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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JENNIFER KELLY, an individual; GENESIS INDUSTRIES LLC, a limited liability company,

Plaintiffs,

v.

MICROSOFT CORPORATION, a corporate entity; and JONATHAN PLUMB, an individual, and the marital community composed of Jonathan Plumb and Jane Doe Plumb,

Defendants.

NO.  
COMPLAINT  
**JURY DEMAND**

I. PARTIES

1.1 Genesis Industries (“Genesis Industries” or “GI”) is a Wyoming limited liability company.

1.2 Jennifer Kelly is a California resident, and the managing member of Genesis Industries LLC.

1.3 Microsoft is a Washington corporation with a principal place of business in Redmond, Washington in King County.

1.4 Jonathan Plumb is a resident of Washington and has been a resident of Washington at all times material to this Complaint. All acts and/or omissions by Mr. Plumb alleged herein

1 were done individually and on behalf of the Mr. Plumb's marital community as well as and in the  
2 capacity as an agent for Microsoft.

3 **II. JURISDICTION AND VENUE**

4 2.1 The U.S. District Court in the Western District of Washington has jurisdiction  
5 pursuant to 28 U.S.C. §1332. There is complete diversity between the parties, and the amount in  
6 controversy exceeds \$75,000.00, exclusive of costs and interest.

7 2.2 Venue is proper in this District pursuant to 28 U.S.C. §1391(b) as a substantial part  
8 of the events giving rise to the claim occurred in King County, Washington.

9 **III. STATEMENT OF FACTS**

10 3.1 GI was founded by Jennifer Kelly in 2014 and is a small Seattle modeling agency  
11 that manages a broad spectrum of models, actors, and production creatives. Among other things,  
12 GI's services include procuring brand ambassadors for various clients.

13 3.2 Ms. Kelly was working on a project for Microsoft HoloLens. She was approached  
14 by Microsoft Producer and HoloLens Program Manager, Jonathan Plumb, in early 2015. He  
15 inquired as to whether Ms. Kelly had access to Brand Ambassadors for upcoming Microsoft  
16 HoloLens promotional events. Ms. Kelly advised Mr. Plumb that GI was able to procure Brand  
17 Ambassadors.

18 3.3 Cordy Rierson—Mr. Plumb's direct supervisor and the Director of Microsoft  
19 HoloLens Experiences—recommended CoroWare Inc. ("CoroWare") as the preferred Microsoft  
20 vendor. Ms. Rierson informed Ms. Kelly that CoroWare managed all information technology for  
21 the HoloLens department and advocated for CoroWare's competence.

22 3.4 Relying on Ms. Rierson and Mr. Plumb's assurances, on or about June 30, 2015,  
23 GI entered into a contractual relationship with CoroWare, for work to be performed by GI at  
24 Microsoft's headquarters in Redmond, Washington on Microsoft's H1 HoloLens program ("the  
25 Agreement").

1 3.5 CoroWare was effectively a compliance conduit for Microsoft, which utilized  
2 CoroWare to subcontract GI for an exclusive Microsoft contract. GI submitted its invoices to  
3 CoroWare monthly, CoroWare then processed and submitted GI's invoices to Microsoft.  
4 CoroWare served no function other than being a place holder.

5 3.6 Indeed, Microsoft's Master Supplier Services Agreement provides that if  
6 Microsoft approves of the Subcontractor, Microsoft may pay the Subcontractor amounts owed if  
7 the Supplier fails to pay Subcontractor any amounts due and owing.

8 3.7 Under the Agreement, GI retained the right of first refusal to provide the same or  
9 similar services for any extension or renewal of the same or similar contract to provide services  
10 for the Microsoft HoloLens program.

11 3.8 The Agreement also contained a non-solicitation provision that prohibited either  
12 GI or CoroWare from soliciting or approaching for employment any of the other party's  
13 personnel during the term of the Agreement and for a period of one year thereafter.

14 3.9 In August 2015, the Agreement was amended to remove concerns related to GI  
15 soliciting Microsoft as a client "considering that...[GI] already engaged in work with and for  
16 MICROSOFT."

17 3.10 In order to terminate the Agreement, a party must provide thirty (30) days' written  
18 notice to the other party; all work on the projects must cease; and all invoices must be  
19 immediately due and payable.

20 3.11 From June 2015 to December 2015, GI performed work under Mr. Plumb's direct  
21 management.

22 3.12 Microsoft and Mr. Plumb consistently increased the scope of GI's obligations to  
23 include various Microsoft product demonstration tours including but not limited to HoloLens  
24 internal/behind closed doors demos, 2015's "Loft in a Box" 11 city demo tour, Project Mandarin,  
25 and NYC 5<sup>th</sup> Avenue Store demos. Specifically, GI was to produce Brand Ambassadors for

1 Microsoft to demonstrate the HoloLens product at trade shows around the United States and  
2 Canada. All control and direction for the various product demonstration projects came from  
3 Microsoft directly.

4 3.13 GI performed all work required of it under the relevant agreements.

5 3.14 GI's work was exemplary.

6 3.15 By agreement, CoroWare was required to front travel, hotel, and wages for its  
7 subcontractors, including GI. CoroWare, however, expressed its inability to front expenses for  
8 fast approaching demo tours. In order to ensure the viability and success of the Microsoft demo  
9 programs, and with its own reputation on the line, GI was forced to front its costs of travel, hotel,  
10 and wages, and then seek reimbursement. Microsoft assured GI that it would be reimbursed.

11 3.16 On or about August 2015, CoroWare began defaulting on invoices and ignoring  
12 communications despite its agreement with Microsoft to front travel, hotel, and wages. GI  
13 repeatedly expressed its concerns regarding CoroWare's failure to pay invoices to Mr. Plumb and  
14 Microsoft. Mr. Plumb was explicitly aware of and admitted that CoroWare was unable to front  
15 expenses for fast-approaching HoloLens store demonstrations. Nonetheless, Mr. Plumb assured  
16 GI that it would be reimbursed for all hours, wages, and expenses accrued for Microsoft  
17 programs, and instructed GI to continue working and incurring costs.

18 3.17 Microsoft consistently authorized GI to hire additional employees. Specifically,  
19 on or about September 18, 2015, Scott Warren, the Senior Business Development Manager for  
20 HoloLens and Microsoft Game Studios, authorized the hiring of twelve additional GI employees  
21 and also approved payment for GI's travel.

22 3.18 As GI continued to raise concerns to Mr. Plumb regarding CoroWare's refusal to  
23 reimburse GI for its expenses, Mr. Plumb continually reassured Ms. Kelly that Microsoft would  
24 make absolutely sure that GI was reimbursed for all hours, wages, and expenses accrued for  
25 Microsoft's programs. Further, Microsoft continued to instruct GI to book specific flights and

1 hotels, and to incur travel expenses. As a result of Microsoft's instructions and assurances, GI  
2 incurred hundreds of thousands of dollars in expenses that were never reimbursed by CoroWare.

3 3.19 Mr. Plumb repeatedly instructed GI that due to its exceptional performance on the  
4 HoloLens program, GI should decline any outside work in 2016 because Microsoft would renew  
5 its contract with GI. GI relied on Mr. Plumb's repeated assurances to deny any outside work for  
6 2016, and therefore, did not book any jobs for 2016.

7 3.20 Throughout this time period, Mr. Plumb's behavior and conduct became more  
8 alarming. He began aggressively pursuing Ms. Kelly sexually and making hypersexualized  
9 comments about other females involved in GI's projects. When his advances were not  
10 reciprocated, he would retaliate through his role at Microsoft.

11 3.21 As a professional, Ms. Kelly did her best to ignore Mr. Plumb's actions. But on or  
12 about December 7, 2015, it became too much. Ms. Kelly learned that Mr. Plumb had been  
13 drinking with an underage female GI employee while the employee was traveling for work with  
14 Mr. Plumb. Shortly thereafter, Mr. Plumb, while clearly intoxicated, contacted Ms. Kelly and  
15 made multiple inappropriate statements regarding GI's female employees.

16 3.22 On or about December 7, 2015, Mr. Plumb posted a photo on social media of an  
17 underage GI employee with alcohol in her hand.

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11 3.23 Ms. Kelly confronted Mr. Plumb and opposed his wildly inappropriate conduct.

12 3.24 Almost immediately after, Mr. Plumb sharply limited GI's Microsoft work.

13 3.25 Microsoft revoked GI employees' access to the Microsoft campus.

14 3.26 On or about December 28, 2015, Microsoft, through CoroWare, sent GI a  
15 termination letter to be effective on December 31, 2015. The termination was so abrupt it did not  
16 even comply with the termination provisions set forth in the Agreement—which required 30 days  
17 written notice. Nor had all work been stopped or invoices paid.

18 3.27 Mr. Plumb was promoted by Microsoft in the course of all this.

19 3.28 In early January 2016, GI discovered that CoroWare—with Microsoft's knowledge  
20 and approval—had been poaching and re-employing GI employees in direct violation of the  
21 Agreement.

22 3.29 On or about January 4, 2016, Ms. Kelly emailed Mr. Plumb to express her  
23 concerns regarding GI's unpaid invoices, Microsoft and CoroWare's poaching of GI employees  
24 in direct violation of the Agreement, and breach of implied contract—as GI and its employees had  
25

1 turned down outside work due to Mr. Plumb's assurances that Microsoft would renew GI's  
2 contract.

3 3.30 Upon information and belief, the Microsoft HoloLens project demos are still  
4 continuing today. Further, Microsoft is still using former GI employees via third party vendors  
5 that were improperly poached from GI in violation of the Agreement.

6 3.31 To date, GI has not received all payment owed for its services on any of  
7 Microsoft's projects, nor has GI been reimbursed for the costs it incurred at the express direction  
8 of Microsoft—despite Microsoft's repeated assurances of payment.

9 3.32 Plaintiffs' damages are a direct result of Defendants' reckless misconduct, broken  
10 promises, and retaliation.

11 3.33 Plaintiffs incurred millions of dollars in lost revenues, in addition to suffering  
12 severe distress and embarrassment in an amount to be proven at trial.

13 **IV. FIRST CAUSE OF ACTION**  
14 **(Breach of Contract)**

15 4.1 Plaintiffs restate and incorporate by reference the foregoing paragraphs of the  
16 Complaint as though fully set forth below.

17 4.2 Microsoft entered into a contract with GI in which Microsoft was to reimburse GI  
18 for all expenses it incurred throughout the implementation of Microsoft's various HoloLens demo  
19 programs.

20 4.3 Microsoft was aware that GI's invoices were not being paid by CoroWare.  
21 Nonetheless, Microsoft directed GI to incur hundreds of thousands of dollars in expenses.

22 4.4 Microsoft repeatedly assured GI that it would be reimbursed for all hours, wages,  
23 and expenses accrued for Microsoft programs.

24 4.5 GI performed by incurring such costs and expenses.

25 4.6 In addition, Microsoft and GI entered into an agreement that Microsoft would  
renew GI's contract on the HoloLens demo project for 2016. Microsoft explicitly directed GI and



1 its employees to decline outside work for 2016. GI and its employees performed by in fact not  
2 taking on any additional projects for 2016.

3 4.7 Microsoft breached the contract by failing to perform its obligations and  
4 conditions including but not limited to: (1) failing to pay GI for expenses incurred for Microsoft's  
5 benefit at its direction and assurance, and (2) failing to renew GI's contract for the continuation of  
6 Microsoft's HoloLens demo tour.

7 4.8 The breach of contract by Microsoft has directly, actually, and proximately caused  
8 GI damages in an amount to be proven at trial.

9 **V. SECOND CAUSE OF ACTION**  
10 **(Unjust Enrichment)**

11 5.1 Plaintiffs restate and incorporate by reference the foregoing paragraphs of the  
12 Complaint as though fully set forth below.

13 5.2 Based upon representations made by Microsoft, GI provided employees, fronted  
14 travel expenses, wages and per diem, and demonstrated Microsoft products for the HoloLens  
15 program, Loft in a Box program, and other demo programs for Microsoft at Microsoft sponsored  
16 events.

17 5.3 Microsoft accepted, retained, and/or used the benefits from GI under such  
18 circumstances as to make it inequitable for Microsoft to retain the benefit thereof.

19 5.4 GI's services were provided with the expectation that payment for the services and  
20 labor provided would be paid to GI by Microsoft.

21 5.5 Microsoft has not paid GI amounts justly due and owing for such services.

22 5.6 Microsoft's practices were the proximate cause of GI's injury herein.

23 5.7 Equity demands that Microsoft not be permitted to retain the benefit of the services  
24 and labor provided by GI for which Microsoft did not make payment, and GI is entitled to  
25 damages in an amount to be proven at trial.



1 VI. THIRD CAUSE OF ACTION  
2 (Promissory Estoppel)

3 6.1 Plaintiffs restate and incorporate by reference the foregoing paragraphs of the  
4 Complaint as though fully set forth below.

5 6.2 Microsoft repeatedly promised to GI and its employees that it would be renewing  
6 its contract with GI and instructed GI and its employees to decline work for 2016.

7 6.3 Microsoft should reasonably have expected that these promises would have caused  
8 GI to change its position by, among other things, hiring additional employees, rejecting outside  
9 work from other clients and not procuring work from other clients, and investing in additional  
10 resources needed to perform on the HoloLens demo project in 2016.

11 6.4 GI changed its position in reliance upon Microsoft's promises and was justified in  
12 doing so.

13 6.5 Injustice can be avoided only if Microsoft's promises are enforced, such that GI is  
14 entitled to damages in an amount to be proven at trial.

15 VII. FOURTH CAUSE OF ACTION  
16 (Tortious Interference)

17 7.1 Plaintiffs restate and incorporate by reference the foregoing paragraphs of the  
18 Complaint as though fully set forth below.

19 7.2 GI had valid contractual relationships and/or business expectancies with CoroWare  
20 and Microsoft.

21 7.3 Microsoft knew of the existing contractual relationships and/or business  
22 expectancies.

23 7.4 Microsoft was aware of CoroWare's Agreement with GI. Microsoft interfered  
24 with that contract by re-employing several of GI's employees through various third party vendors  
25 in HoloLens demo programs in violation of the non-solicitation provision.

1 7.5 Microsoft interfered with GI's contractual relationship and/or business  
2 expectancies by retaliating against Ms. Kelly and GI for Ms. Kelly confronting Mr. Plumb about  
3 drinking with an underage GI employee and his overall management of GI employees.

4 7.6 Microsoft intentionally interfered with GI's contractual relationships and/or  
5 business expectancies with Microsoft and CoroWare. These acts were undertaken for an  
6 improper purpose and to harm GI and Ms. Kelly.

7 7.7 Microsoft, with knowledge of GI's contractual relationships and/or business  
8 expectancies, knowingly accepted for its own benefit the fruits of the unlawful tortious  
9 interference with GI.

10 7.8 As a direct consequence of Microsoft's interference, GI has suffered and continues  
11 to suffer damages in an amount to be proven at trial.

12 **VIII. FOURTH CAUSE OF ACTION**  
13 **(Tortious Interference – against Jonathan Plumb)**

14 8.1 Plaintiffs restate and incorporate by reference the foregoing paragraphs of the  
15 Complaint as though fully set forth below.

16 8.2 GI had valid contractual relationships and/or business expectancies with CoroWare  
17 and Microsoft.

18 8.3 Mr. Plumb knew of the existing contractual relationships and/or business  
19 expectancies.

20 8.4 Mr. Plumb intentionally interfered with GI's contractual relationship with  
21 CoroWare and Microsoft.

22 8.5 Mr. Plumb interfered for improper purposes by retaliating against Ms. Kelly and  
23 GI for Ms. Kelly confronting Mr. Plumb about his drinking with an underage GI employee and  
24 his overall management of GI employees.

25 8.6 These acts were undertaken for an improper purpose to help promote Mr. Plumb's  
career track within Microsoft.

1 8.7 As a direct consequence of Mr. Plumb's interference, GI has suffered and  
2 continues to suffer damages in an amount to be proven at trial.

3 IX. FIFTH CAUSE OF ACTION  
4 (Negligent Misrepresentation)

5 9.1 Plaintiffs restate and incorporate by reference the foregoing paragraphs of the  
6 Complaint as though fully set forth below.

7 9.2 Microsoft supplied information for the guidance of GI and Ms. Kelly in their  
8 business transactions with Microsoft.

9 9.3 Microsoft negligently made false representations that Microsoft would ensure that  
10 GI was reimbursed for all hours, wages, and expenses accrued for Microsoft programs, and that  
11 GI's contract on the HoloLens demo project would be renewed for 2016 and beyond.

12 9.4 Microsoft knew or should have known that the information supplied to GI and Ms.  
13 Kelly would guide GI's business transactions.

14 9.5 Microsoft was negligent in obtaining or communicating false information to GI.

15 9.6 GI justifiably relied on the (false) information provided by Microsoft.

16 9.7 As a direct and proximate result of Microsoft's false representations, GI has  
17 suffered damages in an amount to be proven at trial.

18 X. SIXTH CAUSE OF ACTION  
19 (Retaliation – RCW 49.60)

20 10.1 Plaintiffs restate and incorporate by reference the foregoing paragraphs of the  
21 Complaint as though fully set forth below.

22 10.2 Mr. Plumb consistently made inappropriate comments regarding GI's female  
23 employees.

24 10.3 Ms. Kelly opposed what she reasonably believed to be discrimination on the basis  
25 of age and gender.

1 10.4 Ms. Kelly confronted Mr. Plumb regarding his discriminatory comments towards  
2 female GI employees and his act of unlawfully purchasing alcohol for a minor.

3 10.5 Shortly thereafter, Microsoft terminated its contractual relationship with GI and  
4 Ms. Kelly. Ms. Kelly's confrontation to Mr. Plumb regarding his harassing and discriminatory  
5 conduct was why Microsoft terminated its contract with GI.

6 10.6 Ms. Kelly engaged in a statutorily protected activity when she confronted Mr.  
7 Plumb regarding his discriminatory behavior and suffered an adverse employment action as a  
8 direct result of the statutorily protected activity.

9 10.7 As a direct and proximate result of the discriminatory conduct of Microsoft and  
10 Mr. Plumb, Ms. Kelly has suffered lost wages, past and future, and emotional distress and  
11 humiliation in amounts to be proven at trial.

12 10.8 Ms. Kelly is entitled to her attorneys' fees and costs incurred as a result of the  
13 conduct of Microsoft and Mr. Plumb.

14 **XI. SEVENTH CAUSE OF ACTION**  
15 **(Civil Conspiracy)**

16 11.1 Plaintiffs restate and incorporate by reference the foregoing paragraphs of the  
17 Complaint as though fully set forth below.

18 11.2 Microsoft combined or conspired with CoroWare to accomplish an unlawful  
19 purpose by unlawful means to violate the Agreement, and to deprive GI of its client, employees,  
20 vendor and supplier relationships, and goodwill.

21 11.3 Microsoft entered into an agreement with CoroWare to accomplish the conspiracy.

22 11.4 As a direct consequence of said conspiracy, GI has suffered damages in an amount  
23 to be proven at trial.

24 **XII. REQUEST FOR RELIEF**

25 Plaintiffs, Genesis Industries and Jennifer Kelly, pray for the following relief:

1 A. An award of economic damages, past and future, against Microsoft Corporation  
2 and Jonathan Plumb, in an amount to be proven at trial.

3 B. An award of non-economic damages, past and future, in an amount to be proven at  
4 trial.

5 C. An award of attorneys' fees and costs incurred herein.

6 D. For such other and further relief as the Court may deem just and equitable.

7 DATED this 14<sup>th</sup> day of July, 2017.

8 s/Daniel A. Brown

9 s/Adam Rosenberg

10 s/Katherine A. Christofilis

11 s/Naazaneen Hodjat

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