

SUMMONS Cross-Complaint (CITACION JUDICIAL-CONTRADEMANDA)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO CROSS-DEFENDANT:
(AVISO AL CONTRA-DEMANDADO):**

SPORT FISHING ENTERPRISES, LLC, A LIMITED LIABILITY CORPORATION (CONTINUED ON ATTACHED LIST)

**YOU ARE BEING SUED BY CROSS-COMPLAINANT:
(LO ESTÁ DEMANDANDO EL CONTRADEMANDANTE):**

COMP EXPRESS, INC.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the cross-complainant. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al contrademandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), o uniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): **ALAMEDA SUPERIOR COURT
RENE C. DAVIDSON COURTHOUSE, 1225 FALLON ST.
OAKLAND, CALIFORNIA**

SHORT NAME OF CASE (from Complaint): (Nombre de Caso):

SPORT FISHING V. COMP EXPRESS

CASE NUMBER: (Número del Caso):

RG16824180

The name, address, and telephone number of cross-complainant's attorney, or cross-complainant without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del contrademandante, o del contrademandante que no tiene abogado, es):

RANDALL CRANE, 5256 GOLDEN GATE AVE. , OAKLAND CA, 94618 510-220-1606

DATE:
(Fecha)

Clerk, by

(Secretario)

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons (POS-010).)

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual cross-defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

☐ other (specify):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)

4. ☐ by personal delivery on (date):

[SEAL]

ATTACHMENT TO SUMMONS ON CROSS-COMPLAINT
ADDITIONAL CROSS-DEFENDANTS

C-GULL II SPORTFISHING, INC;
YOKOMIZO SPORT FISHING, INC.;
A-C FISHING CHARTERS, INC.,
HARRY GARABEDIAN, JR. DBA,
NEW SEEKER SPORTFISHING, SHERRI
YOKOMIZO, JOHN YOKOMIZO, JAY
YOKOMIZO, DON WONG, JAMES LOUIE,
ALLEN CHIN,
and Does 1-100, Cross-Defendants

RANDALL CRANE SB#O56806
LAW OFFICE OF RANDALL CRANE
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Attorney for Defendant and
Cross-complainant

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA

SPORTFISHING ENTERPRISES, LLC, A
Limited Liability Corporation; C-GULL II
SPORTFISHING, INC; YOKOMIZO SPORT
FISHING, INC.; A-C FISHING CHARTERS,
INC., HARRY GARABEDIAN, JR. DBA,
NEW SEEKER SPORTFISHING;

Plaintiffs,

vs.

COMP EXPRESS, INC. A CORPORATION,
TONY BOUDAMES, AN INDIVIDUAL,

Defendants

COMP EXPRESS, INC.,
Cross-complainant

Vs.

SPORT FISHING ENTERPRISES, LLC,
C-GULL II SPORTFISHING, INC;
YOKOMIZO SPORT FISHING, INC.;
A-C FISHING CHARTERS, INC.,
HARRY GARABEDIAN, JR. DBA,
NEW SEEKER SPORTFISHING, SHERRI
YOKOMIZO, JOHN YOKOMIZO, JAY
YOKOMIZO, DON WONG, JAMES LOUIE,
ALLEN CHIN,
and Does 1-100, Cross-Defendants

Case No.: No. RG16824180

CROSS-COMPLAINT FOR BREACH OF
CONTRACT, UNFAIR BUSINESS PRACTICE,
FRAUDULENT INDUCEMENT, INTENTIONAL
MISREPRESENTATION, NEGLIGENT
MISREPRESENTATION, TORTIOUS
INTERFERENCE WITH BUSINESS ADVANTAGE

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1 **FACTS COMMON TO ALL CAUSES OF ACTION**

2 1. At all times mentioned, Cross-complainant Comp Express, Inc. was and is a corporation duly
3 organized and existing under the laws of the State of California. Tony Boudames is its Chief
4 Executive Officer, authorized at all times to undertake the acts described herein on behalf of
5 Comp Express, Inc.

6 2. Cross-Defendant Does 1-100 were and are agents, employees, servants, partners, or
7 representatives of other Cross-defendants or are in some manner obligated and responsible for
8 the acts or omission alleged herein. Cross-complainant is not presently aware of the names, titles,
9 and designation of these cross-defendants and accordingly designates them by these fictitious
10 names until the true identities are ascertained.

11 3. Cross-Defendants Sportfishing Enterprises, LLC, C-Gull II Sportfishing, Inc, Yokomizo
12 Sportfishing, Inc, and A.C. Fishing Charters, Inc. are alleged in the Complaint filed herein to be
13 entities whose exact and correct legal status is not known to Cross-complaint, but whose liability
14 is alleged herein.

15 4. Cross-Defendants Sherri Yokomizo, John Yokomizo, Jay Yokomizo, Don Wong
16 Allen Chin, James Louie, and Harry Garabedian, Jr. dba New Seeker Sportfishing, are individuals.

17 5. Cross-Defendant entities and individuals are collectively referred to herein as the "Boat Owners,"
18 and/ or the "Owners."

19 6. Prior to March 11, 2016, Tony Boudames made frequent sport-fishing excursions using the
20 services of sport fishing boats operating from the Emeryville Marina. Charters for these boats were
21 arranged through Emeryville Sport Fishing. Through these excursions, Boudames became known to
22 Cross-defendants as a businessman operating retail services, and as a reliable person with money to
23 invest who was also interested in fishing operations in Emeryville and had frequently used the
24 charter service

25 7. Prior to February 27, 2016, Tony Boudames was contacted by Cross-Defendant Jay Yokomizo
26 while on board the "New Huck Finn," a fishing boat owned by Cross-defendant C-Gull II, an entity

1 owned by Jay Yokomizo, who informed him that Craig Stone, owner of Emeryville Sport Fishing,
2 was ill, that Sherri Yokomizo, was operating the charter business on behalf of Craig Stone, and that
3 the business was for sale. Mr. Boudames stated that he had seen that the Emeryville Sport Fishing
4 location was in disrepair, and not well operated. Cross-defendant Jay Yokomizo informed Mr.
5 Boudames that he would arranged a meeting with the other fishing boat operators to discuss a
6 potential purchase of the business.

7 8. On February 27, 2016, a meeting took place between Mr. Boudames and Cross-Defendants. Cross-
8 Defendants stated that Craig Stone was no longer able to operate the Emeryville store and wanted to
9 sell the business. They further represented that, as owners of the sport fishing boats operating out of
10 Emeryville, they had a long-standing business contract with Emeryville Sport Fishing and Craig
11 Stone. The contract provided that all fishing charter customers would book their charters with the
12 fishing boats owned by Cross-Defendants exclusively through Emeryville Sport Fishing and Craig
13 Stone. In return Emeryville Sport Fishing would arrange for fishing licenses, fishing rods, and tackle,
14 and would advertise its services through a dedicated website, Facebook site, telephone number and
15 email address.

16 9. At this meeting and subsequently, Cross-defendants represented and agreed, orally and in email,
17 that, if Mr. Boudames purchased Emeryville Sport Fishing through his wholly owned corporation,
18 Cross-complainant Comp Express, Inc., they would continue to perform in good faith the terms of a
19 contract whereby they would continue to perform fishing charter services arranged through
20 Emeryville Sport Fishing as required. Cross-defendants made this agreement and made these
21 representations in order to induce Cross-complainants to purchase, invest in, improve, operate and
22 continue the Emeryville Sport Fishing business. Cross-defendants knew, and should have known,
23 that Cross-complainants would be justified in relying upon such agreement and representations and
24 would be induced to purchase, invest in, improve, operated and continue to arrange charters for the
25 Cross-defendants. Cross-defendants did not at any time disclose to Cross-complainant that their
26 charter relationship with Emeryville Sport Fishing was governed by an ordinance and agreement

1 with the City of Emeryville.

2 10. On February 29, 2016, Cross-defendant Sherri Yokomizo, informed Tony Boudames that she had
3 spoken to Byron Stone and Craig Stone and urged that they contact Tony Boudames to discuss sale.
4 Sherri Yokomizo, a certified public accountant, and wife of Cross-defendant Jon Yokomizo, had
5 acted as bookkeeper for Emeryville Sport Fishing and acted as dispersal agent for funds received by
6 the business from sale of charters to the boat owners for charter services, paid the bills of Emeryville
7 Sport Fishing including payments to vendors, tradeshow and other obligations, and prepared the
8 payroll for the business for the employees of the business, including Heather Rotz who had acted as
9 on-premises manager.

10 11. Thereafter, Tony Boudames was contacted by Byron Stone on behalf of Craig Stone who stated
11 that the business was in fact for sale and requested that Tony Boudames prepare a written purchase
12 agreement. Between March 8 to March 11, in reliance upon the representations of the Cross-
13 Defendants set forth above, Cross-complainant executed a written purchase agreement for purchase
14 of the Emeryville Sport Fishing business and received a written assignment of the intangibles of the
15 business. These intangibles included the telephone number, web site, Facebook account, and other
16 intangibles. A copy of the executed purchase agreement and the assignment was delivered to Cross-
17 defendant Sherri Yokomizo.

18 12. Cross-complainant then began to operate the business, make charter arrangements for Cross-
19 defendants, advertise and promote the business, clean up the premises, install new display cases and
20 flat screen displays, purchase new inventory for sale. As charter reservations were received from
21 customers by telephone, Facebook, or web site, the boat owners were notified of the charters.

22 13. Tony Boudames requested that Sherri Yokomizo deliver copies of the business records of the
23 business including payroll records, operating records, and other records. Ms. Yokomizo stated that
24 she was very busy at the moment with her second job as accountant for Oracle, but would provide
25 the records promptly. No records were provided despite insistent requests from Cross-defendant, but
26 on April 5, 2016 copies of invoices from vendors was provided by Ms. Yokomizo. Among other

1 facts, Ms. Yokomizo disclosed that the business payroll had been prepared by her for payment to
2 employees in cash “under the table” without payroll deductions or payment of payroll taxes
3 14. Subsequently, Tony Boudames spoke to Cross-defendants Jon Yokomizo and Jay Yokomizo,
4 who informed Mr. Boudames that there was a pre-existing arrangement between himself and Craig
5 Stone whereby payment for fishing charters arranged by or through John Natsume would be not be
6 shown on the books of Emeryville Sport Fishing, although arrangements for charters would be made
7 through Emeryville Sport Fish, but payments made directly to John Yokomizo. The purpose of the
8 arrangement was to avoid payment of taxes and other obligations on this income due to the City of
9 Emeryville and to other taxing authorities. Tony Boudames replied that he would not agree to such
10 an arrangement, which would keep approximately \$100,000 per year off the books of the business,
11 and stated that all charter payments would be shown on the books of the business and accounted for
12 tax and business purposes. Cross-defendant became angry and cut off the discussion.

13 15. On April 5, 2016, Cross-complainant received a telephone call demanding an “emergency
14 meeting” at the charter shop with the boat owners. Cross-defendant boat owners attended the
15 meeting at 3:30 PM. Cross-complainant’s employee, Heather Rotz, also walked into the meeting.
16 When told by Tony Boudames to leave, she refused, stating “I am not your employee now, I work for
17 the captains.” Cross-defendant Jon Yokomizo announced that he was breaking the arrangement with
18 Emeryville Sport Fishing and, along with other boat owners, would “go independent.” When asked
19 by Mr. Boudames why he was going back on the arrangement, Cross-defendant replied “shut up and
20 listen.”

21 16. On April 6, Cross-complainant learned that Cross-defendants had hired Heather Rotz and
22 induced her, along with Cross-defendant Sherri Yokomizo, to disclose the codes that controlled
23 access to the Emeryville Sports Fishing Facebook account and web site. Cross-defendants
24 wrongfully seized control over the Facebook and website so as to direct communications from
25 charter customers and others to themselves. Cross-defendants also contacted the telephone company
26 and, claiming they had ownership and authority, directed telephone calls seeking charter fishing

1 services to Cross-defendants. However, Mr. Boudames was able to regain control over the telephone
2 line. Cross-defendants have however continued to advertise themselves as “independent” operators
3 in breach of their agreement with Comp Express, Inc.

4 5 FIRST CAUSE OF ACTION

6 Breach of Oral Contract

7 17. Cross-complainant re-alleges, and incorporates by reference, the allegation of paragraphs 1-16
8 above.

9 18. In wrongfully terminating their agreement to provide charter fishing services to Cross-
10 complainant, in demanding that certain charter payments not be accounted for tax purposes, in hiring
11 Cross-complainant’s employees and inducing them to disclose access codes for the web site and
12 Facebook account, in wrongfully transferring to themselves communication from customers made
13 through those accounts, in attempting to obtain Cross-complainant’s telephone lines, Cross-
14 defendants have breached their contract with Cross-complainant, all to its injury and damages as set
15 forth below. Cross-complainant has performed all of its obligations under the oral contract.

16 17 SECOND CAUSE OF ACTION

18 Unfair Business Practices

19 19. Cross-complainant re-alleges, and incorporates by reference, the allegation of paragraphs 1-16
20 above.

21 20. In wrongfully terminating their agreement to provide charter fishing services to Cross-
22 complainant, in demanding that certain charter payments not be accounted for tax purposes, in hiring
23 Cross-complainant’s employees and inducing them to disclose access codes for the web site and
24 Facebook account, in wrongfully transferring to themselves communication from customers made
25 through those accounts, in attempting to obtain Cross-complainant’s telephone lines, Cross-
26 defendants have engaged in unfair business practices within the meaning of Business and Professions

1 Code § 17200 *et. seq.*, all to injury and damages to Cross-complainant as set forth below.

2 THIRD CAUSE OF ACTION

3 Fraudulent Inducement

4 21. Cross-complainant re-alleges, and incorporates by reference, the allegation of paragraphs 1-16
5 above.

6 22. At the time Cross-defendants made the representations and agreement set forth in paragraph 9
7 above, they did so knowing those representations to be false and made with the intention of
8 inducing Cross-complainant to perform his obligations and to induce Cross-complainant to
9 engage in illegal business practices by failing to account for portions of the income received from
10 charter sales.

11 23. Cross-complainant justifiably relied upon Cross-defendants' representations and, as a result
12 of such reliance, incurred loss and damage as set forth below.

13
14 FOURTH CAUSE OF ACTION
INTENTIONAL MISREPRESENTATION

15 24. Cross-complainant re-alleges, and incorporates by reference, the allegation of paragraphs 1-16
16 above.

17 25. At the time Cross-defendants made the representations and agreement set forth in paragraph 9
18 above, they did so knowing those representations to be false and made with the intention of
19 inducing Cross-complainant to perform his obligations and to induce Cross-complainant to
20 engage in illegal business practices by failing to account for portions of the income received from
21 charter sales.

22 26. Cross-complainant justifiably relied upon Cross-defendants' representations and, as a result
23 of such reliance, incurred loss and damage as set forth below.

24 FIFTH CAUSE OF ACTION
25 Negligent Misrepresentation

26 27. Cross-complainant re-alleges, and incorporates by reference, the allegation of paragraphs 1-16

1 above.

2 28. At the time Cross-defendants made the representations and agreement set forth in paragraph
3 9 above, they should have known those representations to be false and made without due care
4 and foreseeably inducing Cross-complainant to perform his obligations.

5 29. Cross-complainant justifiably relied upon Cross-defendants' negligent misrepresentations
6 and, as a result of such reliance, incurred loss and damage as set forth below.

7
8 SIXTH CAUSE OF ACTION
Tortious Interference with Conduct of Business

9 30. Cross-complainant re-alleges, and incorporates by reference, the allegation of paragraphs 1-16
10 above.

11 31. The acts and omissions on the part of Cross-defendants alleged in paragraph 20 above, were
12 and continue to be an unjustified and wrongful interference with Cross-complainant's business
13 assigned rights in violation of Cross-defendants' duties and obligation to Cross-complaint.

14 26. As a result of such interference, Cross-complainant has incurred and continues to incur. loss
15 and damage as set forth below.

16 Wherefore, Cross-complainant requests:

- 17 1. On all causes of action, an award of monetary damages from Cross-defendants in an amount to
18 compensate Cross-complainant for its injuries and losses;
19 2. On the Second and Sixth Causes of Action for injunctive relief requiring Cross-defendants to
20 return to Cross-complainant's control the web site and Facebook account described above, to
21 cease interference with Cross-complainant's business;
22 3. For reasonable attorney's fees and costs;
23 4. For other and further relief as may be proper.

24 DATED: August 26, 2016

25 
26 **RANDALL CRANE**

ATTORNEY FOR CROSS-COMPLAINANT

1 Randall Crane, Bar No.: 056806
2 LAW OFFICES OF RANDALL CRANE
3 5256 GOLDEN GATE AVE.
4 OAKLAND, CA 94618-2032
5 510-220-1606
6 crane4law@aol.com
7 Attorney for Defendants and Cross-
8 Complainant

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

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SPORTFISHING ENTERPRISES, LLC,
A Limited Liability Corporation;
C-GULL II SPORTFISHING, INC;
YOKOMIZO SPORT FISHING, INC.;
A-C FISHING CHARTERS, INC.,
HARRY GARABEDIAN, JR. DBA,
NEW SEEKER SPORTFISHING,
Plaintiffs

CASE NO RG16824180
Related Case: RG16815868

Vs.

COMP EXPRESS, INC., TONY

BOUDAMES,
Defendants.

ANSWER TO THIRD PARTY CLAIMS

Defendants answer the Third Party Claims herein as follows:

GENERAL DENIAL

1. These answering Defendants deny generally and specifically each and every allegation contained in the Complaint and deny that Plaintiffs have been or will be liable to Claimants (also referred to herein as "Plaintiffs") by reason of any act or omission to act of these answering defendants; or that the Claimants have been or are damaged in any amount whatsoever; or are entitled to the payment of any sum whatsoever from this answering defendant; or that any sum whatsoever is due and owing to Claimants.

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FIRST AFFIRMATIVE DEFENSE

2. These answering Defendants allege that Claimants failed and refused to mitigate damages, if any there are.

SECOND AFFIRMATIVE DEFENSE

3. These answering Defendants allege that Plaintiffs have waived there rights to recover damages, if any there are any.

THIRD AFFIRMATIVE DEFENSE

4. These answering Defendant allege that Plaintiffs are barred from recovery of any damages by the doctrine of unclean hands.

FOURTH AFFIRMATIVE DEFENSE

5. These answering Defendants allege that Plaintiffs are not entitled to the relief requested because Plaintiffs have materially breached the terms of any valid and enforceable agreement between Plaintiffs and these answering Defendant.

FIFTH AFFIRMATIVE DEFENSE

6. These answering Defendants allege that Plaintiffs are not entitled to recover any amount under the agreements alleged between Plaintiffs and these answering Defendants, as Plaintiffs breached the implied covenant of good faith and fair dealing contained in the alleged agreements.

SIXTH AFFIRMATIVE DEFENSE

7. These answering Defendants allege that as a condition precedent to these answering Defendants owing any duties or obligations to Plaintiffs, Plaintiffs were required to perform various terms and conditions, which terms and conditions Plaintiffs failed to perform.

SEVENTH AFFIRMATIVE DEFENSE

8. These answering Defendants allege that Plaintiffs are barred from the relief sought in the Complaint herein pursuant to the doctrine of equitable estoppel.

EIGHTH AFFIRMATIVE DEFENSE

9. Plaintiffs' claims are barred from recovery by the Statute of Frauds.

1 **NINTH AFFIRMATIVE DEFENSE**

2 10. These answering Defendants allege a right to set off monies owing to them by Plaintiffs.

3 **TENTH AFFIRMATIVE DEFENSE**

4 11. These answering Defendants allege that Plaintiffs did not rely and did not justifiably rely
5 upon any inducement or representation made by Defendants; rather, as set for in the Cross-Complaint
6 filed concurrently herewith, Plaintiffs themselves misrepresented material facts to Defendants upon
7 which Defendants justifiably relied.

8 WHEREFORE, Defendants pray judgment against Plaintiffs follows:

- 9 1. That Plaintiffs take nothing by way of their Claims;
10 2. That Defendants be awarded costs and reasonable attorney's fees according to proof; and
11 3. That Defendants be awarded such other and further relief
12 as this Court may deem fit and proper.

13 DATED: August 26, 2016

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15 **RANDALL CRANE**
16 **Attorney for Defendants**
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