

Frank Ranalli,)
1358 Stardust Ave. NW)
Canton, Ohio 44708,)

and,)

Jonathan Eric McGovern,)
c/o Sara's Grille at Hartville Marketplace)
1289 Edison St. NW)
Hartville, Ohio 44632,)

and,)

Kirk Greaves,)
24 Cypress Ave.)
Louisville, Ohio 44641,)

and,)

Skyler Minor,)
c/o Hartville Marketplace)
1289 Edison St. NW)
Hartville, Ohio 44632,)

and,)

Karen Chenevey,)
c/o Hartville Marketplace)
1289 Edison St. NW)
Hartville, Ohio 44632,)

and,)

Ashleigh Paolucci,)
c/o Hartville Marketplace)
1289 Edison St. NW)
Hartville, Ohio 44632,)

and,)

Mike Farina,)
c/o Darn Cheap Discounts at Hartville)
Marketplace,)
1289 Edison St. NW)
Hartville, Ohio 44632,)

and,)
)
Ellsworth “Scotti” Beers,)
 4330 Butterbridge Rd.)
 North Lawrence, Ohio 44666,)
)
 and,)
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Dan Beers,)
 4740 Butterbridge Rd.)
 North Lawrence, Ohio 44666,)
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 Defendants.)
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NOW COMES the Plaintiff, *Mara Sman LLC*, by and through undersigned counsel, and for their Complaint against the Defendants hereby allege and aver the following:

THE PARTIES, JURISDICTION, AND VENUE

1. The Plaintiff is an Ohio corporation. At times relevant, Plaintiff operated a storefront as a tenant in the Hartville Marketplace.
2. The Defendant, Hartville Marketplace, Inc., is an Ohio corporation that operates a flea market style marketplace in Hartville, Ohio. Hartville Marketplace acts as a landlord and proprietor of various goods stores within the marketplace. Hartville Marketplace has breached oral agreements with the Plaintiff and has conspired with other tenants and others to unfairly compete with the Plaintiff.
3. The Defendant, Darn Cheap Discounts, LLC, is an Ohio corporation that operates a storefront in the Hartville Marketplace. Darn Cheap Discounts has unfairly competed with Plaintiff by offering competing products that are also sold by

Plaintiff in the Hartville Marketplace. Their sales were done with the complicity of Hartville Marketplace and done to Plaintiff's known detriment.

4. The Defendant, Cormeg LLC, is an Ohio corporation that operates a storefront in the Hartville Marketplace that is registered to do business as "Lazy L Ranch Meats." Cormeg has unfairly competed with Plaintiff by offering competing products that are also sold by Plaintiff in the Hartville Marketplace. Their sales were done with the complicity of Hartville Marketplace and done to Plaintiff's known detriment.
5. The Defendants, Marion Coblentz, Seth Coblentz, Frank Ranalli, Jonathan Eric McGovern, Kirk Greaves, Skyler Minor, Karen Chenevey, and Ashleigh Paolucci (hereinafter collectively referred to as the "Hartville Marketplace joined individuals"), are all real persons, that are joined into this case as party-Defendants pursuant to joinder rules under Ohio Rules of Civil Procedure Rule 19(A) and Rule 20(A). All of said joined parties are owners, officers, or employees of Hartville Marketplace, and each has been complicit in the alleged wrongs outlined in this pleading.
6. The Defendant, Mike Farina (hereinafter referred to as the "Darn Cheap Discounts joined individual"), is a real person, that is joined into this case as a party-Defendant pursuant to joinder rules under Ohio Rules of Civil Procedure Rule 19(A) and Rule 20(A). Said joined party is the owner, officer, or employee of Darn Cheap Discounts, and has been complicit in the alleged wrongs outlined in this pleading.
7. The Defendants, Ellsworth "Scotti" Beers, and Dan Beers (hereinafter collectively referred to as the "Lazy L Ranch Meats jointed individuals"), are all real persons, that are joined into this case as party-Defendants pursuant to joinder rules under

Ohio Rules of Civil Procedure Rule 19(A) and Rule 20(A). All of said joined parties are owners, officers, or employees of Lazy L Ranch Meats, and each has been complicit in the alleged wrongs outlined in this pleading.

8. This Court has jurisdiction over Plaintiff's claims as they state claims under Ohio law, and this is a Court of general jurisdiction.
9. This Court has personal jurisdiction over the named party-Defendants since each has conducted activities in Stark County, Ohio, which have given rise to the claims alleged herein.
10. Venue is proper here since the alleged activities occurred at and around the Hartville Marketplace, which is located in Stark County, Ohio.

FACTUAL ALLEGATIONS

11. The Plaintiff hereby incorporates by reference each and every statement made in this Complaint, whether written above or below, as if each is fully re-written herein.
12. The Plaintiff entered into a series of negotiations with Hartville Marketplace on or about April and May of 2018.
13. The discussions involved the potential of Plaintiff leasing certain space within the Hartville Marketplace flea market.
14. The parties negotiated their positions and agreed that should the Plaintiff lease premises inside the marketplace, then the Hartville Marketplace would ensure that no direct competitors would be permitted to sell competing products inside the marketplace. This agreement allows for a diverse product mix within the marketplace.

15. Importantly, this concept of some exclusivity has been part and parcel of the customs and practices inside the marketplace for many years. Various vendors inside the marketplace will testify that there is an understanding and agreement that vendors will not be put into direct competition with other vendors in the marketplace. Obviously, this induces potential vendors into signing lease contracts for premium space in the marketplace. It also provides a good product mix for customers.
16. Relying on these promises, customs, and practices, the Plaintiff entered into a written lease agreement with Hartville Marketplace Inc. in May of 2018. (A true and accurate copy of the agreement is attached hereto as “Exhibit 1.”)
17. Notably, the Plaintiff entered into a thirty-six (36) month lease for \$321,156.90 for premium storefront space inside the marketplace.
18. Notably, the lease agreement did not include any integration clause that would expressly or impliedly prohibit the introduction of prior or contemporaneous oral or written agreements affecting the terms of the Agreement of Lease.
19. At times relevant, it was Plaintiff’s understanding through the practice, customs, and acts of the Hartville Marketplace, that Plaintiff would not be put to direct competition in the marketplace. The Hartville Marketplace breached those promises and inducements when they permitted and actually promoted direct competition against Plaintiff by Defendants Darn Cheap Discounts, LLC, and Cormeg, LLC dba Lazy L Ranch Meats.
20. At time relevant, the Hartville Marketplace conspired with Darn Cheap Discounts and Lazy L Ranch Meats to promote their direct competition against the Plaintiff

and to drive business away from the Plaintiff and towards those that conspired together.

21. The “Hartville Marketplace joined individuals” acted individually and together to conspire to promote these competing businesses to the Plaintiff’s detriment.

22. The Hartville Marketplace also conspired with Darn Cheap Discounts to promote the marketing and sale of identical products to be offered at Darn Cheap Discounts that Plaintiff was already carrying, including, but not limited to, Walnut Creek branded products. The “Darn Cheap Discounts joined individual” also conspired with the marketplace to promote sales and to cause detriment to the Plaintiff.

CLAIM NO. 1
(Civil Conspiracy)
(versus all party-Defendants)

23. The Plaintiff hereby incorporates by reference each and every statement made in this Complaint, whether above or below, as if each is fully re-written herein.

24. Under Ohio law, [t]he elements of a civil conspiracy claim are: “(1) a malicious combination, (2) involving two or more persons, (3) causing injury to person or property, and (4) the existence of an unlawful act independent from the conspiracy itself.” *State ex rel. Fatur v. Eastlake*, 11th Dist. No.2009–L–037, 2010–Ohio–1448, ¶ 45, quoting *Gibson v. City Yellow Cab Co.* (Feb. 14, 2001), 9th Dist. No. 20167, 2001 WL 123467 (Feb. 14, 2001).

25. The existence of an unlawful act independent from the conspiracy itself requires “[a]n underlying tort necessary to give rise to a cause of action for conspiracy.” *Ohio Ass’n of Pub. School Emps./AFSCME Local 4, AFL– CIO v. Madison Local School Dist. Bd. Of Edn.*, 190 Ohio App.3d 254, 2010–Ohio–4942, 941 N.E.2d 834,

¶ 62 (11th Dist.) quoting *Stiles v. Chrysler Motors Corp.* (1993), 89 Ohio App.3d 256, 266, 624 N.E.2d 238 (6th Dist.1993). *Cook v. Kudlacz*, 2012 WL 2520923, at *17 (Ohio App. Ct. June 28, 2012).

26. In this case, there was a malicious combination between all party-Defendants, which were more than two (2) parties. There are fourteen (14) named party-Defendants in this case.

27. This lawsuit alleges throughout that these party-Defendants maliciously conspired together, and that injury was caused to Plaintiff thereby. The Plaintiff lost sales and suffered economic damages that were proximately caused by the Defendants' conduct.

28. Finally, the conspiracy itself here was the secret plan of the party-Defendants to do something unlawful and harmful to the Plaintiff. Beyond that, there were unlawful acts independent of the secret agreement itself that included the underlying torts as outlined herein. Those torts are the underlying acts independent of the secret conspiracy. The party-Defendants have engaged in tortious interference with business relations and contracts, as outlined below, which satisfy the last prong of the civil conspiracy element test.

CLAIM NO. 2

(Breach of Oral Contract)

(versus Hartville Marketplace, Inc., only)

29. The Plaintiff hereby incorporates by reference each and every statement made in this Complaint, whether above or below, as if each is fully re-written herein.

30. Generally, a breach of contract occurs when a party demonstrates the existence of a binding contract or agreement; the non-breaching party performed its contractual

obligations; the other party failed to fulfill its contractual obligations without legal excuse; and the non-breaching party suffered damages as a result of the breach.

National City Bank v. Erskine & Sons (1953), 158 Ohio St. 450, 460-461.

31. Upon demonstration of a breach of contract, damages should place the injured party in as good a position as it would have been absent the breach. *F. Enterprises, Inc. v. Kentucky Fried Chicken Corp.* (1976), 47 Ohio St. 2d 154, 160.
32. The Plaintiff and the Hartville Marketplace entered into oral agreements whereby Plaintiff was assured that Plaintiff would not be put to directly compete with other vendors in the marketplace should the Plaintiff enter into the lease agreement for the premium indoor space, which Plaintiff did, and has paid the Hartville Marketplace more than 1/3 Million Dollars to date.
33. The Plaintiff has performed its contractual obligations.
34. However, the Defendant, the Hartville Marketplace, Inc., has failed to perform their obligations and has done so without legal excuse. The Defendant has breached by promoting direct competitors with Plaintiff and by placing direct competition in the marketplace near the Plaintiff's storefront.
35. The Plaintiff has suffered damages because of the Hartville Marketplace's breach.
36. The Court should award the Plaintiff an amount of damages to place the Plaintiff in as good of a position as it would have been absent the Hartville Marketplace's breach, which will be later proven at trial.

CLAIM NO. 3

(Quantum Meruit / Unjust Enrichment)
(versus Hartville Marketplace, Inc., only)

37. The Plaintiff hereby incorporates by reference each and every statement made in this Complaint, whether above or below, as if each is fully re-written herein.
38. The elements of quantum meruit and unjust enrichment are identical. *Loyer v. Loyer* (6th Dis. 1996), 1996 Ohio App. LEXIS 3432, at *9-10; *U.S. Health Practices, Inc. v. Blake* (10th Dis. 2001), 2001 Ohio App. LEXIS 1291.
39. In order to bring a case for quantum meruit / unjust enrichment, the plaintiff must show (1) that he conferred a benefit on the defendant; (2) that the defendant knew of the benefit; (3) and that the defendant retained the benefit given under circumstances where it would be unjust for him to retain it without payment. *Coyne v. Hodge Construction, Inc.* (9th Dis. 2004), 2004 Ohio App. LEXIS 677, at *4; Citing *Apostolos Group, Inc. v. Josephson* (9th Dis. 2002), 2002 Ohio 753, at 6-10, *Hambleton v. R.G. Barry Corp.* (1984), 12 Ohio St.3d 179, 1838.
40. The Plaintiff conferred a benefit on the Hartville Marketplace by providing, in relevant part, services of a vendor in their indoor marketplace and Plaintiff paid a premium for that space.
41. At all times relevant, the Defendant knew about the services that the Plaintiff provided and knew about the benefit conferred.
42. Under the circumstances, it would be unjust to permit the Hartville Marketplace to retain the benefit without providing fair value to the Plaintiff. The Hartville Marketplace knew that Plaintiff, just as every other vendor inside the marketplace, expected not to be forced to directly compete with competing vendors inside the

marketplace. That has been the custom and practice in the marketplace for many years. It is commonly known by the various vendors who will testify at trial confirming this understanding between the marketplace and its vendors.

43. The Plaintiff is entitled to an award of damages on its claim for quantum meruit / unjust enrichment, which will be later proven at trial.

CLAIM NO. 4

(Promissory Estoppel)

(versus Hartville Marketplace, Inc., only)

44. The Plaintiff hereby incorporates by reference each and every statement made in this Complaint, whether above or below, as if each is fully re-written herein.

45. In Ohio, promissory estoppel is the exception to the general rule of contract enforceability; namely, a “*quasi-contractual concept where a court in equity seeks to prevent injustice by effectively creating a contract where none existed.*” *Stickler v. Keycorp*, 8th Dist. No. 80727, 2003-Ohio-283, at ¶ 18. To establish a claim of promissory estoppel under Ohio law, the plaintiff must prove the following elements: (1) a clear and unambiguous promise; (2) reliance upon the promise by the promisee; (3) reliance by the promisee that is both reasonable and foreseeable; and (4) injury to the promisee as a result of the reliance. *Rigby v. Fallsway Equip. Co., Inc.*, 2002-Ohio-6120.

46. The Hartville Marketplace promised to the Plaintiff that if Plaintiff entered into the written lease agreement then they would not permit competitors to directly compete with Plaintiff’s business inside the marketplace. Other vendors from within the marketplace will testify that this is the custom and practice between the marketplace and all inside vendors.

47. Plaintiff reasonably and foreseeably relied upon the Hartville Marketplace's promises that Plaintiff would enjoy some exclusivity inside the marketplace. It was both reasonable and foreseeable since other vendors in the marketplace did believe and do believe the same thing.

48. Plaintiff has suffered injury and damages including economic damages resulting from relying upon the Hartville Marketplace's promises.

CLAIM NO. 5

(Fraud in the Inducement)

(versus Hartville Marketplace, Inc., only)

49. The Plaintiff hereby incorporates by reference each and every statement made in this Complaint, whether above or below, as if each is fully re-written herein.

50. A claim of fraud in the inducement arises when a party is induced to enter into an agreement through fraud or misrepresentation. "The fraud relates not to the nature or purport of the [contract], but to the facts inducing its execution * * *." *Haller v. Borrer Corp.*, 50 Ohio St.3d 10, 14, 552 N.E.2d 207(1990).

51. In order to prove fraud in the inducement, a plaintiff must prove the defendant made a knowing, material misrepresentation with the intent of inducing the plaintiff's reliance, and the plaintiff relied upon that misrepresentation to his or her detriment. *ABM Farms v. Woods*, 81 Ohio St.3d 498, 502, 692 N.E.2d 574(1998).

52. In this case, the Hartville Marketplace, Inc. induced the Plaintiff to enter into the written lease agreement for leasing the storefront space in the inside marketplace by promising that Plaintiff would enjoy exclusivity and would not have to compete with other lessees in the marketplace. This promise induced Plaintiff to enter the

contract thinking that Plaintiff would have the opportunity to sell goods without direct competitors down or across the hallway.

53. Without the oral promises made by the Hartville Marketplace to the Plaintiff, Plaintiff would not have entered the lease.

54. The Hartville Marketplace made a knowing, material misrepresentation when it promised exclusivity to the Plaintiff inside the marketplace.

55. It appears now that Hartville Marketplace either knew it was not telling the truth, and thus lied, or, in the alternative, if they were telling the truth, then they breached their agreement and promises.

CLAIM NO. 6

*(Tortious Interference with a Business Relationship or Contract)
(versus all party-Defendants)*

56. The Plaintiff hereby incorporates by reference each and every statement made in this Complaint, whether above or below, as if each is fully re-written herein.

57. The elements of a claim for tortious interference with a business relationship or contract are: (1) a business relationship or contract; (2) the defendant's knowledge of the relationship or contract; (3) the defendant's intentional or improper action taken to prevent a contract formation, procure a contractual breach, or terminate a business relationship; (4) a lack of privilege; and (5) resulting damages. *Byrne v. Univ. Hosps.*, 8th Dist. Cuyahoga No. 95971, 2011-Ohio-4110, ¶ 28, citing *Castle Hill Holdings, L.L.C. v. Al Hut, Inc.*, 8th Dist. Cuyahoga No. 86442, 2006-Ohio-1353, ¶ 46. {¶21}

58. Because it is a tort, a claim of tortious interference requires an improper act. *Syed v. Poulos*, 8th Dist. Cuyahoga Nos. 103137 and 103499, 2016-Ohio-3168, ¶ 17, citing

Baseball at Trotwood, L.L.C. v. Dayton Professional Baseball Club, S.D.Ohio No. C-3-98-260, 2003 U.S. Dist. LEXIS 27460 (Sept. 2, 2003).

59. In this case, the Plaintiff had both business relationships and contracts with its customers.
60. All party-Defendants had knowledge of the relationships and contracts. Each party-Defendant had a physical presence at the indoor marketplace. They all worked in and around the marketplace in various activities. They had actual or constructive knowledge of the Plaintiff's relationships and contracts.
61. Each party-Defendant acted improperly and intentionally through improper acts. They all took action to induce the Plaintiff's customers and potential customers to purchase competing products from the ill-placed competitors that the party-Defendants conspired to unfairly compete with Plaintiff. The party-Defendants improperly conspired together and then each interfered with the Plaintiff's customers and potential customers by steering them away from the Plaintiff's market and to their co-Defendants instead, and that is to both Darn Cheap Discounts and Lazy L Ranch Meats.
62. Additionally, the Hartville Marketplace conspired with the co-Defendants to appropriate trade secrets of the Plaintiff's to their advantage without conferring proper value to the Plaintiff. The Hartville Marketplace, through its agents, inquired of Plaintiff as to what would be a good prospective business in the marketplace. The Plaintiff disclosed certain trade secrets about a concept for a hot dog, pierogi, bratwurst, and sausage stand. The marketplace took these ideas and quickly misappropriated them into their concept at Sara's Grill. The revamped menu at

Sara's is a virtual copy of the ideas that Plaintiff shared with the Hartville Marketplace during confidential business discussions.

63. Knowing the Plaintiff only entered into the Agreement of Lease based upon the Hartville Marketplace's promises, which were consistent with the customs and practices followed within the marketplace, the co-Defendants then intentionally and improperly took improper action to prevent contract formation, procured contractual breaches, and acted to terminate both prospective and actual business relationships of the Plaintiff. The co-Defendants interfered with the Plaintiff's sales and marketing. The co-Defendants steered would-be customers of the Plaintiff to the other co-Defendants to profit at Plaintiff's expense. The co-Defendants actually directed customers of the Plaintiff to Sara's Grill, Darn Cheap Discounts, and to Lazy L Ranch Meats, all done in an effort to enrich said businesses while hampering the Plaintiff's revenue.
64. The co-Defendants had no right or privilege to interfere with the Plaintiff's contractual and business relations. The Hartville Marketplace had made an agreement that it would not permit any direct competition in the indoor marketplace with the Plaintiff's business. All vendors inside the indoor marketplace know this is the custom and practice in the indoor marketplace. Co-Defendants had no right or privilege to interfere.
65. As a direct and proximate result of the interference by all co-Defendants, the Plaintiff suffered resulting damages that include economic damages.

PRAYER FOR RELIEF – REQUEST FOR REMEDIES

WHEREFORE, the Plaintiff prays for judgment in its favor and against the Defendants, jointly and severally, on all of its claims, and requests an award of tort damages, an award of damages in equity, contractual damages; and requests an award of attorney's fees and costs pursuant to Defendants' fraud in the inducement which was done with actual malice, including a request for punitive damages; and requests any other relief in law or equity that this honorable Court deems just and proper, including a preliminary and then permanent injunction to maintain the status quo during the pendency of this litigation and after it.

Jury Demand

Wherefore, a trial by jury is demanded on all claims so triable by the maximum number of jurors permitted by law.

Most Respectfully Submitted,

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