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 8 TRACY ANDERSON MIND AND BODY, LLC and
 T.A. STUDIO NEW YORK LLC
 9

10 **UNITED STATES DISTRICT COURT**
 11 **CENTRAL DISTRICT OF CALIFORNIA**
 12

13 TRACY ANDERSON MIND AND
 14 BODY, LLC, a Delaware limited liability
 company; and T.A. STUDIO NEW
 15 YORK LLC, a California limited liability
 company,
 16

17 Plaintiffs,

18 v.

19 MEGAN ROUP, an individual; and THE
 20 SCULPT SOCIETY, LLC, a California
 limited liability company,
 21

22 Defendants.

Case No. 2:22-cv-04735-RSWL-E

FIRST AMENDED COMPLAINT

1. **Federal Copyright Infringement, 17 U.S.C. §§ 106, 501**
2. **Violation of Lanham Act, 15 U.S.C. § 1125(a)**
3. **Breach of Contract**
4. **Violation of Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, et seq.**

DEMAND FOR JURY TRIAL

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FIRST AMENDED COMPLAINT

Plaintiffs Tracy Anderson Mind and Body, LLC (“TAMB”) and T.A. Studio New York LLC (“TANY,” and collectively, “Plaintiffs”), by and through their undersigned attorneys, bring this suit against Defendants Megan Roup (“Roup”) and The Sculpt Society, LLC (“TSS”) (collectively, “Defendants”). Plaintiffs allege:

INTRODUCTION

1. Tracy Anderson (“Anderson”), a pioneer of the choreography-based fitness movement, developed The Tracy Anderson Method (“TA Method”) after decades of research, development, testing, and investment. The TA Method is a revolutionary choreography protocol made up of custom and specific movements, sequences, and routines that uniquely combines choreography, fitness, and cardiovascular movement to help people create balance in their bodies so they can create balance in their lives. Anderson’s inventive and rigorous approach to, and brand of, choreography has cemented her as an international icon and authority in the industry for more than 20 years, revered by A-list celebrities, the media, and wellness enthusiasts alike.

2. Anderson founded and is CEO of TAMB, which offers choreography-based fitness and mat movement classes at state-of-the-art studios around the world and in online classes, as well as lifestyle products related to wellness, nutrition, and apparel, among others. TAMB is the owner of registered copyrights to various media, including DVDs created by and featuring Anderson, that express, relate to, or are based on the TA Method. Anderson also owns TANY, a company under the TAMB umbrella that was founded to operate certain of her New York studios.

3. TANY employed Roup as a trainer from 2011 until 2017. Because it is necessary for Plaintiffs to disclose nonpublic information related to their business and the TA Method to trainers so that they can instruct the TA Method to clients, all trainers, including Roup, sign a Trainer Agreement. The Trainer Agreement prohibits trainers, including Roup, from using or disclosing company “Confidential

1 Information,” which includes its nonpublic business and operational information,
2 training materials and manuals, and the transcribed methods taught to trainers,
3 including those comprising the TA Method’s proprietary choreography movements,
4 sequences, and routines. This obligation expressly survives a trainer’s termination
5 of employment. The Trainer Agreement Roup signed is dated February 28, 2011.

6 4. During her six-plus year tenure at TANY, Roup learned, was exposed
7 to, and had access to significant Confidential Information, such as (i) training
8 materials, choreography transcriptions, and custom write-ups related to the
9 performance and teaching of the TA Method, including its specialized programs,
10 like those for pre- and postnatal customers, and those on apparatuses such as chairs
11 or stools; and (ii) business information, customer lists, and operating procedures,
12 such as specialized customer intake methods. In short, Roup had access to all
13 material necessary to replicate the TA Method and related business, and she wasted
14 no time in doing so.

15 5. Roup quit TANY in or around February 2017. Just one month later in
16 March 2017, she founded TSS, which also offers choreography-based fitness and
17 mat movement classes and directly competes with Plaintiffs. TSS began with Roup
18 teaching in-person classes, but as of late 2019, became primarily an online- and app-
19 based membership service, where paying customers access videos of Roup and TSS
20 employees performing routines that they can perform at home. Just as Anderson
21 emphasizes her dance background as the foundation of her program, Defendants
22 also emphasize Roup’s dance background as the foundation of their program, and
23 even brand it similarly to Anderson’s. For instance, Anderson branded her program
24 “The Tracy Anderson Method” or the “TA Method,” and Defendants branded their
25 program as “The Sculpt Society Method” or “TSS Method.”

26 6. Since late 2019 through the present, Defendants have published over
27 400 videos on the TSS app and website behind a paywall, including as recently as
28 Spring 2022, which remain accessible to paying customers as of the date of this

1 filing. On information and belief, Plaintiffs allege that a significant number of the
2 videos infringe TAMB’s copyrights in Anderson’s DVDs, and a significant number
3 of the videos were created using Confidential Information Roup learned, accessed,
4 or was exposed to while employed at TANY in breach of the Trainer Agreement.
5 On information and belief, Plaintiffs allege that Defendants have also used, and still
6 use, Confidential Information related to Plaintiffs’ business to found and facilitate
7 the continued operation and growth of their own business, and that Roup has
8 disclosed Confidential Information to third-parties, including employees, affiliates,
9 and/or customers of TSS in further breach of the Trainer Agreement.

10 7. Defendants have since achieved a considerable social media presence
11 and customer base. But despite Roup’s six-plus year employment at TANY, part of
12 Anderson’s companies that revolutionized choreography-based fitness, Defendants
13 have never credited Anderson or Plaintiffs for training, teaching, or developing
14 Roup, or for creating the choreography movements, sequences, and routines that
15 now comprise the TSS Method. Defendants do not reference Roup’s association
16 with Plaintiffs or Anderson on the TSS website, TSS promotional materials,
17 interviews, or appearances. In fact, Defendants purposefully conceal it from the
18 public. For instance, in recent interviews, Roup stated only that she “worked for a
19 local studio” and “taught for six and a half years” in New York before founding
20 TSS. Her LinkedIn similarly omits her employment at TANY despite listing other
21 employments during the years she worked at TANY.

22 8. Defendants have capitalized on the years of research, money, and sweat
23 equity Anderson and Plaintiffs put into developing the TA Method and the business
24 surrounding it to the detriment of Plaintiffs. Defendants’ false and/or misleading
25 public statements and advertising create the false impression that (i) Roup
26 developed the TSS Method over a period of multiple years, when she did not; (ii)
27 the TSS Method was created through years of science-based research, development,
28 data collection and analysis, and trial and error, when it was not; and (iii) the TSS

1 Method is significantly different from the TA Method, when it is not.

2 9. Defendants’ conduct, and representations in advertising and promotion,
3 have created a likelihood of consumer confusion as to the nature, characteristics, and
4 qualities of the TSS Method, which is further compounded by Defendants’ naming
5 convention that looks like and imitates Plaintiffs’ naming convention. For example,
6 reviews of the TSS app alone are replete with instances of consumer confusion and
7 misattribution that Defendants have caused, including statements such as, “[Roup] is
8 brilliant – don’t know how she does it – her reps and routines are genius,” “[Roup’s]
9 movements are unique and better than I could have ever thought of,” and “I am a
10 fellow instructor and her movements/choreography blow me away. How does she
11 come up with such fun and creative workouts?”

12 10. Defendants’ misconduct constitutes federal copyright infringement
13 under 17 U.S.C. §§ 106 and 501; violation of the Lanham Act, 15 U.S.C. § 1125(a);
14 breach of contract; and violation of Cal. Bus. & Prof. Code § 17200. Defendants
15 have caused significant harm to Plaintiffs, which seek, among other remedies,
16 damages and injunctive relief to enjoin Defendants’ false and/or misleading
17 descriptions or representations of fact in commerce, use of Plaintiffs’ Confidential
18 Information, and infringement of TAMB’s copyrights.

19 **JURISDICTION AND VENUE**

20 11. This Court has jurisdiction over the subject matter of this action
21 pursuant to 28 U.S.C. § 1331. The Court has supplemental jurisdiction over the
22 remaining state law claims under 28 U.S.C. § 1367(a) because those claims are so
23 related to Plaintiffs’ federal claims that they form part of the same case or
24 controversy and derive from a common nucleus of operative facts.

25 12. This Court has personal jurisdiction over Roup because she is a resident
26 of Los Angeles, California. This Court has personal jurisdiction over TSS because
27 it conducts business in Los Angeles, California.

28 13. Venue is proper in this District under 28 U.S.C. § 1391(b)(1) because

1 Roup resides in this District and TSS conducts business in this District. Venue is
2 also proper in this District under 28 U.S.C. § 1391(b)(2) because acts, liabilities, and
3 events giving rise to this action occurred within this District.

4 **THE PARTIES**

5 14. Plaintiff TAMB is a Delaware limited liability company with its
6 principal place of business in the County of New York, New York.

7 15. Plaintiff TANY is a California limited liability company with its
8 principal place of business in the County of New York, New York.

9 16. Defendant Roup is an individual residing in the County of Los Angeles,
10 California.

11 17. Defendant TSS is a California limited liability company with its
12 principal place of business in the County of Los Angeles, California.

13 **FACTUAL BACKGROUND**

14 **Anderson Creates the TA Method After Years of Research and Development**

15 18. Trained as a dancer, Anderson began developing the TA Method in the
16 late 1990s to achieve for herself the elusive “dancer’s body,” which emphasizes a
17 long and lean frame.

18 19. After years of research, testing, and refinement, Anderson created the
19 TA Method, a choreography protocol made up of custom and specific movements,
20 sequences, and routines that uniquely combines choreography, fitness, and
21 cardiovascular movement to help people create balance in their bodies so they can
22 improve their lives by further connecting to their primal right to move through
23 specifically tailored choreography that took a significant amount of study to
24 develop. Rooted in research, dance and the elements of choreography, the TA
25 Method is designed to not only be effective and fun, but also aesthetically engaging
26 and appealing, and capable of being conducted as a performance art. The
27 movements are inventive, nuanced, and complex; are arranged in a designated and
28 continuous choreographed sequence like ballet or contemporary dance; are

1 deliberately paced; and are set to music, which Anderson purposefully selects to fit a
2 given choreography. In short, each of Anderson's routines constitutes a related
3 series of movements organized into an integrated, coherent, and expressive whole.

4 20. After developing the TA Method for herself, Anderson sought to apply
5 it to others, regardless of genetic background or body type. To do so, in 2003, she
6 conducted a study in which she spent five years working with 150 women, all with
7 different genetic backgrounds and body types, using the TA Method. Anderson
8 took measurements of the women every ten days, which amounted to over 27,000
9 measurements over the course of the study and customized the choreographed
10 movements and sequences to each woman based on her progress. Anderson tracked
11 and studied the results, and following the study, adapted the TA Method so that it
12 was effective in conferring physical and mental benefits to anybody and creating
13 balance where imbalance existed in their bodies.

14 21. Thereafter, in 2003, Anderson released her first DVD called *The Tracy*
15 *Anderson Method Dance Cardio Workout*, in which Anderson performed the TA
16 Method for customers to follow along with at home. Following the success of the
17 DVD, Anderson opened her first studio in Los Angeles in 2005, where she offered
18 in-person classes.

19 22. In or about 2008, Anderson founded TANY to operate certain studios
20 in New York and employ trainers in those studios. In or about 2010, Anderson
21 founded a related entity, TAMB, to operate the entirety of Anderson's business.
22 Anderson is CEO of TAMB, which has since become the umbrella company under
23 which others, like TANY, operate.

24 23. Over the past 15-plus years since then, the TA Method has become one
25 of the premier choreography-based fitness programs in the world. Today, TAMB
26 offers members choreography-based fitness and mat movement classes at state-of-
27 the-art studios around the world as well as online classes. TAMB has also expanded
28 into developing lifestyle products related to wellness, nutrition, and apparel, among

1 others. Due to the popularity of the TA Method and TAMB's expansion into
2 various wellness spheres, Anderson has amassed a substantial social media
3 following as an influencer and entrepreneur. Thus, the TA Method has become
4 synonymous with Anderson.

5 24. Anderson's content output is significant as well. In addition to *The*
6 *Tracy Anderson Method Dance Cardio Workout* DVD, Anderson has released
7 DVDs titled *The Metamorphosis*, *The Pregnancy Project*, *The Post Pregnancy 2*,
8 *The Perfect Design*, *Unleash Your Inner Popstar*, and *Total Teen*. Anderson has
9 authored two books, *Tracy Anderson's 30-Day Method* and *Total Teen*. She also
10 regularly records and releases new videos for subscribing TAMB members to
11 stream online.

12 25. Anderson has invested significant funds and countless hours into
13 developing, refining, and inventing choreography movements, sequences, and
14 routines, and continues to do so. In total, Anderson has created over 200,000
15 movements as part of the TA Method, and spends at least 30 hours each week
16 refining the movements and sequencing them, and developing new ones.

17 26. While it is possible for an individual to watch one of Anderson's online
18 videos or attend one of her classes and replicate certain of the movements, or even
19 sequences, in isolation, doing so is insufficient to achieve the benefits intended by
20 Anderson because without knowing the proprietary reasoning and methodology
21 behind the movements and how and why to sequence them in a certain way, the full
22 benefit of the TA Method cannot be realized.

23 **Roup Learns Confidential Information as an Employee of TANY**

24 27. Due to the expansion and popularity of the TA Method, Plaintiffs
25 employ trainers who are taught the TA Method so they can themselves instruct the
26 TA Method to customers. TANY employed Roup as a trainer from 2011 until her
27 departure in 2017.

28 28. As set forth above, Anderson worked relentlessly for years to develop

1 the TA Method and materials that express or relate to it. Because it is necessary for
2 Plaintiffs to disclose nonpublic information related to the companies and the TA
3 Method to trainers so that they can instruct the TA Method to customers, Plaintiffs
4 condition their employment of all trainers, including Roup, on their agreement not to
5 use or disclose such information.

6 29. Therefore, upon being hired, Roup entered into the Trainer Agreement
7 with TANY on February 28, 2011 (it was revised in a non-substantive way on June
8 11, 2011). The Trainer Agreement prohibits Roup from using or disclosing the
9 company's "Confidential Information":

10 During your employment and following any termination
11 thereof, . . . you shall not use or disclose any confidential or
12 proprietary . . . training materials or methods (including, but
13 not limited to, workouts, movements, exercise routines,
14 exercise formulas, nutrition advice, content, sequences,
15 prescriptions, dances, muscular structure work and
equipment), . . . operating policies or manuals, business
plans, financial records, or other financial, commercial,
business or technical information . . . that relate to the
Company or any of its affiliates . . . (collectively,
"Confidential Information") to any third Person

16 The obligation not to use or disclose the Confidential Information explicitly
17 survives the termination of a trainer's employment.

18 30. As part of their training, and by virtue of being employees of TANY,
19 all trainers, including Roup, learn, are exposed to, and have access to the
20 Confidential Information. During her six-plus year tenure at TANY, Roup:

21 (i) received nonpublic training materials and manuals, choreography
22 transcriptions, and custom write-ups related to the performance and teaching of the
23 TA Method;

24 (ii) had access to outlines of movement sequences and instructions related to
25 performing each of the TA Method programs in circulation during that period,
26 including specialized programs, like those for pre- and postnatal customers, and
27 those on apparatuses such as chairs or stools;

28 (iii) learned how to structure, organize, and compile Anderson's

1 choreographed routines—including Anderson’s unique warmup routine, how and
2 when to use light weights, the number of repetitions for specific movements, and
3 how to progress from one sequence to the next—and why Anderson’s
4 choreographed routines were structured, organized, and compiled the way they
5 were;

6 (iv) was informed of Anderson’s research and findings, and the reasoning
7 behind her sequencing decisions; and

8 (v) learned Plaintiffs’ business practices and protocols, such as Anderson’s
9 one-on-one customer consultation and intake methodology, and the process by
10 which those customers are evaluated for imbalances.

11 31. For instance, Roup received or had access to TANY’s nonpublic
12 transcriptions of choreography routines. The transcriptions lay out, from start to
13 finish, entire choreography routines, including detailed descriptions of how to
14 position the body, how to perform them, and the order and sequence in which to
15 perform them (i.e., “Face NW side, W elbow down, resting on knees with shins and
16 feet up. [E]xtend NW leg to high straight back parallel arabesque, return to starting
17 position, lift W leg to side fire hydrant and return to start.”). The purpose of the
18 transcriptions is not only to document choreography routines, but to teach trainers
19 and save time by serving as reference materials. TANY invested time, labor, and
20 money into developing and drafting each transcription, each of which has
21 independent value to the company.

22 32. On information and belief, Plaintiffs allege that Roup, while still
23 employed by TANY, began using the Confidential Information, and access thereto,
24 to plan or create the choreography routines, business plan and structure, and
25 promotional materials that would form the foundation of and help launch TSS.
26 TSS’ website currently states, “[R]oup *spent years* teaching fitness and *developing*
27 *The Sculpt Society method* before launching in 2017” (emphasis added). Roup was
28 employed by TANY for the six-plus years immediately preceding TSS’ launch in

1 2017. Moreover, Roup took photographs with Plaintiffs’ celebrity clientele with
2 TANY’s upscale facilities in the background before quitting TANY and then later
3 used those photographs on the TSS website to give her fledgling company an air of
4 legitimacy and establishment at Plaintiffs’ expense.

5 33. In or about early 2017, Roup informed TANY that she was terminating
6 her employment. On or about February 2, 2017, TANY provided Roup with a
7 termination letter, which stated in relevant part:

8 *Preservation of Confidential Information for the benefit of*
9 *the Company.* You have agreed not to use or disclose any
10 Confidential Information of the Company. This includes (a)
11 the Tracy Anderson methods, including the exercise routines,
12 formulas, sequences, and movements and CRM Methods, (b)
13 nutritional recipes, components and materials, and (c)
14 customer lists and private information concerning customers
15 provided to the Company.

12 . . .

13 The Company’s willingness to train and employ you on the
14 terms of your employment, and the willingness to share its
15 Confidential Information with you during the tenure of your
16 employment, was expressly conditioned upon your
17 agreement to the terms of your Trainer Agreement.

16 **Roup Launches the TSS Method, Which Improperly Uses**
17 **Confidential Information**

18 34. In or about March 2017—just one month after resigning from TANY—
19 Roup founded Defendant TSS. TSS, like Plaintiffs, offers a choreography-based
20 fitness and mat movement program. TSS began with Roup teaching in-person
21 classes before launching its app in or around late 2019. With the launch of the app,
22 TSS began publishing videos on its app, which also were and are available on its
23 website. TSS is a competitor of Plaintiffs.

24 35. Today, TSS offers an online- and app-based subscription program in
25 which paying customers have access to videos of Roup and other TSS employees
26 performing choreography routines that can be performed at home. TSS describes
27 itself as “the #1 Sculpt and Dance Cardio workout designed to empower women
28 through movement” and “an athletic approach to dance-based fitness.”

1 36. Like Anderson, Roup attributes her approach to her background and
2 training in dance. And, like Anderson named her program “The Tracy Anderson
3 Method” or “TA Method,” Roup named her program “The Sculpt Society Method”
4 or “TSS Method.” Roup even structured the TSS Method like the TA Method. For
5 instance, certain of the TSS Method programs are structured on 28-day or 30-day
6 calendars, like Anderson’s 30-Day Method. The TSS Method also offers pre- and
7 postnatal programs, and programs that focus on certain body parts, such as the hips
8 or glutes, just like the TA Method does.

9 37. Since around late 2019 through the present, including as recently as
10 Spring 2022, Defendants have regularly and repeatedly published videos behind a
11 paywall on the TSS app and website. TSS boasts that a subscription grants a
12 customer access to over 400 of its videos. On information and belief, Plaintiffs
13 allege that Defendants used Confidential Information Roup learned, accessed, or
14 was exposed to while employed at TANY to create a substantial number of TSS’
15 400 videos in breach of the Trainer Agreement. The videos remain accessible to
16 paying members on TSS’ app and website as of the date of this filing. Examples of
17 such videos include:

- 18 • “24Min Full Body 12 w/ Chair/Stool,” published in or around Spring 2021;
- 19 • “20Min Standing Legs + Butt 13 w/ Chair or Stool,” published in or around
20 early 2020;
- 21 • “10Min Quickie Dancing Arms 02, published in or around early 2020;
- 22 • “5Min Dancing Arms 07 w/ Arielle Charnas,” published in or around early
23 2020.

24 38. On information and belief, Plaintiffs allege that Defendants have also
25 used Confidential Information for their own benefit related to business operations,
26 customers, program structure, customer intake methods, and employees at various
27 times, including as recently as Spring 2022. On information and belief, Plaintiffs
28 allege that Defendants have disclosed Confidential Information to third parties,

1 including employees, affiliates, and/or customers of TSS at various times, including
2 as recently as Spring 2022.

3 39. Defendants' use of the Confidential Information has benefitted
4 Defendants by, among other things, saving them time, resources, money, and effort
5 in planning, teaching, and testing or recording choreography movements, sequences,
6 and routines, and in forming and operating TSS. By using the Confidential
7 Information, Defendants were able to hit the ground running upon Roup's departure
8 from TANY. Defendants' ongoing use of the Confidential Information facilitates
9 the continued operation, growth, and success of their business.

10 40. Roup took the Confidential Information, founded TSS with it, based
11 TSS on it, and based the TSS Method on it. In doing so, Defendants have
12 capitalized on years of Anderson's research, development, and investment to enrich
13 themselves at the expense and to the detriment of Plaintiffs. As a result of
14 Defendants' misconduct, they have achieved a substantial number of customers
15 (including celebrities), a significant social media following (i.e., 300,000 followers
16 of @meganroup and 150,000 followers of @thesculptsociety on Instagram), and
17 press coverage. Defendants' misconduct has also diverted customers, business, and
18 employees from Plaintiffs to Defendants.

19 **Defendants Mislead Consumers Regarding the Development of the TSS Method**

20 41. Despite Roup's six-plus year employment at TANY, part of
21 Anderson's companies that revolutionized choreography-based fitness, Defendants
22 have never credited Anderson or TANY for training, teaching, or developing Roup,
23 or for creating the choreography movements, sequences, and routines that now
24 comprise the TSS Method. In fact, Defendants do not reference Roup's training
25 from or association with TANY or Anderson on the TSS website, TSS promotional
26 materials, interviews, or appearances.

27 42. To the contrary, Defendants purposefully conceal Roup's training from
28 and association with TANY from the public so that Roup can claim that (i) she

1 developed the TSS Method over a period of multiple years; (ii) the TSS Method was
2 created through years of science-based research, development, data collection and
3 analysis, and trial and error; and (iii) the TSS Method is significantly different from
4 the TA Method.

5 43. For instance, under the “About Megan” section of the TSS website, it
6 states that “I knew that there was something missing from the boutique fitness
7 community, so I combined my passion for dance and love for fitness to create The
8 Sculpt Society. I spent years teaching fitness and developing The Sculpt Society
9 method before launching in 2017.” On Roup’s LinkedIn page, Roup omits her
10 employment at TANY despite listing other employments during the period she
11 worked there. Notably, the period between 2014 and 2017—when she worked at
12 TANY—is empty. During an interview on a December 9, 2021 podcast called
13 *ILYSM*, when asked about how she started TSS, Roup stated only that she “taught
14 for six and a half years and then launched [TSS] in New York in 2017.” During an
15 interview on a March 29, 2022 podcast called *Lipstick on the Rim*, Roup stated only
16 that she “worked for a local studio” in New York City for six years before founding
17 TSS.

18 44. Users’ reviews of the TSS app on the Google Play and Apple App
19 Store platforms demonstrate consumer confusion and misattribution that
20 Defendants’ conduct has caused:

- 21 • “I am a fellow instructor and her movements/choreography blow me away.
22 How does she come up with such fun and creative workouts?”
- 23 • “I really love the workouts that Megan has created”
- 24 • “Love the workouts so much, Megan makes the sequences so fun and
25 creative”
- 26 • “Megan’s movements are unique and better than I could have ever thought
27 of”
- 28 • “Her workouts never get old, and your body never gets bored of them

1 because she constantly switches it up every time adding in new movements”

- 2 • “Megan is brilliant – don’t know how she does it – her reps and routines are
3 genius”
- 4 • “What you get is a completely thought out, well planned, and perfectly
5 executed workout Every. Single. Time.”

6 **Defendants Infringe TAMB’s Copyrights**

7 45. TAMB is the owner of registered copyrights in various media, each of
8 which expresses, relates to, or is based on the TA Method. Specifically, TAMB
9 owns copyright registrations in multiple DVDs (collectively referred to as the “TA
10 Works”). These copyright registrations are included in **Attachment A**.

11 46. The TA Works depict Anderson performing a compilation of
12 choreographed movements and sequences she designed and curated. Her
13 performances are done in a studio and set to music she specifically selected.

14 47. Since around late 2019 through the present, including as recently as
15 Spring 2022, Defendants have regularly, repeatedly, and intentionally published
16 videos on the TSS app and website behind a paywall that infringe TAMB’s
17 copyrights in the TA Works as listed in Attachment A. Defendants’ videos infringe
18 TAMB’s copyrights by copying the choreography movements, sequences, and
19 routines depicted in the TA Works; organizational structure and format of the TA
20 Works; and aesthetic elements depicted in the TA Works.

21 48. Examples of Defendants’ copyright infringements of the TA Works
22 include:

- 23 • Defendants’ videos titled “30Min Sculpt 07,”¹ “30Min Sculpt 08,”²

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27 ¹ Published behind a paywall online at <https://app.thesculptorsociety.com/30min-sculpt-2/videos/30min-sculpt-07> and
on the TSS app.

28 ² Published behind a paywall online at <https://app.thesculptorsociety.com/30min-sculpt-2/videos/30min-sculpt-08> and
on the TSS app.

1 “30Min Sculpt 09,”³ and “30Min Sculpt w/ Matt 22,”⁴ in which Roup and or TSS
2 employees perform choreography movements, sequences, and routines that are
3 substantially similar to those depicted in the Day 21-30 portion of the DVD titled
4 “Metamorphosis: Glutecentric” (Registration No. PA0001938799).

5 • Defendants’ video titled “30Min Full Body 16 (no cardio) w/ Katy,”⁵ in
6 which Katy Schuele (a former employee of TAMB) performs choreography
7 movements, sequences, and routines that are substantially similar to those depicted
8 in the Day 1-10 portion of the DVD titled “Metamorphosis: Hipcentric”
9 (Registration No. PA 1-929-100).

10 • Defendants’ video titled “30Min Sculpt (no cardio) w/ Katy,”⁶ in which
11 Schuele performs choreography movements, sequences, and routines that are
12 substantially similar to those depicted in the Day 1-10 portion of the DVD titled
13 “Metamorphosis: Hipcentric” (Registration No. PA 1-929-100).

14 49. Because Defendants’ videos are published behind a paywall on the TSS
15 app and website, they cannot be downloaded onto a computer. As a result, Plaintiffs
16 are unable to review and compare every one of Defendants’ videos to the TA
17 Works. Therefore, the full extent of Defendants’ infringement and improper use of
18 Confidential Information cannot be assessed until Defendants produce the videos to
19 Plaintiffs in discovery. At the pleading stage, Plaintiffs have conducted as extensive
20 of an analysis as they can, given the accessibility restrictions created by Defendants.
21 On information and belief, Plaintiffs allege that Defendants have published
22 hundreds of additional videos that include Roup or TSS employees performing
23 choreography movements, sequences, and routines that are substantially similar to
24

25 ³ Published behind a paywall online at <https://app.thesculptorsociety.com/30min-sculpt-2/videos/new-30min-sculpt-09>
and on the TSS app.

26 ⁴ Published behind a paywall online at <https://app.thesculptorsociety.com/30min-sculpt-2/videos/matt-new-30min-sculpt>
and on the TSS app.

27 ⁵ Published behind a paywall online at <https://app.thesculptorsociety.com/30min-full-body/videos/katy-30min-full-body>
and on the TSS app.

28 ⁶ *Id.*

1 those depicted in the TA Works, and therefore constitute copyright infringements.

2 **FIRST CAUSE OF ACTION**

3 **Federal Copyright Infringement, 17 U.S.C. §§ 106, 501**

4 **(By TAMB Against All Defendants)**

5 50. Plaintiffs incorporate the preceding allegations as though fully set forth
6 herein.

7 51. Defendants have infringed TAMB's copyrights in the TA Works in
8 violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501,
9 by publishing videos, including those set forth in Paragraph 49 herein, that copy the
10 TA Works as listed in Attachment A. Specifically, Defendants' videos copy the
11 choreography, movements, sequences, and routines from the TA Works.

12 52. Defendants' acts of infringement are willful, intentional, continuous,
13 and purposeful, in disregard of and with indifference to TAMB's rights.

14 53. As a direct and proximate result of said infringement by Defendants,
15 TAMB is entitled to damages in an amount to be proven at trial.

16 54. TAMB is also entitled to Defendants' profits attributable to the
17 infringement, pursuant to 17 U.S.C. § 505 and otherwise according to law.

18 55. TAMB is entitled to injunctive relief and redress for Defendants'
19 willful, intentional, continuous, and purposeful use and exploitation of the TA
20 Works for their own financial benefit with full knowledge that such use constituted
21 infringement of, and was in disregard of, TAMB's rights. Defendants' conduct is
22 causing and, unless immediately enjoined, will continue to cause enormous and
23 irreparable harm to TAMB.

24 56. As a direct and proximate result of the foregoing acts and conduct,
25 TAMB has sustained and will continue to sustain substantial, immediate, and
26 irreparable injury, for which there is no adequate remedy at law. On information
27 and belief, TAMB alleges that unless enjoined and restrained by this Court,
28 Defendants will continue to infringe TAMB's rights in the TA Works. TAMB is

1 entitled to permanent injunctive relief to restrain and enjoin Defendants’ continuing
2 infringing conduct.

3 **SECOND CAUSE OF ACTION**

4 **Violation of Lanham Act, 15 U.S.C. § 1125(a)**

5 **(By Plaintiffs Against All Defendants)**

6 57. Plaintiffs incorporate the preceding allegations as though fully set forth
7 herein.

8 58. Defendants willfully and intentionally made, and continue to willfully
9 and intentionally make, false and/or misleading descriptions or representations of
10 fact in commercial advertising or promotion that misrepresent the nature,
11 characteristics, and qualities of Defendants’ services, including but not limited to,
12 the following statements on TSS’ website: “I knew that there was something
13 missing from the boutique fitness community, so I combined my passion for dance
14 and love for fitness to create The Sculpt Society. I spent years teaching fitness and
15 developing The Sculpt Society method before launching in 2017.”

16 59. Defendants’ statements misrepresent the nature, characteristics, and
17 qualities of Defendants’ services because they imply that (i) Roup developed the
18 TSS Method over a period of multiple years, when she did not; (ii) the TSS Method
19 was created through years of science-based research, development, data collection
20 and analysis, and trial and error, when it was not; and (iii) the TSS Method is
21 significantly different from the TA Method, when it is not.

22 60. Defendants caused their statements to enter interstate commerce by,
23 among other things, publishing them on at least the TSS website or in promotional
24 interviews, which constitute commercial advertisement or promotion.

25 61. Defendants’ statements are material because they are likely to influence
26 the purchasing decision of a choreography-based fitness consumer who is deciding
27 between competing services. Choreography-based fitness consumers have opted to
28 purchase TSS’ services over Plaintiffs’, and are likely to continue to do so, based on

1 TSS' false and/or misleading descriptions or representations of fact related to the
2 development of the TSS Method.

3 62. Plaintiffs have been directly and proximately injured as a result of
4 Defendants' statements by a diversion of sales and customers from Plaintiffs to
5 Defendants and/or by a lessening of the goodwill associated with Plaintiffs and their
6 services.

7 63. Plaintiffs are therefore entitled to (i) treble damages sustained by
8 Plaintiffs, including those resulting from lost profits from sales and customers
9 diverted to TSS, in an amount to be determined at trial, pursuant to 15 U.S.C. §
10 1117(a); (ii) injunctive relief enjoining Defendants from continuing to advertise,
11 promote, or publish false and/or misleading descriptions or representations of fact
12 related to the development of the TSS Method; and (iii) reasonable attorneys' fees
13 pursuant to 15 U.S.C. § 1117(a).

14 **THIRD CAUSE OF ACTION**

15 **Breach Of Contract**

16 **(By TANY Against Roup)**

17 64. Plaintiffs incorporate the preceding allegations as though fully set forth
18 herein.

19 65. TANY and Roup entered into the Trainer Agreement, which is a valid
20 contract.

21 66. TANY performed all or substantially all of its obligations under the
22 Trainer Agreement.

23 67. Under the Trainer Agreement, Roup was under a continuing and
24 recurring obligation to not use or disclose to third-parties the Confidential
25 Information (as defined therein) during and after the termination of her employment
26 at TANY.

27 68. Roup breached, and continues to breach, the Trainer Agreement by
28 using and disclosing to third-parties the Confidential Information after the

1 termination of her employment at TANY. On information and belief, Plaintiffs
2 allege that Roup used the Confidential Information in connection with developing
3 the TSS Method and with planning, recording, and publishing videos on the TSS
4 app and website on various dates during 2019 through the present, including as
5 recently as Spring 2022. The videos remain accessible to paying members on TSS'
6 app and website behind a paywall as of the date of this filing. On information and
7 belief, Plaintiffs allege that Roup has also used Confidential Information related to
8 customers, operations, program structure, customer intake methods, and employees
9 at various times, including as recently as Spring 2022. On information and belief,
10 Plaintiffs allege that Roup has also disclosed the Confidential Information to third
11 parties, including employees, affiliates, and/or customers of TSS at various times,
12 including as recently as Spring 2022.

13 69. As a direct and proximate result of Roup's breach of the Trainer
14 Agreement, TANY has suffered, and will continue to suffer, substantial monetary
15 damages in an amount to be determined at trial.

16 **FOURTH CAUSE OF ACTION**

17 **Violations of California Unfair Competition Law,**

18 **Cal. Bus. & Prof. Code § 17200 *et seq.***

19 **(By Plaintiffs Against All Defendants)**

20 70. Plaintiffs incorporate the preceding allegations as though fully set forth
21 herein.

22 71. Defendants have engaged in unfair and/or fraudulent business acts and
23 practices which constitute unfair competition within the meaning of Section 17200
24 of the California Business and Professions Code, and which have harmed Plaintiffs
25 and the public. Defendants' unfair and fraudulent business acts or practices include,
26 but are not limited to: (a) taking and using the Confidential Information to form and
27 operate TSS, a business which competes with Plaintiffs; (b) continuing to use the
28 Confidential Information to create their videos, which compete with Plaintiffs'

1 services and which are available to customers who pay for memberships to TSS; and
2 (c) making false and/or misleading descriptions or representations of fact in
3 advertisements and promotions that misrepresent the nature, characteristics, and
4 qualities of Defendants' services because they imply that (i) Roup developed the
5 TSS Method over a period of multiple years, when she did not; (ii) the TSS Method
6 was created through years of science-based research, development, data collection
7 and analysis, and trial and error, when it was not; and (iii) the TSS Method is
8 significantly different from the TA Method, when it is not.

9 72. As a direct and proximate result of Defendants' unfair and fraudulent
10 business acts and practices, Plaintiffs have suffered injury to their business,
11 including irreparable harm to their goodwill and reputation. Defendants' unfair and
12 fraudulent business acts and practices have also caused Plaintiffs damages,
13 including but not limited to, loss of sales and customers. Plaintiffs have no adequate
14 remedy at law and will suffer further injury and damage unless Defendants'
15 wrongful conduct is enjoined.

16 73. Plaintiffs therefore seek (i) an injunction pursuant to California
17 Business & Professions Code § 17203 prohibiting Defendants from engaging in the
18 unfair and fraudulent business acts and practices set forth herein; and (ii) restitution
19 pursuant to California Business & Professions Code § 17203 as a result of
20 Defendants' unfair and fraudulent business acts and practices.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiffs pray for judgment and relief against Defendants as
23 follows:

- 24 1. For judgment in favor of Plaintiffs and against Defendants on all causes
25 of action in the Complaint;
- 26 2. For an Order permanently enjoining Defendants from advertising,
27 promoting, or publishing false and/or misleading descriptions or representations of
28 fact related to the development of the TSS Method;

ATTACHMENT A

Attachment A
List of Tracy Anderson Mind and Body, LLC's Copyright Registrations

Registration No.	Effective Date	First Publication	Copyright Claimant	Title of Work	Type of Work
PA 1-929-090	10/31/2014	04/01/2008	Tracy Anderson Mind and Body, LLC	The Tracy Anderson Method Presents Dance Cardio Workout DVD	Motion Picture (DVD)
PA 1-929-015	10/31/2014	04/01/2008	Tracy Anderson Mind and Body, LLC	The Tracy Anderson Method Presents Mat Workout DVD	Motion Picture (DVD)
PA 1-929-092	10/31/2014	04/01/2008	Tracy Anderson Mind and Body, LLC	The Tracy Anderson Method Presents Post-Pregnancy Workout DVD	Motion Picture (DVD)
PA 1-929-096	10/31/2014	04/01/2010	Tracy Anderson Mind and Body, LLC	Tracy Anderson Dance Cardio II	Motion Picture (DVD)
PA0001930682	10/31/2014	10/01/2010	Tracy Anderson Mind and Body, LLC	Tracy Anderson: The Perfect Design Series	Motion Picture (DVD)
PA 1-929-100	10/31/2014	01/03/2011	Tracy Anderson Mind and Body, LLC	Metamorphosis by Tracy – Hipcentric	Motion Picture (DVD)
PA0001930680	10/31/2014	01/03/2011	Tracy Anderson Mind and Body, LLC	Metamorphosis by Tracy – Abcentric	Motion Picture (DVD)
PA0001930683	10/31/2014	01/03/2011	Tracy Anderson Mind and Body, LLC	Metamorphosis by Tracy – Omnicentric	Motion Picture (DVD)
PA0001938799	10/31/2014	01/03/2011	Tracy Anderson Mind and Body, LLC	Metamorphosis by Tracy – Glutecentric	Motion Picture (DVD)
PA 1-929-094	10/31/2014	02/01/2012	Tracy Anderson Mind and Body, LLC	Tracy Anderson's Total Body Mini-Trampoline Workout	Motion Picture (DVD)
PA0001938802	10/31/2014	02/01/2013	Tracy Anderson Mind and Body, LLC	Tracy Anderson: The Pregnancy Project	Motion Picture (DVD)

Attachment A
List of Tracy Anderson Mind and Body, LLC's Copyright Registrations

Registration No.	Effective Date	First Publication	Copyright Claimant	Title of Work	Type of Work
PA0001930681	10/31/2014	04/01/2013	Tracy Anderson Mind and Body, LLC	Tracy Anderson Teen Meta	Motion Picture (DVD)
PA 1-929-098	10/31/2014	05/01/2013	Tracy Anderson Mind and Body, LLC	Tracy Anderson Post-Pregnancy 2 Workout Series	Motion Picture (DVD)
PA 1-929-013	10/31/2014	08/06/2013	Tracy Anderson Mind and Body, LLC	Tracy Anderson The Method for Beginners	Motion Picture (DVD)
PA 1-929-097	10/31/2014	09/03/2013	Tracy Anderson Mind and Body, LLC	Tracy Anderson Precision Toning	Motion Picture (DVD)
PA 1-929-093	10/31/2014	12/01/2013	Tracy Anderson Mind and Body, LLC	Tracy Anderson Dance + Cardio	Motion Picture (DVD)
PA 1-929-095	10/31/2014	05/01/2014	Tracy Anderson Mind and Body, LLC	Tracy Anderson Unleash Your Inner Popstar	Motion Picture (DVD)
PA 1-929-011	10/31/2014	10/01/2014	Tracy Anderson Mind and Body, LLC	Tracy Anderson Cardio Dance Workout	Motion Picture (DVD)
PA 1-929-012	10/31/2014	10/01/2014	Tracy Anderson Mind and Body, LLC	Tracy Anderson Mat Workout for Beginners	Motion Picture (DVD)