

1 FISHER INJURY LAWYERS  
2 Bryan D. Fisher, La Bar No.: 20812 &  
3 Tx Bar No.: 24085913  
4 Thomas J. Fisher, Tx Bar No.: 07064500  
5 6715 Perkins Road  
6 Baton Rouge, LA 70808  
7 Telephone: 225-766-1234  
8 Facsimile: 225-612-6813  
9 *PRO HAC VICE* COUNSEL FOR PLAINTIFF

10 and

11 ALDER LAW PC  
12 Jennifer Burkes, State Bar No.: 275790  
13 Michael Alder, State Bar No.: 170381  
14 1875 Century Park East, Suite 1500  
15 Los Angeles, CA 90067  
16 Telephone: 310-275-9131  
17 Facsimile: 310-275-9132  
18 COUNSEL FOR PLAINTIFF

19 **UNITED STATES DISTRICT COURT**

20 **CENTRAL DISTRICT OF CALIFORNIA**

21 MORGAN BRESLIN, )  
22 )  
23 Plaintiff, )  
24 vs. )  
25 )  
26 AMTRUST AT LLOYD’S LTD, an )  
27 Underwriter at Lloyd’s, London )  
28 individually, and in its capacity as )  
representative Underwriter at Lloyd’s, )  
London for certain subscribing )  
Underwriters at Lloyd’s, London who )  
subscribe to Policy # RCA06813-400, )  
Defendant. )

CASE NO.:  
  
**ORIGINAL COMPLAINT  
AND DEMAND FOR JURY  
TRIAL**

1 This Original Complaint and Demand for Jury Trial arises from the wrongful  
2 denial of insurance benefits under a loss of value and total permanent Disability  
3 Policy issued by Defendant Amtrust at Lloyd's, Ltd.  
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5 **PRELIMINARY STATEMENT**

6 1. Morgan Breslin is a former NCAA (University of Southern California,  
7 hereinafter "USC") football player who was designated as an exceptional student  
8 athlete prior to the 2013 college football season. This designation by the NCAA  
9 encouraged Breslin to forego entry in the 2013 NFL Draft and return to USC for  
10 the 2013 college football season. The designation also qualified him to purchase  
11 loss of value and disability insurance to protect him from disabling injury during  
12 the upcoming 2013 college football season. The NCAA designation and ability to  
13 purchase loss of value and disability insurance coverage are indispensable to the  
14 function of NCAA football and incentivize the student athletes to continue their  
15 education despite the availability of an immediate, large payoff in the NFL.  
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20 2. In September 2013, Breslin submitted an application for, and  
21 ultimately purchased, a loss of value and total permanent Disability Policy of  
22 Insurance issued by Amtrust at Lloyd's, Ltd, Certificate Number RCA06813-400  
23 (the "Disability Policy"). Breslin purchased the Disability Policy to ensure that he  
24 would recover or mitigate any loss of income that might occur if he were injured or  
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1 disabled during the policy period of August 27, 2013 through August 1, 2014  
2 which included the entire 2013 college football season.  
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4 3. During the policy period, Breslin was injured and subsequently made  
5 a claim for benefits under the Disability Policy. After delays, spurious requests for  
6 information and unreasonable failure to respond to correspondence, Amtrust, by  
7 letter dated December 12, 2014, denied Breslin's claim and purported to rescind  
8 the Disability Policy<sup>1</sup>. Because the denial amounts to a breach of the Disability  
9 Policy, was made in bad faith, and done maliciously and/or with gross negligence,  
10 Breslin has filed this complaint, seeking herein actual, compensatory and punitive  
11 damages from Defendant.  
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### 15 THE PARTIES

16 4. Plaintiff Morgan Breslin is an individual who resides in San Ramon,  
17 Contra Costa County, California. At all times relevant to this cause, Breslin  
18 resided in Los Angeles, California.  
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20 5. Defendant Amtrust at Lloyd's, Ltd, is a corporation formed, organized  
21 and registered in the United Kingdom with its principal place of business in the  
22 United Kingdom.  
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28 <sup>1</sup> Not coincidentally, the letter of denial was received by Breslin the same day that he was served with a lawsuit for declaratory judgment filed in New Jersey Federal District Court seeking to nullify the Disability Policy.

**JURISDICTION AND VENUE**

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2           6.     Jurisdiction is proper in this court pursuant to 28 USC Sec 1332(a) et  
3  
4 seq., as complete diversity between the parties exists. Plaintiff Breslin is a citizen  
5 of the state of California. Defendant Amtrust is a corporation formed, organized  
6 and registered in a foreign country, the United Kingdom, with its principal place of  
7  
8 business in the United Kingdom. Amtrust has designated the following as its agent  
9 for service of process: Mendes & Mount, 750 Seventh Avenue, New York, New  
10 York, 10019-6829. Amtrust may be served by service upon its agent at this  
11  
12 address.

13           7.     The amount in controversy exceeds the jurisdictional amount of  
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15 \$75,000.00 exclusive of interest and costs. The benefits under the Disability  
16 Policy for loss of value and permanent total disability are \$1,000,000.00 and  
17  
18 \$3,000,000.00, respectively. Breslin also seeks punitive damages in an amount far  
19 in excess of the policy limits.

20           8.     Venue is proper in this district and division pursuant to 28 USC Sec  
21  
22 1391 et seq., in that all or a substantial part of the events or omissions giving rise to  
23  
24 the claim occurred in this district and division. In particular, the policy at issue  
25  
26 was applied for and delivered in this district and division. The overwhelming  
27  
28 majority of the activities associated with the risk covered by the Disability Policy  
occurred in this district and division. The injury and claim origination occurred in

1 this division and district. Most of the medical care and health care providers  
2 relevant to this claim are located in or near this district and division. The majority  
3 of the communications with Breslin and USC which constitute the solicitation of  
4 Breslin, his application for and issuance of the policy and the wrongful delay in  
5 investigating and processing the Breslin claim, wrongful failure to investigate the  
6 claim pursuant to the policy terms and conduct supporting the imposition of  
7 punitive damages was purposefully directed at Breslin in this district and division.  
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11 9. Finally, Amtrust asserts as a basis for its denial of the Breslin claim  
12 that Breslin made misstatements, omissions and/or concealments in the Policy  
13 Application and failed to disclose certain changes in his health before the policy  
14 was issued (all of which Breslin vehemently denies). These claimed  
15 misstatements, omissions or concealments specifically relate to injuries and  
16 medical care that, if accurate, could have only taken place in this district and  
17 division. As a result, venue is proper in this district and division.  
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20 **10. Personal Jurisdiction exists over Amtrust.**

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22 11. Sufficient minimum contacts exist to support this court exercising  
23 personal jurisdiction over Amtrust. As set forth more fully herein, Amtrust  
24 solicited Breslin to purchase the policy at issue in this cause. This solicitation took  
25 place over social media, the internet, and via email and telephone contact with  
26 Breslin and USC, all directed to Breslin and USC in Los Angeles, California. The  
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1 solicitation, approval and application for coverage under the policy was done in  
2 conjunction with, and with the approval of, the NCAA Compliance Office at USC  
3 located in Los Angeles, California. Further, Breslin resided in Los Angeles at the  
4 time of the Application, the date of issuance of the Disability Policy and the date of  
5 his injury.  
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8 12. Amtrust purposefully entered into the Disability Policy to insure  
9 Breslin, a resident of Los Angeles. The Application specifically identifies Breslin  
10 as a college football player for USC.  
11

12 13. As a student athlete, Breslin was required to comply with certain  
13 NCAA regulations. Amtrust worked with the USC Compliance Department in  
14 conjunction with the Policy Application and issuance. This included obtaining  
15 compliance approval of the Disability Policy and of a Business Loan Agreement,  
16 the proceeds of which were used to pay the Disability Policy premiums. Some of  
17 the documents associated with the Business Loan Agreement, including the  
18 Collateral Assignment Form, were signed and witnessed by a USC compliance  
19 officer, with the knowledge and consent of Amtrust.  
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23 14. Breslin was a student athlete at USC at its Los Angeles campus at all  
24 times pertinent to this claim. This fact was known to Amtrust at all times pertinent  
25 to this claim. Amtrust purposefully sought out Breslin in Los Angeles as a  
26 prospect for purchase of the Disability Policy.  
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1           18. On September 3, 2013, Breslin submitted a Sports Insurance Proposal  
2 Form to Hanleigh Management Inc. (“Hanleigh”) through, Ronnie Kaymore (the  
3 “Application”). Prior to submitting the Application, Breslin had been solicited by  
4 Amtrust for the express purpose of selling disability insurance to Breslin. The  
5 solicitation was accomplished with the assistance of the office of NCAA  
6 Compliance at USC, Hanleigh and Ronnie Kaymore. A true and correct copy of  
7 the Application is attached hereto as Exhibit “A” and is incorporated herein by  
8 reference.  
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12           19. In conjunction with the Application, Breslin also provided to Amtrust,  
13 an Authorization to Release Personal Health Information dated September 6, 2013  
14 (the “Authorization”). A true and correct copy of the Authorization is attached as  
15 Exhibit “B” and is incorporated herein by reference. By not later than September  
16 6, 2013, the date of the Authorization, Amtrust had complete authorization to  
17 obtain medical information on Breslin sufficient to allow Amtrust to evaluate and  
18 underwrite the Disability Policy.  
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22           20. On November 1, 2013, Amtrust issued the Disability Policy  
23 (Certificate RCA06813-400) to Breslin. The Disability Policy was effective from  
24 August 27, 2013 through August 1, 2014. A true and correct copy of the Disability  
25 Policy is attached as Exhibit “C” hereto and is incorporated herein by reference.  
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1           21. On or about September 28, 2013, during the period of time covered by  
2 the Disability Policy, Breslin was injured in a college football game against  
3 Arizona State University. Breslin consulted a physician promptly thereafter on  
4 September 29, 2013 with complaints of groin pain. Ultimately, Breslin had sports  
5 hernia repair surgery on November 19, 2013 and adductor longus repair surgery on  
6 April 8, 2014. Breslin played in only 5 football games that season due to his  
7 injury. He was not invited to the NFL Combine nor was he drafted in the 2014  
8 NFL Draft.  
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12           22. On April 29, 2014, Breslin signed and thereafter mailed to Hanleigh, a  
13 Proof of Loss form making therein a claim for disability under the Disability  
14 Policy (the "Breslin Claim Form"). By its own admission, Hanleigh received the  
15 Breslin Claim Form on May 5, 2014. A true and correct copy of the Breslin Claim  
16 Form is attached hereto as Exhibit "D" and is incorporated herein by reference.  
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19           23. On May 12, 2014, Breslin entered into a contingent or conditional  
20 NFL Player Contract with the San Francisco Forty Niners (the "NFL Contract").  
21 The term of the NFL Contract was 3 years and was subject to the terms and  
22 conditions contained therein including receiving medical clearance to engage in the  
23 physical activities demanded of an NFL athlete. A true and correct copy of the  
24 contingent or conditional NFL Contract is attached hereto as Exhibit "E" and is  
25 incorporated herein by reference. At this time, Breslin and the San Francisco Forty  
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1 Niners knew or should have known that Breslin was not physically able to play  
2 football and would not pass a medical physical as required by the NFL Contract.  
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4 24. By letter dated June 12, 2014, more than a month after Amtrust admits  
5 having received the Breslin Claim Form, Breslin was contacted for the first time by  
6 a representative, Mary Ann Camp, acting on behalf of Amtrust. A true and correct  
7 copy of the June 12, 2014 letter from Camp is attached hereto as Exhibit "F" and is  
8 incorporated herein by reference. In the June 12 letter, Ms. Camp requests  
9 information related to offers and contracts with the NFL after August 28, 2013 and  
10 advises that Amtrust has requested records from Breslin's treating physicians (who  
11 had been identified on the Breslin Claim Form).  
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15 25. On May 28, 2014, Breslin was notified by the Forty Niners that he  
16 "failed to establish or maintain (his) excellent physical condition to the satisfaction  
17 of the Club Physician". Breslin never set foot on the practice or playing field  
18 between May 12, 2014 and May 28, 2014. By email dated July 9, 2014, Breslin  
19 notified Camp of his status and attached the document received from the Forty  
20 Niners. On July 26, 2014, Breslin emailed to Camp his NFL Players Contract and  
21 other requested information regarding the Seahawks and Chargers, two other NFL  
22 teams. By email dated two days later, Camp acknowledged receipt of the  
23 requested documents and thanked Breslin for sending.  
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1           26. Camp's next communication with Breslin was on August 20, 2014,  
2 almost a month after Breslin provided the requested information. Ms. Camp stated  
3 that she was still awaiting records from some of the treating physicians and only  
4 records from 2013 from USC (despite the fact that Camp had requested the records  
5 from USC and should have clearly requested whatever records she needed). In  
6 response to the August 20 email, on September 1 Breslin emailed Camp, noting  
7 that, "It is now September and there has been no update on my claim". A true and  
8 correct copy of the August 20, 2014 email and Breslin's September 1 response are  
9 attached hereto as Exhibit "G" and is incorporated herein by reference.  
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13           27. By the time of Camp's August 20 email, three and a half months had  
14 elapsed since the date Amtrust received the Breslin Claim Form with no significant  
15 progress being made. As a result of Amtrust's delay and inactivity, Breslin hired  
16 Bryan D. Fisher and Fisher Injury Lawyers to represent him regarding his claim on  
17 the Disability Policy. By letters dated September 10, 2014, Bryan D. Fisher  
18 notified Hanleigh and Ronnie Kaymore, of his representation of Breslin. By later  
19 the next day, Fisher notified Camp of his representation of Breslin and requested  
20 policy and claim documentation and all records from the Forty Niners, NFL and  
21 NFLPA. A true and correct copy of the September 11, 2014 letter from Fisher to  
22 Camp is attached hereto as Exhibit "H" and is incorporated herein by reference.  
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1           28. After requesting and promptly receiving an authorization from Breslin  
2 for Camp to speak with Fisher, Camp sent a letter dated September 18, 2014,  
3 which, among other things, requested Breslin's availability for a medical  
4 examination (DME). On September 23, Fisher promptly responded to Camp and  
5 requested specifics for the DME and advised that a DME would be promptly set  
6 upon receipt of the specifics. The next day, September 24, Fisher emailed Camp  
7 about the now 140 day old claim and reminded her that Breslin was ready to  
8 submit to the DME. On September 26, Fisher again emailed Camp asking that she  
9 state the reasons for failing to pay the claim and asking her again to respond to the  
10 correspondence sent between September 23 and 26, which was attached to the  
11 email. Four days later, on September 30, Fisher again faxed and emailed Camp  
12 asking that she respond to his requests for information. On October 1, having  
13 received no response of any sort from Camp for over a week, Fisher sent a letter to  
14 Graham Southall of Hanleigh Management Inc., with a copy to Glenn Dorr at  
15 Lloyd's of London, which attached all of the correspondence since September 23  
16 and requested a response. Finally, on October 2, Camp responded to the weeks'  
17 worth of correspondence. A true and correct copy of Camp's letter of October is  
18 attached hereto as Exhibit "I" and is incorporated herein by reference.

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22           29. The next day, Fisher responded to the Camp letter. In his October 3  
23 letter, Fisher:  
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1 A. Requested policy language supporting the claim that the DME physician  
2 needed comprehensive medical records before the exam;

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4 B. Requested a statement as to why Lloyds has failed to pay;

5 C. Asked for what was needed to establish coverage under subparts A and B  
6 of the Disability Policy; and  
7

8 D. Made Breslin available for a telephone interview.

9 On October 7, Camp responded and failed to address any of Fisher's requests  
10 above. Despite repeated demands for this information, none was ever received  
11 from Camp or anyone on behalf of Amtrust. Despite repeated offers to make  
12 Breslin available for a telephone statement, one never occurred until November 6,  
13 2014, six months after the Breslin Claim Form was received by Amtrust. And,  
14 despite repeated insistence upon a DME, one was never scheduled and never  
15 occurred. Instead, on December 12, Amtrust wrongfully denied Breslin's claim for  
16 benefits and sued him in New Jersey Federal District Court.  
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20 30. It is apparent from the foregoing that Amtrust never intended to fully  
21 evaluate and assess, much less honor, Breslin's claim. Rather, it engaged in  
22 repeated delay tactics over a period of months, only to do what it no doubt  
23 intended to do when it received the Breslin Claim Form.... deny the Breslin claim.  
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1 **CAUSES OF ACTION**

2 **31. Breach of Contract.** Breslin and Amtrust entered into a binding  
3 enforceable contract, the Disability Policy. Breslin fully performed all or  
4 substantially all of the things required of him under the Disability Policy, or was  
5 excused from his performance. All conditions required for Amtrust's performance  
6 under the Disability Policy have occurred. Amtrust has breached the Disability  
7 Policy by, among other things:  
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- 10 A. Wrongfully denying Breslin's claim for benefits thereunder;  
11  
12 B. Failing to promptly and fully investigate the claim;  
13  
14 C. Purporting to impose upon Breslin conditions not required by the  
15 Disability Policy; and  
16  
17 D. Failing to fulfill its obligation not to impair the rights of Breslin, the  
18 insured.

19 Breslin has been damaged by Amtrust's breach of contract. These damages  
20 include the benefits due under the Disability Policy, compensatory damages,  
21 general damages, special damages, benefit of the bargain damages, costs and  
22 attorneys fees, all of which Breslin seeks to recover.  
23

24 **32. Breach of Duty of Good Faith and Fair Dealing.** Breslin and  
25 Amtrust entered into a binding enforceable contract, the Disability Policy. Breslin  
26 fully performed all or substantially all of the things required of him under the  
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28

1 Disability Policy, or was excused from his performance. All conditions required  
2 for Amtrust's performance under the Disability Policy have occurred. Amtrust has  
3 breached the Disability Policy and breached its duty of good faith and fair dealing  
4 to Breslin by, among other things:  
5

- 6 A. Wrongfully denying Breslin's claim for benefits thereunder;
- 7
- 8 B. Failing to promptly and fully investigate the claim;
- 9
- 10 C. Purporting to impose upon Breslin conditions not required by the  
11 Disability Policy; and
- 12 D. Failing to fulfill its obligation not to impair the rights of Breslin, the  
13 insured.  
14

15 Breslin has been damaged by Amtrust's breach of contract. These damages  
16 include the benefits due under the Disability Policy, compensatory damages,  
17 general damages, special damages, benefit of the bargain damages, punitive  
18 damages, costs and attorneys fees, all of which Breslin seeks to recover.  
19

20 **33. Bad Faith Denial of Insurance Benefits.** Breslin and Amtrust  
21 entered into a binding enforceable contract and policy of insurance, the Disability  
22 Policy. Breslin timely made a claim and benefits are due under the Disability  
23 Policy. As set forth more fully herein, Amtrust's withholding of benefits was  
24 unreasonable, malicious, oppressive and fraudulent. Breslin was damaged by  
25 Amtrust's withholding of benefits. Breslin seeks damages, including punitive  
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1 damages, resulting from Amtrust's unreasonable, malicious, oppressive and  
2 fraudulent withholding of benefits under the Disability Policy.

3  
4 **CONDITIONS PRECEDENT**

5 34. All conditions precedent have been performed or have occurred as  
6 required.

7  
8 **PRAYER FOR RELIEF**

9 35. Wherefore, Plaintiff, Morgan Breslin, respectfully asks that judgment  
10 be entered against Defendant, Amtrust, for:

11  
12 A. Compensatory, general, special, and benefit of the bargain damages in an  
13 amount including, but not limited to, the benefits due under the Disability  
14 Policy for Amtrust's breach of the Disability Policy;

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16 B. Compensatory, general, special, and benefit of the bargain damages in an  
17 amount including, but not limited to, the benefits due under the Disability  
18 Policy and additional punitive damages for Amtrust's breach of the duty  
19 of good faith and fair dealing;

20  
21 C. Compensatory, general, special, and benefit of the bargain damages in an  
22 amount including but not limited to the benefits due under the Disability  
23 Policy and additional punitive damages for Amtrust's bad faith  
24 withholding of insurance benefits;  
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1 D. Punitive damages in an amount to be determined for Amtrust's  
2 unreasonable, malicious, oppressive and fraudulent bad faith withholding  
3 of insurance benefits under the Disability Policy;  
4

5 E. Reasonable attorney's fees;

6 F. Prejudgment and post-judgment interest;

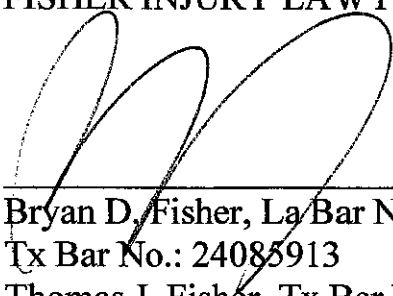
7 G. Costs of suit; and

8 H. All other relief the court deems appropriate.  
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13 Respectfully Submitted,

14 FISHER INJURY LAWYERS

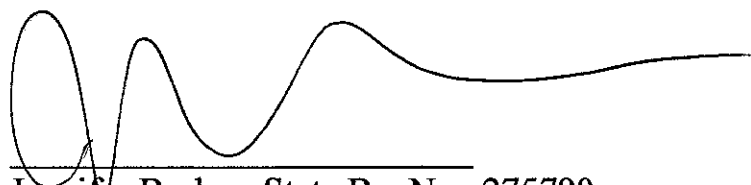
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18 BY:

  
\_\_\_\_\_  
19 Bryan D. Fisher, La Bar No.: 20812 &  
20 Tx Bar No.: 24085913  
21 Thomas J. Fisher, Tx Bar No.: 07064500  
22 6715 Perkins Road  
23 Baton Rouge, LA 70808  
24 Telephone: 225-766-1234  
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26 *PRO HAC VICE* COUNSEL FOR PLAINTIFF  
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and

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ALDER LAW, PC



BY:

Jennifer Burkes, State Bar No.: 275790  
Michael Alder, State Bar No.: 170381  
1875 Century Park East, Suite 1500  
Los Angeles, CA 90067  
Telephone: 310-275-9131  
Facsimile: 310-275-9132  
COUNSEL FOR PLAINTIFF

**DEMAND FOR A JURY TRIAL**

Plaintiff Morgan Breslin is entitled to and hereby requests a jury trial on all issues addressed in the foregoing complaint.

This the 15 day of January, 2015.

  
\_\_\_\_\_  
BRYAN D. FISHER

  
\_\_\_\_\_  
JENNIFER BURKES