BUCHALTER
A Professional Corporation
Rick J. Taché, State Bar No. 195100
rtache@buchalter.com
Josh H. Escovedo, State Bar No. 284506
jescovedo@buchalter.com
Sylvia Cheong, State Bar No. 302183
scheong@buchalter.com
500 Capitol Mall, Suite 1900
Sacramento, CA 95814
Telephone: 916.945.5170

Attorneys for Plaintiff
Lou Nemeth

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

LOU NEMETH, Plaintiff, vs. ATP FLIGHT ACADEMY, LLC, a Florida Limited Liability Company, d/b/a ATP FLIGHT SCHOOL, AND DOES 1-10, INCLUSIVE, Defendants.	Case No. **COMPLAINT FOR:** **(1) Violation of 15 U.S.C § 1125 (A)(1)(A)** **(2) Misappropriation Of Likeness** **(3) Violation Of Civil Code § 3344** **JURY TRIAL DEMANDED**

Plaintiff Lou Nemeth alleges as follows against Defendant ATP Flight Academy, LLC:

NATURE OF ACTION

1. This is an action for violation of 15 U.S.C § 1125 (a)(1)(A), misappropriation of likeness, and violation of Civil Code § 3344. Mr. Nemeth, as a leading authority on Upset Prevention and Recovery Training, traveled to Singapore and demonstrated the training when a rogue individual filmed the

demonstration and distributed it online. ATP used Mr. Nemeth's demonstration that was distributed online as the basis for at least three days of its certification training program without Mr. Nemeth's consent. ATP knew such conduct would violate Mr. Nemeth's rights and misappropriate his likeness. ATP was willing to do so anyway because it gained a commercial benefit by using Mr. Nemeth's likeness. By causing confusion as to Mr. Nemeth's affiliation with ATP, ATP financially benefitted while Mr. Nemeth was harmed. Mr. Nemeth seeks damages, attorney's fees, costs, and pre-judgment and post-judgment interest. The basis for this Court's jurisdiction is 28 U.S.C. § 1331.

THE PARTIES

2. Mr. Nemeth is an individual residing in Florida.

3. On information and belief, ATP was and is a Florida limited liability company, and its members are all citizens of Florida.

4. Mr. Nemeth does not currently know the true names and capacities of the defendants sued herein as DOES 1 through 10, inclusive, and therefore sues these defendants by fictitious names in conformance with Local Rule 19-1. Mr. Nemeth will amend this complaint to state the true names and capacities of the fictitiously named defendants when those names are ascertained. Mr. Nemeth is informed and believes and thereon alleges that each of the fictitiously named defendants was legally responsible in some manner for the events and damages alleged in the complaint.

5. As to all claims alleged herein, each defendant was the agent and/or employee of each of the other defendants.

JURISDICTION AND VENUE

6. Mr. Nemeth brings this action under 15 U.S.C. § 1125. This Court has original jurisdiction under 28 U.S.C. § 1331.

7. This Court has jurisdiction over the related claims under 28 U.S.C. § 1367.

8. A substantial part of the events giving rise to this Complaint occurred in this judicial district. Accordingly, venue is proper.

9. The Court has personal jurisdiction over ATP and DOES 1-10 because they engaged in actions that form the basis of Mr. Nemeth's claims against ATP in this judicial district by doing business and violating Mr. Nemeth's rights, and ATP knew or should have known that such conduct would cause injury to Mr. Nemeth in the State of California.

GENERAL ALLEGATIONS

10. Captain Lou Nemeth is the Director of Flight Operations, Chief Pilot, and Pilot Instructor at CAE. Mr. Nemeth represents CAE as a speaker—often a keynote speaker—at global aviation forums.

11. Prior to joining CAE, Mr. Nemeth worked at US Airways for 27 years as a Captain, pilot training manager, and instructor pilot. Mr. Nemeth also served as a board member and advisor to institutions such as Embry-Riddle Aeronautical

University and the Council of Aviation Accreditation.

12. He is type rated on various aircrafts and is an international aviation safety training collaborator, as evidenced by his various roles in International Rule Making Committees. He serves and often leads committees on behalf of International Civil Aviation Organization (ICAO), the Royal Aeronautical Society, and the Federal Aviation Administration (FAA).

13. In sum, Mr. Nemeth is well known in the industry, and his association with a program adds significant value. Such value is derived irrespective of whether Mr. Nemeth is actually associated with a program, or his intellectual property is utilized in a manner that creates the false impression that he is associated with a program.

14. Mr. Nemeth was the co-chair of the ICAO program in Montreal, Canada, where ICAO Doc 10011—the Manual on Aeroplane Upset Prevention and Recovery Training—was generated. The FAA later implemented material portions of Doc 10011.

15. After the ICAO program, regulators in Singapore contacted ICAO and inquired about the identity of the leading authority on Upset Prevention and Recovery Training. ICAO identified Mr. Nemeth, and the Singaporean regulators asked him to travel to Singapore to demonstrate proper Upset Prevention and Recovery Training.

///

16. During Mr. Nemeth's demonstration in Singapore, a rogue individual filmed the demonstration and distributed it online. That demonstration served as the basis for at least three days of ATP's certification training program.

17. ATP's certification training program is provided online and in person, and on information and belief, participants from this judicial district have been solicited, have purchased, and/or have participated in the program.

FIRST CAUSE OF ACTION
Violation of 15 U.S.C § 1125 (a)(1)(A)
(Against APT and DOES 1-10)

18. Mr. Nemeth realleges the foregoing paragraphs as though fully set forth below.

19. ATP's use of Nemeth's likeness without consent in connection with its certification training program constitutes a use in commerce that is likely to cause confusion or mistake, or to deceive as to Mr. Nemeth's affiliation, connection, or association with ATP and its training program, and as to the origin, sponsorship or approval of ATP's training program by Mr. Nemeth, in violation of 15 U.S.C § 1125 (a)(1)(A).

20. As a direct and proximate consequence of ATP's wrongful conduct, Mr. Nemeth has been, is now, and will be irreparably injured and damaged. Unless ATP is enjoined by this Court, Mr. Nemeth will suffer further harm.

21. Mr. Nemeth has no adequate remedy at law.

///

22. ATP acted with full knowledge of Mr. Nemeth's rights and with the intent to misappropriate such rights to benefit from his goodwill, reputation and authority. ATP's wrongful conduct is therefore deliberate, willful, fraudulent, without any mitigating circumstances, and constitutes a knowing use of Mr. Nemeth's likeness.

SECOND CAUSE OF ACTION
Misappropriation of Likeness
(Against APT and DOES 1-10)

23. Mr. Nemeth realleges the foregoing paragraphs as though fully set forth below.

24. ATP's use of Mr. Nemeth's demonstration in its certification training program without his knowledge, authorization, or permission has resulted in ATP exercising control and ownership over Mr. Nemeth's likeness.

25. ATP benefitted from utilizing Mr. Nemeth's likeness through commercializing its certification training program that features Mr. Nemeth's demonstration, without obtaining Mr. Nemeth's consent.

26. As a direct and proximate consequence of ATP's wrongful conduct, Mr. Nemeth has been, is now, and will be irreparably injured and damaged. Unless ATP is enjoined by this Court, Mr. Nemeth will suffer further harm.

27. Mr. Nemeth has no adequate remedy at law.

28. ATP acted with full knowledge of Mr. Nemeth's rights and with the intent to misappropriate such rights to benefit from his goodwill, reputation, and

authority. ATP's wrongful conduct is therefore deliberate, willful, fraudulent, without any mitigating circumstances, and constitutes a knowing use of Mr. Nemeth's likeness.

THIRD CAUSE OF ACTION
Violation of Civil Code § 3344
(Against APT and DOES 1-10)

29. Mr. Nemeth realleges the foregoing paragraphs as though fully set forth below.

30. ATP's use of Nemeth's likeness without his consent to advertise, sell, or solicit purchases of its certification training program constitutes a violation of Civil Code § 3344.

31. As a direct and proximate consequence of ATP's wrongful conduct, Mr. Nemeth has been, is now, and will be irreparably injured and damaged. Unless ATP is enjoined by this Court, Mr. Nemeth will suffer further harm. Mr. Nemeth has no adequate remedy at law.

32. ATP acted with full knowledge of Mr. Nemeth's rights and with the intent to misappropriate such rights to benefit from his goodwill, reputation, and authority. ATP's wrongful conduct is therefore deliberate, willful, fraudulent, without any mitigating circumstances, and constitutes a knowing use of Mr. Nemeth's likeness.

///

///

PRAYER FOR RELIEF

WHEREFORE Mr. Nemeth, prays for relief as follows:

1. for entry of judgment in his favor and against Defendant ATP;
2. for statutory damages;
3. for compensatory damages;
4. for punitive damages;
5. for reasonable attorney's fees and costs;
6. for pre-judgment and post-judgment interest; and
7. for such other and further relief as this Court deems proper.

DATED: May 10, 2024

BUCHALTER
A Professional Corporation

By: _____
Josh Escovedo
Attorneys for Plaintiff
Lou Nemeth

DEMAND FOR JURY TRIAL

Mr. Nemeth hereby demands a jury trial of all issues in this Complaint.

DATED: May 10, 2024

BUCHALTER
A Professional Corporation

By: _____
Josh Escovedo
Attorneys for Plaintiff
Lou Nemeth