

**ORIGINAL**

**FAXED**

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**FILED**  
 Superior Court of California  
 County of Los Angeles

JAN 31 2018

Sherri R. Carter, Executive Officer/Clerk  
 By M. Soto, Deputy  
 Moses Soto

7 Attorneys for Plaintiffs  
 8 ENTERTAINMENT ONE FILMS CANADA,  
 9 INC.

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 11 FOR THE COUNTY OF LOS ANGELES

12 ENTERTAINMENT ONE FILMS  
 13 CANADA, INC., a Canadian  
 14 corporation,

Plaintiff,

v.

16 WEINSTEIN GLOBAL FILM  
 17 CORPORATION, a Delaware  
 18 corporation, and THE WEINSTEIN  
 19 COMPANY LLC, a Delaware limited  
 20 liability company,

Defendants.

Case No. **BC 6 9 2 3 5 2**

**COMPLAINT FOR:**

- (1) BREACH OF CONTRACT (PADDINGTON 2);
- (2) BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING (PADDINGTON 2);
- (3) ESTOPPEL (PADDINGTON 2);
- (4) BREACH OF CONTRACT (MASTER ADVANCE);
- (5) COMMON COUNT-OPEN BOOK ACCOUNT (MASTER ADVANCE);
- (6) BREACH OF CONTRACT (GUARANTY); and
- (7) BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING (GUARANTY).

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COMPLAINT

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**COMPLAINT**

Plaintiff Entertainment One Films Canada, Inc. (“eOne”) alleges as follows:

**INTRODUCTION**

1. This Complaint arises out of Defendant Weinstein Global Film Corporation’s (“WGFC”) breach of a written output agreement between the parties dated January 20, 2006, as amended, with respect to the distribution of certain motion pictures in Canada (the “Output Agreement”) and the breach of a written continuing guaranty executed by Defendant The Weinstein Company, LLC (“TWC”) dated January 20, 2006, as amended, in which it guaranteed WGFC’s obligations under the Output Agreement (the “Guaranty”).

2. After communicating to eOne that the motion picture Paddington 2 would be made available to it for Canadian distribution pursuant to the Output Agreement, and the parties’ subsequent partial performance of their obligations relating thereto, WGFC and TWC (collectively, the “Defendants”) directly or through their affiliates sold the Canadian distribution rights to Warner Brothers Pictures and its affiliated entities (collectively, “Warner”) and/or authorized a transaction whereby the Canadian distribution rights were transferred to Warner.

3. WGFC failed to thereafter make Paddington 2 available to eOne for distribution in Canada in breach of eOne’s rights under the Output Agreement. Under both the terms of the Output Agreement and eOne’s rights at common law, WGFC’s breach entitled eOne to terminate the Output Agreement. eOne terminated the Output Agreement on December 31, 2017. The Output Agreement contains provisions for the post-termination repayment to eOne of the master advance that it paid to WGFC during the Output Agreement (the “Master Advance”). eOne complied with those provisions, but WGFC has failed to repay the outstanding balance of the Master Advance.

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1 4. WGFC's failure to perform its obligations under the Output Agreement  
2 and TWC's failure to perform its obligations under the Guaranty have substantially  
3 damaged eOne as alleged further below.

4 **THE PARTIES**

5 5. eOne is a Canadian corporation with its principal place of business  
6 located at 134 Peter Street, Suite 700, Toronto, Ontario, Canada, M5V 2H2. eOne's  
7 affiliate has an office in Los Angeles, California that, among other things, has  
8 serviced the relationship between eOne and Defendants.

9 6. WGFC is a Delaware corporation with its principal place of business  
10 located at 99 Hudson Street, Fourth Floor, New York, New York 10013. Based on  
11 information and belief, WGFC is a subsidiary or affiliate of TWC and has had an  
12 office, employees or agents in Beverly Hills, California that, among other things,  
13 have serviced the relationship between eOne and Defendants.

14 7. TWC is a Delaware limited liability corporation with its principal place  
15 of business located at 99 Hudson Street, Fourth Floor, New York, New York 10013.  
16 Based on information and belief, TWC has had an office, employees or agents,  
17 including high ranking officials, in Beverly Hills, California that, among other  
18 things, have serviced the relationship between eOne and Defendants.

19 **JURISDICTION AND VENUE**

20 8. This Court has personal jurisdiction over Defendants because, among  
21 other California contacts: (1) the parties negotiated and/or performed various parts  
22 of the relevant agreements through offices, employees and/or agents in Los Angeles  
23 County, California; (2) Defendants breached the relevant agreements by entering  
24 into an agreement and/or authorizing a transaction with a corporation with its  
25 principal place of business in Burbank, California; and (3) Defendants have offices  
26 and/or do business in Los Angeles County, California.

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1 9. Venue is proper in this Court because Defendants have offices and do  
2 business in Los Angeles County and, in part, breached the relevant agreements in  
3 Los Angeles County.

4 **GENERAL ALLEGATIONS**

5 **The Output Agreement and the Guaranty**

6 10. WGFC and Motion Picture Distribution LP (as predecessor to the rights  
7 and obligations of Alliance Films Inc. and thereafter eOne, and referred to herein as  
8 "eOne" for clarity) entered into the Output Agreement on January 20, 2006.

9 11. The Output Agreement was amended and extended several times  
10 thereafter, including on January 20, 2006, September 8, 2006, November 18, 2009,  
11 August 4, 2010, August 5, 2010, August 13, 2010, May 15, 2012 and April 9, 2014  
12 (the "Amendments").

13 12. Pursuant to Section 2.1 and 3.1(a) of the Output Agreement, WGFC  
14 agreed to make certain pictures available to eOne for distribution in Canada during  
15 the distribution term.

16 13. Pursuant to Section 13.2(b)(ii) of the Output Agreement, in the event  
17 that WGFC failed to make a qualifying picture available to eOne for distribution in  
18 Canada, as such picture became available, and thereafter refused to cure such  
19 failure, eOne had the right to terminate the Output Agreement.

20 14. Pursuant to Section 13.4 of the Output Agreement, WGFC was  
21 obligated to repay eOne any outstanding balance of the Master Advance remaining  
22 following termination of the Output Agreement. By its very nature, this provision  
23 survives termination of the Output Agreement.

24 15. In order to induce eOne to enter into the Output Agreement with  
25 WGFC, TWC executed and delivered the Guaranty to eOne on January 20, 2006.

26 16. The Guaranty was amended and extended on August 4, 2010 (the  
27 "Guaranty Extension").  
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1 17. Pursuant to Section 1.1 and 2.1 of the Guaranty, TWC “irrevocably and  
 2 unconditionally guaranteed” to eOne as and for TWC’s “own debt, until final and  
 3 indefeasible payment and performance thereof has been made” to eOne “the due and  
 4 punctual payment and performance in full” of any and all “obligations,  
 5 indebtedness, or liabilities” to eOne “of any kind or character owed by” WGFC to  
 6 eOne under the Output Agreement “when the same shall become due, whether at  
 7 stated maturity, by acceleration, demand or otherwise.”

8 18. Pursuant to Section 5.1 of the Guaranty, TWC agreed “to pay, on  
 9 demand, all reasonable costs and expenses, including, without limitation, reasonable  
 10 legal fees and expenses of outside counsel...and all other costs and expenses paid or  
 11 incurred” by eOne “in endeavoring to collect and/or enforce all or any part of the  
 12 Guaranteed Obligations from, or in prosecution [of] any action to enforce [the]  
 13 Guaranty, or in any way arising out of, or consequential to the protection, assertion  
 14 or enforcement of the Guaranteed Obligations (or any security therefor), whether or  
 15 not suit is brought.”

16 **The Parties’ Dispute Regarding Paddington 2**

17 19. In or around June 2017, WGFC communicated to eOne that the motion  
 18 picture Paddington 2 would be made available to it for distribution pursuant to the  
 19 Output Agreement. Immediately thereafter, WGFC began providing materials to  
 20 eOne for the marketing and distribution of Paddington 2.

21 20. In or around July 2017, WGFC and eOne collaborated regarding  
 22 release dates and trailer placement for Paddington 2. Throughout the summer and  
 23 fall of 2017, the parties continued to perform under the Output Agreement in  
 24 connection with Paddington 2, resulting in eOne devoting significant financial and  
 25 other resources to the performance of its obligations.

26 21. eOne is informed and believes that, in or about November 2017,  
 27 Defendants sold the United States and Canadian distribution rights for Paddington 2  
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1 to Warner and/or authorized a transaction whereby the United States and Canadian  
2 distribution rights were transferred to Warner.

3 22. Shortly after the sale was publicized, Robert Weinstein, then head of  
4 TWC, apologized to Patrick Roy, a division president of eOne, for the sale of  
5 Paddington 2 and acknowledged that WGFC would need to compensate eOne for its  
6 loss of Paddington 2 as a result of the sale.

7 **Termination of the Output Agreement**

8 23. On December 5, 2017, eOne provided formal notice to WGFC of its  
9 failure to make Paddington 2 available to eOne for distribution under the Output  
10 Agreement. eOne's December 5, 2017 Letter also demanded that WGFC cure its  
11 failure pursuant to Section 13.2(b)(ii) of the Output Agreement.

12 24. WGFC did not cure its failure to make Paddington 2 available for  
13 distribution as required pursuant to Section 13.2(b)(ii) of the Output Agreement.

14 25. On December 21, 2017, eOne provided formal notice to WGFC that it  
15 was terminating the Output Agreement, effective as of December 31, 2017.

16 26. On January 23, 2017, pursuant to Section 13.4 of the Output  
17 Agreement, eOne provided WGFC with accounting statements through December  
18 31, 2017 for each of the pictures that eOne has been distributing pursuant to the  
19 Output Agreement setting out in reasonable detail the items described in Section  
20 8.1(a) of the Output Agreement and the amounts payable to WGFC pursuant to  
21 Section 6.1 of the Output Agreement. At the same time, eOne presented WGFC an  
22 invoice in the amount of \$7,213,934.31, representing the balance of the Master  
23 Advance.

24 27. Pursuant to Section 13.4 of the Output Agreement, WGFC had five  
25 business days to pay eOne the balance of the Master Advance. WGFC failed to pay  
26 eOne the outstanding balance of the Master Advance as required.

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**CLAIMS FOR RELIEF**

**FIRST CLAIM FOR RELIEF**

**(Breach of Contract against WGFC – Paddington 2)**

28. eOne expressly incorporates the allegations set forth above in Paragraphs 1 to 27.

29. WGFC breached the Output Agreement, as amended by the Amendments, by failing to make Paddington 2 available to eOne for distribution in Canada.

30. eOne performed all of its obligations under the Output Agreement, as amended by the Amendments.

31. As a direct result of WGFC's breach of the Output Agreement, as amended by the Amendments, eOne has sustained and will continue to sustain damage. The precise nature and amount of such accrued and continuing damage is not known to eOne and cannot be ascertained by it at the present time but will be subject to proof at trial.

**SECOND CLAIM FOR RELIEF**

**(Breach of the Implied Covenant of Good Faith and Fair Dealing against WGFC – Paddington 2)**

32. eOne expressly incorporates the allegations set forth above in Paragraphs 1 to 27.

33. eOne has performed all of its obligations under the Output Agreement, as amended by the Amendments.

34. Implied in the Output Agreement was a covenant that WGFC would not do anything that would deprive eOne of the benefits of the Output Agreement, and that WGFC would perform its obligations under the Output Agreement in such a manner as to ensure that the purposes of the Output Agreement were accomplished.

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1 35. WGFC, by selling and/or authorizing the transfer (directly or through  
2 affiliates) of the Canadian distribution rights for Paddington 2 to Warner,  
3 undermined and interfered with the very purpose of the Output Agreement: for  
4 eOne to distribute TWC's pictures in Canada as they became available.

5 36. By its acts and failures to act as alleged herein, WGFC has breached  
6 the implied covenant of good faith and fair dealing and deprived eOne of the  
7 benefits of the bargain.

8 37. As a direct and proximate result of WGFC's acts and failures to act as  
9 set forth above, eOne has sustained and will continue to sustain damage. The  
10 precise nature and amount of such accrued and continuing damage is not known to  
11 eOne and cannot be ascertained by it at the present time but will be subject to proof  
12 at trial.

13 **THIRD CLAIM FOR RELIEF**

14 **(Promissory Estoppel against WGFC – Paddington 2)**

15 38. eOne expressly incorporates the allegations set forth above in  
16 Paragraphs 1 to 27.

17 39. WGFC promised, represented or otherwise led eOne to believe that  
18 Paddington 2 would be made available to it for distribution pursuant to the Output  
19 Agreement.

20 40. eOne reasonably relied on WGFC's conduct as alleged above, by  
21 among other things, expending financial and other resources on the marketing and  
22 distribution of Paddington 2.

23 41. As a result of WGFC's conduct as alleged above, eOne has sustained  
24 damage. The precise nature and amount of such accrued damage is not known to  
25 eOne and cannot be ascertained by it at the present time but will be subject to proof  
26 at trial.

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**FOURTH CLAIM FOR RELIEF**

**(Breach of Contract against WGFC – Master Advance)**

42. eOne expressly incorporates the allegations set forth above in Paragraphs 1 to 27.

43. WGFC has breached the Output Agreement, as amended by the Amendments, by failing to repay eOne the outstanding balance of the Master Advance as required by the Output Agreement, as amended by the Amendments.

44. eOne has performed all of its obligations under the Output Agreement, as amended by the Amendments.

45. As a direct result of WGFC’s breach of the Output Agreement, as amended by the Amendments, as of December 31, 2017, eOne sustained damages in the amount of \$7,213,934.31.

**FIFTH CLAIM FOR RELIEF**

**(Common Count: Open Book Account against WGFC – Master Advance)**

46. eOne expressly incorporates the allegations set forth above in Paragraphs 1 to 27.

47. eOne provided a Master Advance to WGFC and eOne kept an account of the debits and credits applicable to the Master Advance.

48. WGFC owes eOne the balance of the Master Advance. Therefore, unless WGFC repays eOne the balance of the Master Advance, WGFC will be unjustly enriched at the expense of and detriment to eOne.

49. As of December 31, 2017, the balance of the Master Advance payable to eOne was \$7,213,934.31.

**SIXTH CLAIM FOR RELIEF**

**(Breach of Contract against TWC – Guaranty)**

50. eOne expressly incorporates the allegations set forth above in Paragraphs 1 to 49.

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1 51. WGFC has breached the Output Agreement, as amended by the  
2 Amendments, by:

- 3 a. failing to make Paddington 2 available to eOne for distribution in
- 4 Canada; and
- 5 b. failing to repay eOne the outstanding balance of the Master
- 6 Advance.

7 52. TWC has, as a result, breached the Guaranty, as amended by the  
8 Guaranty Extension, by failing to guaranty WGFC's performance and payment of its  
9 obligations under the Output Agreement.

10 53. eOne has performed all of its obligations under the Guaranty, as  
11 amended by the Guaranty Extension.

12 54. As a direct result of TWC's breach of the Guaranty, as amended by the  
13 Guaranty Extension, eOne has sustained and will continue to sustain damage in the  
14 amounts alleged above with respect to WGFC.

15 **SEVENTH CLAIM FOR RELIEF**

16 **(Breach of the Implied Covenant of Good Faith and Fair Dealing**  
17 **against TWC – Guaranty)**

18 55. eOne expressly incorporates the allegations set forth above in  
19 Paragraphs 1 to 49.

20 56. eOne has performed all of its obligations under the Guaranty, as  
21 amended by the Guaranty Extension.

22 57. Implied in the Guaranty was a covenant that TWC would not do  
23 anything that would deprive eOne of the benefits of the Guaranty, and that TWC  
24 would perform its obligations under the Guaranty in such a manner as to ensure that  
25 the purposes of the Guaranty were accomplished.

26 58. TWC, by selling and/or authorizing the transfer (directly or through its  
27 affiliates) of the Canadian distribution rights for Paddington 2 to Warner,  
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1 undermined and interfered with the very purpose of the Guaranty Agreement: to  
2 Guaranty eOne's rights under the Output Agreement.

3 59. By its acts and failures to act as alleged herein, TWC has breached the  
4 implied covenant of good faith and fair dealing and deprived eOne of the benefits of  
5 the bargain.

6 60. As a direct and proximate result of TWC's acts and failures to act as set  
7 forth above, eOne has sustained damage in the amounts alleged above with respect  
8 to WGFC.

9  
10 **WHEREFORE**, eOne prays for judgment against Defendants, jointly and  
11 severally, as follows:

12 (a) For damages according to proof at trial, but in an amount no less than  
13 the amounts alleged above (*i.e.*, an amount to be determined at trial with respect to  
14 the Paddington 2 claims; \$7,213,934.31 for the Master Advance claims);

15 (b) For the costs incurred in this lawsuit;

16 (c) For prejudgment interest;

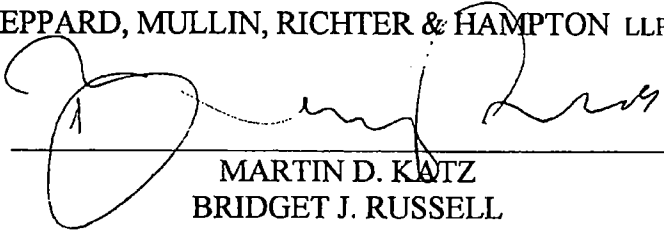
17 (d) For attorneys' fees against TWC; and

18 (e) For such other and further relief as this Court deems just and proper.

19  
20 Dated: January 31, 2018

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

21  
22 By

  
MARTIN D. KATZ  
BRIDGET J. RUSSELL

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25 Attorneys for Defendants and Counter-Claimants  
26 ENTERTAINMENT ONE FILMS CANADA, INC.  
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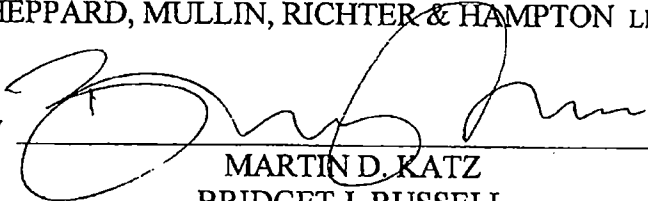
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**DEMAND FOR JURY TRIAL**

Plaintiff Entertainment One Films Canada, Inc. hereby demands a trial by jury on all issues triable by right to a jury.

Dated: January 31, 2018 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By



MARTIN D. KATZ  
BRIDGET J. RUSSELL

Attorneys for Defendants and Counter-Claimants  
ENTERTAINMENT ONE FILMS CANADA, INC.

Deadline

01/31/2018