

Print Form

UCS-840C
3/2011

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF New York

Index No. _____

Phramus, Inc. and James Levine

RJI No. (if any) _____

-against-

Plaintiff(s)/Petitioner(s)

Metropolitan Opera Association, Inc. Aka The
Metropolitan Opera, and Peter
Gelb

Defendant(s)/Respondent(s)

COMMERCIAL DIVISION**Request for Judicial Intervention Addendum**

COMPLETE WHERE APPLICABLE [add additional pages if needed]:

Plaintiff/Petitioner's cause(s) of action [check all that apply]:

- ☒ Breach of contract or fiduciary duty, fraud, misrepresentation, business tort (e.g. unfair competition), or statutory and/or common law violation where the breach or violation is alleged to arise out of business dealings (e.g. sales of assets or securities; corporate restructuring; partnership, shareholder, joint venture, and other business agreements; trade secrets; restrictive covenants; and employment agreements not including claims that principally involve alleged discriminatory practices)
- ☐ Transactions governed by the Uniform Commercial Code (exclusive of those concerning individual cooperative or condominium units)
- ☐ Transactions involving commercial real property, including Yellowstone injunctions and excluding actions for the payment of rent only
- ☐ Shareholder derivative actions — without consideration of the monetary threshold
- ☐ Commercial class actions — without consideration of the monetary threshold
- ☐ Business transactions involving or arising out of dealings with commercial banks and other financial institutions
- ☐ Internal affairs of business organizations
- ☐ Malpractice by accountants or actuaries, and legal malpractice arising out of representation in commercial matters
- ☐ Environmental insurance coverage
- ☐ Commercial insurance coverage (e.g. directors and officers, errors and omissions, and business interruption coverage)
- ☐ Dissolution of corporations, partnerships, limited liability companies, limited liability partnerships and joint ventures — without consideration of the monetary threshold
- ☐ Applications to stay or compel arbitration and affirm or disaffirm arbitration awards and related injunctive relief pursuant to CPLR Article 75 involving any of the foregoing enumerated commercial issues — without consideration of the monetary threshold

Plaintiff/Petitioner's claim for compensatory damages [exclusive of punitive damages, interest, costs and counsel fees claimed]:

\$ 5,047,000

Plaintiff/Petitioner's claim for equitable or declaratory relief [brief description]:

Plaintiffs allege a claim for promissory estoppel, in the alternative to a claim for breach of contract, for promises made by the Metropolitan Opera Association, Inc. (the "Met") to Plaintiffs to conduct 30 performances at a rate of \$27,000 per performance, for a total of \$810,000, in 2017-2018 (Third Cause of Action). Plaintiffs allege a second claim for promissory estoppel for promises made by the Met to Plaintiffs to conduct 31 performances at a rate of \$27,000 per performance, for a total of \$837,000, in 2018-2019 (Fourth Cause of Action).

Defendant/Respondent's counterclaim(s) [brief description, including claim for monetary relief]:

I REQUEST THAT THIS CASE BE ASSIGNED TO THE COMMERCIAL DIVISION. I CERTIFY THAT THE CASE MEETS THE JURISDICTIONAL REQUIREMENTS OF THE COMMERCIAL DIVISION SET FORTH IN 22 NYCRR § 202.70(a), (b) AND (c).

Dated: March 15, 2018

 SIGNATURE

Elkan Abramowitz
 PRINT OR TYPE NAME