

1 LAW OFFICES OF JOHN Z. SHAFAI
2 John Z. Shafai [State Bar No. 170518]
3 170 South Beverly Drive, Suite 305
4 Beverly Hills, California 90212
Telephone: (310) 788-2889
Facsimile: (310) 788-2885

5 Attorneys for Plaintiff,
6 DIGITAL SITE CORPORATION

FILED
LOS ANGELES SUPERIOR COURT

SEP 10 2008

JOHN A. CLARKE, CLERK

BY SHAUNYA WESLEY, DEPUTY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT

11 DIGITAL SITE CORPORATION, a Japanese
12 corporation,

13 Plaintiffs,

14 vs.

15 FOREAL, INC., a California corporation;
16 KOTARO SHIMOGORI, an individual; MARY J.
17 THOMPSON, an individual; and DOES 1 through
18 100, inclusive,

19 Defendants.
20

CASE NO.

BC397875

Unlimited Jurisdiction

VERIFIED COMPLAINT FOR:

- (1) Breach of Contract;
- (2) Breach of Written Guaranty;
- (3) Fraud;
- (4) Money Had and Received;
- (5) Account Stated; and
- (6) Fraudulent Transfer.

21 Plaintiff Digital Site Corporation ("Plaintiff") alleges as follows:

22 **The Parties**

23 1. At all times mentioned herein, Plaintiff is a corporation organized and existing
24 under the laws of Japan with its principal place of business in Tokyo, Japan.

25 2. At all times mentioned herein, Plaintiff is informed and believes and thereupon
26 alleges that Defendant Foreal, Inc. ("Foreal") is a corporation organized and existing under
27 laws of the State of California with its principal place of business in the County of Los Angeles,
28 the State of California.

29 3. At all times mentioned herein, Plaintiff is informed and believes and thereupon
30 alleges that Defendant Kotaro Shimogori ("Shimogori") is an individual residing in the County of
31 Los Angeles, in the State of California.

CIT/CASE: BC397875 LEA/DEF#:
RECEIPT #: CCH465980026
DATE PAID: 09/10/08 01:17:46 PM
PAYMENT: \$320.00
RECEIVED: 0310

1 4. At all times mentioned herein, Plaintiff is informed and believes and thereupon
2 alleges that Defendant Mary J. Thompson ("Thompson") is an individual residing in the County of
3 Los Angeles, in the State of California.

4 5. The true names and capacities of Does 1 through 100, inclusive, are unknown to
5 Plaintiffs at this time, who therefore sues said defendants by said fictitious names pursuant to Code
6 of Civil Procedure, section 474. Plaintiffs will seek leave of court to amend this Complaint when
7 said true names and capacities have been ascertained. Plaintiff is further informed and believes
8 and thereupon alleges that each of the fictitiously named Doe Defendants is legally responsible in
9 some manner for the occurrences alleged and that Plaintiff's injuries and damages, as alleged,
10 were proximately caused by these Doe Defendants' actions and/or omissions. Plaintiff is further
11 informed and believes and thereupon alleges that in the regular course of business, these Doe
12 Defendants purposefully availed themselves of the privilege of conducting business activities in
13 the State of California, thereby invoking the privileges, protections, and obligations of the laws of
14 the State of California.

15 6. At all times herein, each Defendant was the agent, servant, employee, partner joint
16 adventurer or surety of the other Defendants and was acting within the scope of said agency,
17 employment, partnership, venture or suretyship, with the knowledge, consent and/or ratification of
18 each of the other Defendants in doing the things alleged in this Complaint.

19 7. Plaintiff is informed and believes and thereupon alleges that at all times pertinent
20 herein that Shimogori is an officer, manager, director, and principal of Foreal.

21 8. Plaintiff is informed and believes and thereupon alleges that at all times pertinent
22 herein that Shimogori devised, directed, controlled, and ratified the acts of Foreal complained
23 herein. Plaintiff is also informed and believes and thereupon alleges that at all times pertinent
24 herein that Shimogori was and is the alter ego of Foreal and that at all times mentioned herein there
25 has existed a unity of interest and ownership between Shimogori and Foreal that any separateness
26 between all such defendants has ceased to exist. Plaintiff is also informed and believes and
27 thereupon alleges that at all times pertinent herein that Shimogori controlled, dominated, managed
28 and operated Foreal and intermingled his assets or accounts with Foreal's assets or accounts to suit
29 his convenience and in disregard of the separateness which should have existed between himself
30 and the purported corporation. Adherence to the fiction of the separate existence of Shimogori and
31 Foreal would therefore permit abuse of the corporate privilege, sanction a fraud on creditors and

1 produce an inequitable or unjust result.

2 **General Allegations**

3 9. On or about September 1, 2006, Plaintiff entered into a written contract (the
4 "Production Agreement") with Foreal whereby Foreal would perform the services specified
5 therein in exchange for \$500,000.00. A true and correct copy of said Production Agreement is
6 attached hereto as Exhibit 1 and is incorporated herein by this reference.

7 10. On or about May 25, 2007, Plaintiff and Foreal agreed in writing (the "Cancellation
8 Agreement") to cancel the Production Agreement. A true and correct copy of the Cancellation
9 Agreement is attached hereto as Exhibit 2 and is incorporated herein by this reference. The
10 Cancellation Agreement provided that Foreal shall refund the \$500,000.00 with \$300,000.00 to be
11 wired into Plaintiff's account within 6 days, May 31, 2007, and the remainder, \$200,000.00, to be
12 wired to Plaintiff's account within one month thereafter, July 31, 2007.

13 11. When the \$500,000.00 refund was not made within the time frame set forth above,
14 Plaintiff, being naturally concerned, contacted Foreal regarding the lack of payment. On or about
15 August 27, 2007, and in response thereto, Foreal not only confirmed in writing its commitment to
16 make the \$500,000.00 refund, but its principal, Shimogori, also guaranteed in writing (the
17 "Written Guaranty") that the refund would be made with installments to commence immediately.
18 A true and correct copy of the Written Guaranty (with a Japanese to English translation attached
19 thereto) is attached hereto as Exhibit 3 and is incorporated herein by this reference. Pursuant to the
20 Written Guaranty, Shimogori promised that if the payment were delayed once or if there were
21 reasonable cause to deem that there were a deterioration in Foreal's asset or credit situation, the
22 obligation would become immediately due and payable. Just four installment payments have been
23 received since the signing of the Written Guaranty, the last one having been made on or about
24 January 8, 2008, and Plaintiff is informed and believes and thereupon alleges that there is
25 reasonable cause to deem that there was and is a deterioration in Foreal's asset or credit situation.
26 There is currently \$496,060.00 due and owing.

27 **First Cause of Action**

28 **(Breach of Contract v. Defendants Foreal, Inc., and Does 1 through 100)**

29 12. Plaintiff realleges the allegations contained in the preceding paragraphs and
30 incorporates the same herein as though set forth herein in full.

31 ///

13. Foreal breached the Cancellation Agreement and the Written Guaranty by its failure to pay the \$500,000.00 specified therein.

14. As a direct and proximate result of said breaches, Plaintiff has been damaged in an amount to be proven at trial and not less than \$496,060.00.

Second Cause of Action

(Breach of Written Guaranty v. Defendants Shimogori and Does 1 through 100)

15. Plaintiff realleges the allegations contained in the preceding paragraphs and incorporates the same herein as though set forth herein in full.

16. Shimogori breached the Written Guaranty by his failure to pay the \$500,000.00 as specified therein.

17. As a direct and proximate result of said breaches, Plaintiff has been damaged in an amount to be proven at trial and not less than \$496,060.00.

Third Cause of Action

(Fraud v. Defendants Foreal, Inc., Shimogori, and Does 1 through 100)

18. Plaintiff realleges the allegations contained in the preceding paragraphs and incorporates the same herein as though set forth herein in full.

19. Foreal and Shimogori represented to Plaintiff that they would abide by the Production Agreement and use the \$500,000.00 deposit as specified therein, and then they represented that they would abide by the Cancellation Agreement and refund the \$500,000.00, and then again they represented to Plaintiff that they would abide by the Written Guaranty and refund the \$500,000.00.

20. The representations made by Defendants were false. Plaintiff is informed and believes and thereupon alleges that Defendants never intended to use the \$500,000.00 as represented and that they never intended to repay said sums to Plaintiff.

21. Plaintiff is informed and believes and thereupon alleges that when Defendants made these representations to Plaintiff, they knew them to be false. Plaintiff is informed and believes and thereupon alleges Defendants made the representations with the intent to deceive and defraud Plaintiff, and to induce Plaintiff to act in reliance on these representations, and with Defendants' expectations that Plaintiff would so act.

22. Plaintiff, at the time that the representations of Defendants were made, and at the time Defendants took the actions herein alleged, was ignorant of the falsity of Defendants'

1 representations, believed them to be true and justifiably relied on them. In reliance thereon,
2 Plaintiff forwarded to Defendants the amount referenced above and then, thereafter, did not take
3 action to ensure that the money was reimbursed. Had Plaintiff known the true facts, Plaintiff
4 would not have done so.

5 23. As a proximate result of the fraudulent conduct of Defendants as herein alleged,
6 Plaintiff has been damaged in the amount to be proven at trial not less than \$496,060.00.

7 24. The conduct of Defendants constitutes an intentional misrepresentation, deceit and
8 concealment of a material fact with the intention on the part of Defendants to thereby cause injury
9 to Plaintiff. Defendants' actions constitute despicable conduct that, in conscious disregard of
10 Plaintiff's rights, subjected Plaintiff to cruel and unjust hardship so as to justify an award of
11 exemplary and punitive damages.

12 25. Plaintiffs are informed and believe and thereupon allege that the fraud alleged
13 herein is the same type that is excepted from discharge in a Chapter 7 bankruptcy case under 11
14 U.S.C. § 523.

15 **Fourth Cause of Action**

16 **(Money Had and Received v. Foreal, Inc., Shimogori, and Does 1 through 100)**

17 26. Plaintiff realleges the allegations contained in the preceding paragraphs and
18 incorporates the same herein as though set forth herein in full.

19 27. Defendants became indebted to Plaintiff within the last four years in the amount of
20 \$500,000.00.

21 28. There is now due and owing the principal sum of \$496,060.00.

22 **Fifth Cause of Action**

23 **(Account Stated v. Foreal, Inc., Shimogori, and Does 1 through 100)**

24 29. Plaintiff realleges the allegations contained in the preceding paragraphs and
25 incorporates the same herein as though set forth herein in full.

26 30 Within the last four years an account was stated in writing by and between Plaintiff
27 on the one hand and Defendants on the other hand in the amount of the \$500,000.00, and
28 Defendants agreed to pay Plaintiff said amount. Defendants have paid just \$3,940.00.

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31 ///

1 of Shimogori were unreasonably small in relation to the business or transaction, or intended to
2 incur, or believe or reasonably should have believed that he would incur, debts beyond his ability
3 to pay as they became due.

4 **Eighth Cause of Action**

5 **(Fraudulent Transfer v. Shimogori, Thompson, and Does 1 through 100)**

6 40. Plaintiff realleges the allegations contained in the preceding paragraphs and
7 incorporates the same herein as though set forth herein in full.

8 41. Plaintiff is informed and believes and thereupon alleges that the transfer was made
9 by Defendants was fraudulent as to Plaintiff whose claim arose before the transfer was made and
10 made without receiving a reasonably equivalent value in exchange for the transfer and that
11 Shimogori was insolvent at that time or became insolvent as a result of the transfer.

12 **WHEREFORE**, Plaintiffs pray Judgment against Defendants as follows:

13 **As to the First, Second, Third, Fourth, and Fifth Causes of Action:**

14 1. Compensatory damages in an amount exceeding \$496,060.00;

15 **As to the Third Cause of Action:**

16 1. Punitive and/or exemplary damages;

17 **As to the Sixth, Seventh and Eighth Causes of Action:**

18 1. That the transfer alleged herein be set aside as to the Plaintiff herein to the extent
19 necessary to satisfy Plaintiff's claims herein;

20 2. That Defendants be restrained from disposing of the Property;

21 3. That a temporary restraining order be granted to Plaintiff enjoining and restraining
22 Defendants, and their representatives, attorneys, and agents from selling, transferring, conveying,
23 assigning or otherwise disposing of any of the Property;

24 4. That the Judgment herein be declared a lien on the Property transferred;

25 5. That an Order be made declaring that the Defendants hold the Property in trust for
26 Plaintiff;

27 6. That Defendants be required to account to Plaintiff for all profits and proceeds
28 earned from or taken in exchange for the Property;

29 ///

30 ///

31 ///

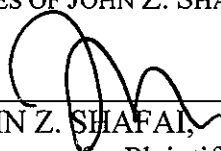
1 **As to All cause of actions:**

- 2 1. Attorneys fees as allowable under applicable law;
3 2. Costs of suit herein incurred;
4 3. Prejudgment interest; and
5 4. For such other and further relief that this Court may deem just and proper.

6 DATED: August 13, 2008

Respectfully submitted,

LAW OFFICES OF JOHN Z. SHAFI

By: 

JOHN Z. SHAFI,
Attorneys for Plaintiff,
DIGITAL SITE CORPORATION

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06-09-01

J ROCK REVOLUTION TOUR DVD PRODUCTION DEPOSIT AGREEMENT

The following sets forth the essential terms and conditions of the agreement between Digital Site ("Company") and Foreal, Inc. ("Producer"), dated as of September 1, 2006 with respect to The J Rock Revolution Tour DVD Production (the "Picture").

1. **Services.** Producer agrees to produce and deliver the Picture to Company for distribution as provided herein on a date to be mutually agreed. The parties will mutually agree to the final production budget prior to the start of the Tour.

(a) Producer agrees to produce the Picture in HD, at least 60 minutes in length, include 3 performances from each participating tour artist (Gazette, Nightmare, DespairRay, Masomoro) from a selection of performances from the 20 city tour. Yoshiki will appear on this tour as a special guest. The participating artists and tour details, including cities, are subject to change at Producer's reasonable discretion.

(b) Producer agrees to act as distributor of the Picture outside the territory of Japan. Producer may engage third party distributors and sales agents to perform distribution activities on the Picture, without its pre-approval.

(c) Company agrees to make payment to Producer of US\$500,000, payable: (i) US\$200,000 prior to September 30, 2006; (ii) US\$200,000 prior to November 31, 2006; and (iii) US\$100,000 prior to January 31, 2007.

(d) Company agrees to act as distributor of the Picture in the territory of Japan.

2. **Abandonment.** If the Picture is not delivered within 18 months, which may be extended 60 days for force majeure, Company shall be entitled to repayment.

3. **Fuller Agreement.** The parties intend to enter into a more detailed agreement containing provisions customarily contained in agreements such as this, which agreement shall be subject to good faith negotiation. Until such time, this agreement sets forth the entire agreement of the parties with respect to the subject matter hereof. Nothing contained in this agreement shall be deemed to create a partnership or joint venture between the parties hereto, nor shall either party be deemed to be the employer of the other.

4. **Miscellaneous.**

(a) This Agreement shall be governed by the laws of Japan and shall not be modified except by a signed written document.

(b) Each party will execute any and all further documents which either party may deem reasonably necessary and proper to carry out the purposes of this Agreement.

If the above accurately sets forth your understanding, please so indicate by signing in the space provided below.

Very truly yours,

FOREAL, INC.
1831 Colorado Avenue, Suite 700
Santa Monica, California 90404

By

Its President

AGREED AND ACCEPTED:

DIGITAL SITE
5-25-19 Higashi-Gotanda, Shinagawa-ku
Tokyo, Japan

By

Its

11月原雅文
E.V.P

FA 1

[Letterhead of Digital Site Corporation]

May 25, 2007

Foreal, Inc.
1831 Colorado Avenue, Suite 700
Santa Monica, California 90104
U.S.A.

Re: Cancellation of J Rock Revolution Tour DVD Production Deposit Agreement

Reference is made to the J Rock Revolution Tour DVD Production Deposit Agreement dated as of September 1, 2006 (the "Agreement") entered into by and between Digital Site Corporation ("Company") and Foreal, Inc. ("Producer"). Pursuant to Paragraph 1. (c) of the Agreement, Company made payment to Producer the total amount of US\$500,000. Company desires to cancel the Agreement and Producer has agreed to the cancellation and refunding the monies that have been paid by Company pursuant to the above provisions.

1. Subject to the terms and conditions hereof, Company and Producer agree to cancel the Agreement in good faith.
2. Producer agrees to refund to Company US\$500,000, in accordance with the following payment schedule by wire remittance to such bank account as set forth in Paragraph 3 hereof:
 - (1) US\$300,000 prior to May 31, 2007; and
 - (2) US\$200,000 prior to July 31, 2007.

3. Bank Account of Company

Producer shall refund to the following bank account of Company:

Bank : THE BANK OF MITSUBISHI TOKYO UFJ, LTD
GOTANDA BRANCH(537)
A/CNo : 2198863
Swift Code : BOTKJPJT
Bank Address : 19-3 NISHIGOTANDA 2-CHOME, SHINAGAWA-KU, TOKYO
141-0031 JAPAN
TEL : 81-3-3492-7155

4. Entire Agreement

This letter constitutes the entire agreement between Company and Producer and

EX 2

(15)

M.O

supersedes any prior understandings, agreements or representations by or between the parties hereto, written or oral, to the extent they relate in any way to the subject matter hereof. This letter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

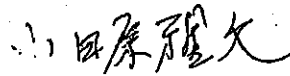
If the above accurately sets forth your understanding, please so indicate by signing in the space provided below.

Very truly yours;

DIGITAL SITE

5-25-19 Higashi-Gotanda, Shinagawa-ku
Tokyo, Japan

By



Its

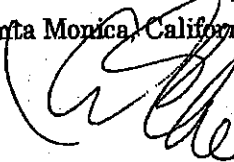
President

AGREED and ACCEPTED;

FOREAL, INC.

1831 Colorado Avenue, Suite 700
Santa Monica, California 90404

By



Its

President

M.O

2007年08月27日

FOREAL, INC. 御中

〒106 東京都港区六本木 6-15-21

ハクス六本木ビル

デジタルサイト株式会社

代表取締役 小田原 雅文

売掛金残高確認書

平成19年08月27日現在、弊社の貴社に対する債権は下記のとおりとなっておりますので、ご確認下さるようお願い申し上げます。

記

US\$ 500,000-

以上

2007年8月27日

〒106 東京都港区六本木 6-15-21

ハクス六本木ビル

デジタルサイト株式会社

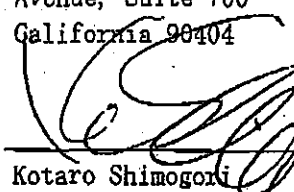
代表取締役 小田原 雅文 殿

住所: 1813 Colorado Avenue, Suite 700

Santa Monica, California 90404

会社名: FOREAL, INC.

代表者名 下郡 孝太郎


Kotaro Shimogori
Foreal, Inc President

連帯保証人

代表者住所: 16841 Bollinger Drive, Pacific Palisades, CA 90272

代表者名:


Kotaro Shimogori, Foreal, Inc President

当方の貴社に対する債務は、上記のとおりであることを確認致します。尚、支払日については、下記のとおりとすることを約束し、支払いが一回でも遅れた場合または財産状態・信用状態が悪化したと認められる相当な事由がある場合には期限の利益を失うものとします。

支払日: 未定、US\$ 500,000

秋元様からの8月16日頃のお電話で一括でなくても分割で返済し始めてくださいとご支持を頂いております。今分割プラン立てております。出来上がり次第ご報告致します。

以上

Ex 3

August 27, 2007

To: FOREAL, INC.

6-15-21 Roppongi, Minato-ku, Tokyo 106
Harks Roppongi Bldg.
Digital Site Corporation
Masafumi Odawara, Representative Director

Confirmation of Balance of Accounts Receivable

Please confirm that the receivables of our company against your company as of August 27, 2007 are as follows.

US\$500,000

-end-

August 27, 2007

To:
6-15-21 Roppongi, Minato-ku, Tokyo 106
Harks Roppongi Bldg.
Digital Site Corporation
Masafumi Odawara, Representative Director

Address: 1813 Colorado Avenue, Suite 700
Santa Monica, California 90404
Company Name: FOREAL, INC.
Name of
Company: Kotaro Shimogori
Kotaro Shimogori
Foreal, Inc President

Joint Guarantor:

Representative address: 16841 Bollinger Drive, Pacific Palisades, CA 90272

Name of representative: Kotaro Shimogori Foreal, Inc President

I confirm the obligation of our company to your company to be as above. I make a commitment as below in respect to the payment date. If payment is delayed even once or if there is reasonable cause to deem that there is deterioration in asset or credit situation, the obligation shall become immediately due and payable.

Payment date: Undecided US \$ 500,000

I have received the support that the repayment should be started in installments and not lump sum in a telephone call around August 16 from Mr. Akimoto. I am currently making an installment plan and when it is finished, I will report to you.

-end-

LEGAL DESCRIPTION 3

A CONDOMINIUM COMPOSED OF:

PARCEL 1:

(A) AN UNDIVIDED 1/32 INTEREST IN LOT 1 OF TRACT 29595, IN THE CITY OF RANCHO PALOS VERDES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 821 PAGES 1 TO 5 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THEREFROM UNITS 1 TO 82 INCLUSIVE, AS SHOWN AND DESCRIBED UPON THE CONDOMINIUM PLAN RECORDED FEBRUARY 22, 1974 AS INSTRUMENT NO. 587, RECORDS OF SAID COUNTY.

(B) UNIT 38 AS SHOWN AND DESCRIBED UPON THE CONDOMINIUM PLAN REFERRED TO ABOVE.

PARCEL 2:

A NON-EXCLUSIVE EASEMENT FOR COMMUNITY DRIVEWAY PURPOSES OVER THOSE PORTIONS OF LOT 1 OF SAID TRACT 29595, LOT 1 OF TRACT 29594, AS PER CONDOMINIUM PLAN RECORDED APRIL 13, 1973 IN BOOK M4448 PAGE 594, RECORDS OF SAID COUNTY, LOT 1 OF TRACT 29593, AS PER CONDOMINIUM PLAN RECORDED AUGUST 13, 1973 IN BOOK M4442 PAGE 35, AS INSTRUMENT NO. 491, AND LOTS 1 AND 2 OF TRACT NO. 29596 AS PER CONDOMINIUM PLAN RECORDED NOVEMBER 13, 1973 AS INSTRUMENT NO. 443, RECORDS OF SAID COUNTY, SHOWN AND DELINEATED AS PRIVATE DRIVEWAYS ON THE CONDOMINIUM PLANS FOR SAID TRACTS AND FOR INGRESS AND EGRESS AND FOR USE AND ENJOYMENT OF SAID LAND AS SET FORTH IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS.

EA 4

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): John Z. Shafai [State Bar No. 170518] 170 South Beverly Drive, Suite 305 Beverly Hills, California 90212		FOR COURT USE ONLY	
TELEPHONE NO.: (310) 788-2889 ATTORNEY FOR (Name): Petitioner, Settlement Funding, LLC		FAX NO.: (310) 788-2885	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 North Hill Street MAILING ADDRESS: 111 North Hill Street CITY AND ZIP CODE: Los Angeles, California 90012 BRANCH NAME: Central District		FILED LOS ANGELES SUPERIOR COURT SEP 10 2008 JOHN A. CLARKE, CLERK	
CASE NAME: In Re: Petition for Approval of Transfer		BY SHAUNIA WESLEY, DEPUTY 86397875	
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000 or less)		Complex Case Designation ☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
JUDGE:		DEPT:	

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

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

Auto Tort ☐ Auto (22) ☐ Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort ☐ Asbestos (04) ☐ Product liability (24) ☐ Medical malpractice (45) ☐ Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort ☐ Business tort/unfair business practice (07) ☐ Civil rights (08) ☐ Defamation (13) ☐ Fraud (16) ☐ Intellectual property (19) ☐ Professional negligence (25) ☐ Other non-PI/PD/WD tort (35) Employment ☐ Wrongful termination (36) ☐ Other employment (15)	Contract ☒ Breach of contract/warranty (06) ☐ Rule 3.740 collections (09) ☐ Other collections (09) ☐ Insurance coverage (18) ☐ Other contract (37) Real Property ☐ Eminent domain/Inverse condemnation (14) ☐ Wrongful eviction (33) ☐ Other real property (26) Unlawful Detainer ☐ Commercial (31) ☐ Residential (32) ☐ Drugs (38) Judicial Review ☐ Asset forfeiture (05) ☐ Petition re: arbitration award (11) ☐ Writ of mandate (02) ☐ Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) ☐ Antitrust/Trade regulation (03) ☐ Construction defect (10) ☐ Mass tort (40) ☐ Securities litigation (28) ☐ Environmental/Toxic tort (30) ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment ☐ Enforcement of judgment (20) Miscellaneous Civil Complaint ☐ RICO (27) ☐ Other complaint (not specified above) (42) Miscellaneous Civil Petition ☐ Partnership and corporate governance (21) ☐ Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. ☐ Large number of separately represented parties
b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. ☐ Substantial amount of documentary evidence | d. ☐ Large number of witnesses
e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. ☐ Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): **eight (8)**
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: **September 10, 2008**

John Z. Shafai

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SHORT TITLE:

Digital Site Corporation v. Foreal, Inc., etc., et al.

CASE NUMBER

BC 97875

**CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to LASC Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? ☐ YES CLASS ACTION? ☐ YES LIMITED CASE? ☐ YES TIME ESTIMATED FOR TRIAL Five ☐ HOURS/ ☒ DAYS

Item II. Select the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet Form, find the main civil case cover sheet heading for your case in the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column B below which best describes the nature of this case.

Step 3: In Column C, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Los Angeles Superior Court Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- | | |
|---|--|
| 1. Class Actions must be filed in the County Courthouse, Central District. | 6. Location of property or permanently garaged vehicle. |
| 2. May be filed in Central (Other county, or no Bodily Injury/Property Damage). | 7. Location where petitioner resides. |
| 3. Location where cause of action arose. | 8. Location wherein defendant/respondent functions wholly. |
| 4. Location where bodily injury, death or damage occurred. | 9. Location where one or more of the parties reside. |
| 5. Location where performance required or defendant resides. | 10. Location of Labor Commissioner Office. |

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	☐ A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	☐ A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	☐ A6070 Asbestos Property Damage ☐ A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	☐ A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	☐ A7210 Medical Malpractice - Physicians & Surgeons ☐ A7240 Other Professional Health Care Malpractice	1., 2., 4. 1., 2., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	☐ A7250 Premises Liability (e.g., slip and fall)	1., 2., 4.
		☐ A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1., 2., 4.
☐ A7270 Intentional Infliction of Emotional Distress		1., 2., 3.	
☐ A7220 Other Personal Injury/Property Damage/Wrongful Death		1., 2., 4.	
Non-Personal Injury/Property Damage/Wrongful Death Tort	Business Tort (07)	☐ A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 2., 3.
	Civil Rights (08)	☐ A6005 Civil Rights/Discrimination	1., 2., 3.
	Defamation (13)	☐ A6010 Defamation (slander/libel)	1., 2., 3.
	Fraud (16)	☐ A6013 Fraud (no contract)	1., 2., 3.

SHORT TITLE: Digital Site Corporation v. Foreal, Inc., etc., et al.		CASE NUMBER
A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons -See Step 3 Above
Professional Negligence (25)	☐ A6017 Legal Malpractice ☐ A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
Other (35)	☐ A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Wrongful Termination (36)	☐ A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	☐ A6024 Other Employment Complaint Case ☐ A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Breach of Contract/ Warranty (06) (not insurance)	☐ A6004 Breach of Rental/Lease Contract (not Unlawful Detainer or wrongful eviction) ☐ A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) ☐ A6019 Negligent Breach of Contract/Warranty (no fraud) ☐ A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
Collections (09)	☐ A6002 Collections Case-Seller Plaintiff ☐ A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
Insurance Coverage (18)	☐ A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	☒ A6009 Contractual Fraud ☐ A6031 Tortious Interference ☐ A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	☐ A7300 Eminent Domain/Condemnation Number of parcels_____	2.
Wrongful Eviction (33)	☐ A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	☐ A6018 Mortgage Foreclosure ☐ A6032 Quiet Title ☐ A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
Unlawful Detainer- Commercial (31)	☐ A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Residential (32)	☐ A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Drugs (38)	☐ A6022 Unlawful Detainer-Drugs	2., 6.
Asset Forfeiture (05)	☐ A6108 Asset Forfeiture Case	2., 6.
Petition re Arbitration (11)	☐ A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.

SHORT TITLE:
Digital Site Corporation v. Foreal, Inc., etc., et al.

CASE NUMBER

Judicial Review (Cont'd.)

Provisionally Complex Litigation

Enforcement of Judgment

Miscellaneous Civil Complaints

Miscellaneous Civil Petitions

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Writ of Mandate (02)	☐ A6151 Writ - Administrative Mandamus ☐ A6152 Writ - Mandamus on Limited Court Case Matter ☐ A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
Other Judicial Review (39)	☐ A6150 Other Writ /Judicial Review	2., 8.
Antitrust/Trade Regulation (03)	☐ A6003 Antitrust/Trade Regulation	1., 2., 8.
Construction Defect (10)	☐ A6007 Construction defect	1., 2., 3.
Claims Involving Mass Tort (40)	☐ A6006 Claims Involving Mass Tort	1., 2., 8.
Securities Litigation (28)	☐ A6035 Securities Litigation Case	1., 2., 8.
Toxic Tort Environmental (30)	☐ A6036 Toxic Tort/Environmental	1., 2., 3., 8.
Insurance Coverage Claims from Complex Case (41)	☐ A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment (20)	☐ A6141 Sister State Judgment ☐ A6160 Abstract of Judgment ☐ A6107 Confession of Judgment (non-domestic relations) ☐ A6140 Administrative Agency Award (not unpaid taxes) ☐ A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax ☐ A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
RICO (27)	☐ A6033 Racketeering (RICO) Case	1., 2., 8.
Other Complaints (Not Specified Above) (42)	☐ A6030 Declaratory Relief Only ☐ A6040 Injunctive Relief Only (not domestic/harassment) ☐ A6011 Other Commercial Complaint Case (non-tort/non-complex) ☐ A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
Partnership Corporation Governance(21)	☐ A6113 Partnership and Corporate Governance Case	2., 8.
Other Petitions (Not Specified Above) (43)	☐ A6121 Civil Harassment ☐ A6123 Workplace Harassment ☐ A6124 Elder/Dependent Adult Abuse Case ☐ A6190 Election Contest ☐ A6110 Petition for Change of Name ☐ A6170 Petition for Relief from Late Claim Law ☐ A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

SHORT TITLE:
Digital Site Corporation v. Foreal, Inc., etc., et al.

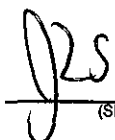
CASE NUMBER

Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: CHECK THE NUMBER UNDER COLUMN C WHICH APPLIES IN THIS CASE ☐ 1. ☐ 2. ☒ 3. ☐ 4. ☐ 5. ☐ 6. ☐ 7. ☐ 8. ☐ 9. ☐ 10.		ADDRESS: 16841 Bollinger Drive	
CITY: Pacific Palisades	STATE: CA	ZIP CODE: 90272	

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Superior courthouse in the Central District of the Los Angeles Superior Court (Code Civ. Proc., § 392 et seq., and LASC Local Rule 2.0, subds. (b), (c) and (d)).

Dated: September 8, 2008


(SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet form CM-010.
4. Complete Addendum to Civil Case Cover Sheet form LACIV 109 (Rev. 01/07), LASC Approved 03-04.
5. Payment in full of the filing fee, unless fees have been waived.
6. Signed order appointing the Guardian ad Litem, JC form FL-935, if the plaintiff or petitioner is a minor under 18 years of age, or if required by Court.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.