.

17 **DEFENDANTS' WRONGFUL CONDUCT**

18 25. In February 2011, Defendants launched a multimedia advertising
19 campaign to sell their products, including apparel and fashion accessories, using the
20 likeness, identity and persona of Plaintiff for commercial purposes without her
21 consent.

22 26. Defendants broadcast, displayed and otherwise publicized advertisements
23 for Defendants' products, including apparel and fashion accessories, using, centered
24 around, and focused on, the likeness, identity, and persona of Plaintiff ("The
25 Infringing Ads").

26 27. Defendants used Plaintiff's likeness in the form of a celebrity "look-
27 alike" in the Infringing Ads.

28 28. Defendants incorporated and used qualities, attributes and traits

1 associated with Plaintiff's likeness, identity, and persona in the Infringing Ads to
2 further evoke Plaintiff's likeness, identity and persona.

3 29. Defendants incorporated a storyline associated with the Plaintiff's
4 likeness, identity and persona in the Infringing Ads to further evoke Plaintiff's
5 likeness, identity and persona.

6 30. Defendants' Infringing Ads immediately received substantial attention
7 and interest from the media and the consuming public as a direct and proximate result
8 of Defendants' unlawful use and misappropriation of Plaintiff's likeness, identity and
9 persona.

10 31. The Infringing Ads are likely to cause confusion, and have caused actual
11 confusion, in the minds of the consuming public as to an association of Kim
12 Kardashian with Defendants' products and services.

13 32. Following the release of the Infringing Ads, Defendants knowingly and
14 intentionally took steps to exacerbate and perpetuate the likelihood of confusion and
15 actual confusion in the minds of the consuming public, and to perpetuate their
16 unlawful exploitation of Kim Kardashian's likeness, identity and persona for
17 Defendants' commercial gain, including by Defendants' unlawful use of Kim
18 Kardashian's name.

19 33. The Infringing Ads were repeatedly broadcast and prominently displayed
20 and distributed in various media, including on cable and broadcast television, on the
21 World Wide Web, on mobile devices, and in Defendants' retail stores.

22 34. The Infringing Ads continue to be broadcast, shown and publicly
23 displayed by Defendants.

24 35. The Infringing Ads falsely represent that Kim Kardashian sponsors,
25 endorses, or is associated with, Defendants.

26 36. Plaintiff did not authorize Defendants, or any of them, to use her name,
27 likeness, identity or persona in connection with the Infringing Ads, or otherwise.

28 37. Plaintiff was not contacted by Defendants to seek or to obtain her

1 permission, nor was she compensated by Defendants, for the use of her name,
2 likeness, identity or persona.

3 38. The use of Plaintiff's name, likeness, identity and persona by Defendants
4 was, and is, in conscious disregard of Plaintiff's right of privacy and publicity, and of
5 her exclusive right to control the use and exploitation of her name, likeness, identity
6 and persona.

7 39. The aforementioned misappropriation and use of Kim Kardashian's
8 name, likeness, identity and persona by Defendants was intentional. Defendants'
9 misappropriation was purposefully designed and intended to confuse, to cause
10 mistake, and to deceive the public into believing that Plaintiff was appearing in the
11 Infringing Ads, and/or that Plaintiff sponsored, endorsed or was associated with
12 Defendants' products, services and performances.

13 40. Defendants have created a likelihood of confusion in the minds of the
14 consuming public as to the source, sponsorship, endorsement, or association of Kim
15 Kardashian with Defendants, and with their goods, services and performances.

16 41. Defendants have profited, and will continue to profit, from their unlawful
17 and intentional misappropriation and use of Kim Kardashian's name, identity, likeness
18 and persona.

19 **FIRST CLAIM FOR RELIEF**

20 **(Violation of the Lanham Act 15 USC § 1125(a); Unfair Competition)**

21 42. Plaintiff incorporates by reference the allegations of paragraphs 1
22 through 41 as though fully set forth herein.

23 43. In doing the acts alleged herein, Defendants have engaged in commercial
24 activity that is likely to cause confusion and/or mislead consumers into believing that
25 Plaintiff has endorsed, sponsored, or otherwise approved of their products, services
26 and performances when in fact she has not.

27 44. Defendants' acts as set forth herein have, in fact, misled and confused
28 consumers, and continue to mislead and confuse consumers.

1 45. Defendants' conduct constitutes a willful violation of 15 U.S.C. §
2 1125(a).

3 46. As a result of Defendants' actions, Plaintiff has suffered, and will
4 continue to suffer, damages in an amount to be proven at trial.

5 **SECOND CLAIM FOR RELIEF**

6 **(Violation of the California Common Law Right of Publicity)**

7 47. Plaintiff incorporates by reference the allegations of paragraphs 1
8 through 41 as though fully set forth herein.

9 48. In doing the acts alleged herein, Defendants have used for commercial
10 purposes Plaintiff's name, likeness, identity and persona without her consent.

11 49. The commercial use and misappropriation of Plaintiff's name, likeness,
12 identity and persona is a violation of the California common law right of privacy,
13 which includes the right of publicity.

14 50. As a proximate result of Defendants' acts alleged herein, Plaintiff has
15 suffered and will continue to suffer damages in an amount to be proven at trial.

16 **THIRD CLAIM FOR RELIEF**

17 **(Violation of the California Statutory Right of Publicity; Civil Code § 3344)**

18 51. Plaintiff incorporates by reference paragraphs 1 through 41 as though
19 fully set forth herein.

20 52. In doing the acts alleged herein, Defendants have knowingly, willfully,
21 and unlawfully used and misappropriated Plaintiff's name and likeness in connection
22 with the Infringing Ads for their own commercial purposes.

23 53. Defendants' misappropriation of Plaintiff's name and likeness for their
24 own commercial purposes is a violation of California Civil Code § 3344.

25 54. As a result of Defendants' actions, Plaintiff has suffered, and will
26 continue to suffer, damages in an amount to be proven at trial.

PRAYER FOR RELIEF

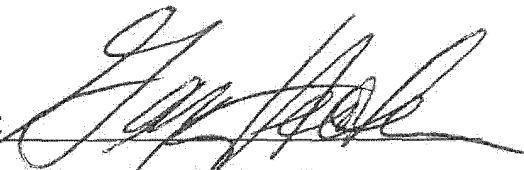
WHEREFORE, Plaintiff requests entry of judgment against Defendants, and each of them, as follows:

1. A preliminary and permanent injunction requiring Defendants and their agents, servants, and employees, and all other persons with whom they are acting in concert to refrain from using Kim Kardashian's name, likeness, identity, or persona in any promotion, advertising, or marketing activities;
2. Compensatory damages, consequential damages, lost profits, and/or disgorgement of Defendants' profits;
3. An award of attorney's fees and costs;
4. Enhanced damages;
5. Punitive damages; and
6. Any other relief that is just and proper under the law.

Respectfully submitted,

DATED: July 20, 2011

THE HECKER LAW GROUP

By: 

Gary A. Hecker, Esq.
James M. Slominski, Esq.
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Attorneys for Plaintiff
KIM KARDASHIAN

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Los Angeles, California 90067

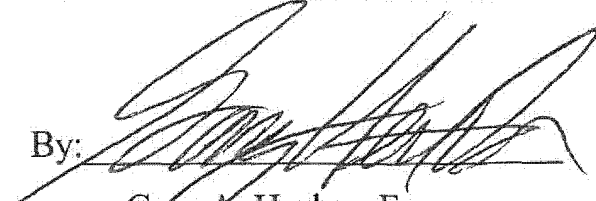
DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a jury trial.

Respectfully submitted,

DATED: July 20, 2011

THE HECKER LAW GROUP

By: 

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James M. Slominski, Esq.
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Attorneys for Plaintiff
KIM KARDASHIAN

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Dale S. Fischer and the assigned discovery Magistrate Judge is Margaret A. Nagle.

The case number on all documents filed with the Court should read as follows:

CV11- 5960 DSF (MANx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Name & Address:
 Gary A. Hecker, Esq. (SBN 099008)
 James M. Slominski, Esq. (SBN 166357)
 The Hecker Law Group
 1925 Century Park East, Suite 2300
 Los Angeles, CA 90067

**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

| | |
|--|---|
| KIM KARDASHIAN, an individual, <p style="text-align: right;">PLAINTIFF(S)</p> | CASE NUMBER LACV11-5960 DSF(MANx) |
| v. THE GAP, INC., a Delaware Corporation; OLD NAVY, LLC, a Delaware Limited Liability Company; OLD NAVY (APPAREL), LLC, a California Limited Liability Company; GAP (APPAREL), LLC, a California Limited Liability Company; and DOES 1-10 <p style="text-align: right;">DEFENDANT(S).</p> | <p style="text-align: center;">SUMMONS</p> |

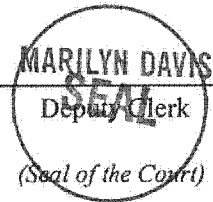
TO: DEFENDANT(S): THE GAP, INC., a Delaware Corporation; OLD NAVY, LLC, a Delaware Limited Liability Company; OLD NAVY (APPAREL), LLC, a California Limited Liability Company; GAP (APPAREL), LLC, a California Limited Liability Company; and DOES 1-10
 A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Gary A. Hecker, Esq., whose address is The Hecker Law Group, 1925 Century Park East, Suite 2300, Los Angeles, CA 90067. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: JUL 20 2011

By: _____



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

| | |
|---------------------------|---|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| Los Angeles | |

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

| | |
|---------------------------|---|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| | San Francisco, CA (all Defendants) |

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

| | |
|---------------------------|---|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| Los Angeles | |

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties
Note: In land condemnation cases, use the location of the tract of land involved.

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date July 20, 2011

Notice to Counsel/Parties: The CV-71 (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. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

| Nature of Suit Code | Abbreviation | Substantive Statement of Cause of Action |
|---------------------|--------------|--|
| 861 | HIA | All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b)) |
| 862 | BL | All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923) |
| 863 | DJWC | All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g)) |
| 863 | DIWW | All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g)) |
| 864 | SSID | All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended. |
| 865 | RSI | All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g)) |