

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

GOODFELLAS WEAR, LLC, A Michigan  
Limited Liability Company and  
WISSAM AOUN,

CASE NO: 08-018235-CZ

PLAINTIFFS,

V.

HON:

WAYNE COUNTY, WAYNE COUNTY  
SHERIFF DEPARTMENT, WARREN C. EVANS  
WAYNE COUNTY SHERIFF, MACY'S EAST,  
An unincorporated division of MACY'S RETAIL  
HOLDINGS, INC., and DOUGLAS BUCHER

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**PLAINTIFF'S RESPONSE TO DEFENDANT MACY'S AND BUCHER'S  
MOTION FOR SUMMARY DISPOSITION**

NOW COMES, PLAINTIFFS, by and through their attorneys of record, by  
TIMMOTHY J. YOUSIF, and in support of their instant response state as follows unto  
this Honorable Court:


1. Plaintiffs admit the allegations contained in the instant paragraph.

2. That Plaintiffs neither admit nor deny the allegations contained in the instant paragraph as neither defendant has provided any proof that such merchandise exists or that it came from Plaintiffs.
3. That Plaintiffs neither admit nor deny the allegations contained in the instant paragraph as neither defendant has provided any proof that such merchandise exists or that it came from Plaintiffs.
4. That Plaintiffs neither admit nor deny the allegations contained in the instant paragraph as neither defendant has provided any proof that such merchandise exists or that it came from Plaintiffs.
5. Plaintiffs admit the allegations contained in the instant paragraph.
6. That Plaintiffs deny the allegations contained in the instant paragraph. That further Defendants went outside the scope of the search warrant, by confiscating items that were not sold by Defendants, as the search warrant authorized the seizure of only suspected stolen merchandise. That Defendants had no reason to believe that items confiscated were actually stolen.
7. That Plaintiffs deny the allegations contained in the instant paragraph as Defendants admit they confiscated certain items that were not believed to have been stolen and further that they contacted Plaintiff's vendors.
8. That Plaintiffs deny the allegations contained in the instant paragraph as there is a question of fact whether Defendants seized items that were not stolen, not counterfeit, and the conversations they had with Plaintiffs' vendors.

WHEREFORE, Plaintiffs respectfully request this Honorable Court deny Defendants' Motion for Summary Disposition and award attorney fees for having to answer this motion.

Respectfully submitted:

LAW OFFICES OF CYRIL C. HALL, P.C.



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Timothy J. Yousif (P 64538)  
Attorney for Plaintiffs

Dated: November 10, 2009

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**PLAINTIFFS' BRIEF IN SUPPORT OF THEIR RESPONSE TO DEFENDANT'S  
MOTION FOR SUMMARY DISPOSITION**

**STATEMENT OF FACTS**

Plaintiffs are in the business of selling clothing at their retail establishment in Wayne County, Michigan. Plaintiff's location was raided based on an investigation by Macy's and the Wayne County Sheriff Department. (Exhibit A). Defendant's claim they confiscated stolen and counterfeit items. Defendants' Macy's and Bucher than contacted

Coogi, a clothing designer, informing representatives there that Plaintiffs sold counterfeit items. Defendants knew these statements were false and disclosed this false assertion to representatives from Coogi. Defendants did this to interfere with Plaintiffs legitimate business.

#### STANDARD OF REVIEW

A summary disposition motion under MCR 2.116(C)(8) tests the legal sufficiency of the claim by the pleadings alone, and the motion may not be supported by documentary evidence. *Simko v. Blake*, 448 Mich. 648, 654; 532 NW2d 842 (1995). The court accepts as true the complaint's factual allegations and draws all reasonable inferences or conclusions in the nonmoving party's favor. *Marcelletti v. Bathani*, 198 Mich.App 655, 658; 500 NW2d 124 (1993).

Under MCR 2.116(C)(10) Motion, a party must not rest on mere allegations or denials in its pleadings, but must by affidavit or other documentary evidence set forth specific facts showing that there is not a genuine issue for trial. The Court must grant the nonmoving party the benefit of any reasonable doubt about material facts, the Court must then determine whether a factual dispute exists to warrant a trial. However, the Court may not make factual findings or weigh credibility. **Skinner v Square D Co.**, 445 Mich 153, 161 (1994); **Babula v Robertson**, 212 Mich App 45, 48 (1995); **Bertrand v Alan Ford, Inc.**, 449 Mich 606, 617-618 (1995).

A material fact has been defined as an ultimate fact issue on which a jury's verdict must be based. **Neal v Friendship Manor Nursing Home**, 113 Mich App 759, 763.

## LAW AND ARGUMENT

- A. Plaintiffs' claim of Conversion has already been dismissed pursuant to a previous Motion for Summary Judgment.
- B. Tortious Interference with a Contract or Advantageous Business Relationship or Expectancy.

After the raid was conducted, Defendants began contacting vendors of Plaintiffs who sold items to Plaintiffs. (Exhibit B) These vendors include specifically Coogi. Plaintiffs assert this position based on conversations he has had with Trevor Clark, a sales representative from Coogi. That further, Mr. Clark advised him that immediately after the raid was conducted, a representative from Macy's contacted Coogi and spoke with Mr. Clark and advised that Goodfellas was selling stolen merchandise. On another occasion, Mr. Clark was at a clothing show, Magic, in Las Vegas, Nevada, when another representative from Macy's again advised that Goodfella's was selling stolen merchandise.

Plaintiff had a contract with its vendors wherein, the vendors would sell their clothing to Goodfella's. Pursuant to MCJI 126.01, the necessary elements are:

- A. Plaintiff had a business relationship or expectancy with [name the third-party] at the time of the claimed interference.
- B. The business relationship or expectancy had a reasonable likelihood of future economic benefit for plaintiff.
- C. Defendant knew of the business relationship or expectancy at the time of the claimed interference.
- D. Defendant intentionally interfered with the business relationship or expectancy.
- E. Defendant improperly interfered with the business relationship or expectancy.

F. Defendants' conduct caused Plaintiffs to disrupt or terminate the business relationship or expectancy.

G. Plaintiffs were damaged as a result of Defendants' conduct.

It is clear that Defendants' actions were based on their intent to cease competition from Plaintiffs. Specifically, by advising Coogi and other vendors that Plaintiffs sell counterfeit items, this would stop the vendors from selling merchandise to Plaintiffs. In fact, Coogi did stop selling to Plaintiffs.

### **C. Conspiracy and Concert of Action**

The only argument Defendants provide for dismissing the Conspiracy and Concert of Action's claims is if the prior Tortious Interference with a Contract or Advantageous Business Relationship or Expectancy is also dismissed. Therefore, if the Tortious Interference claims are not dismissed than these two actions must remain.

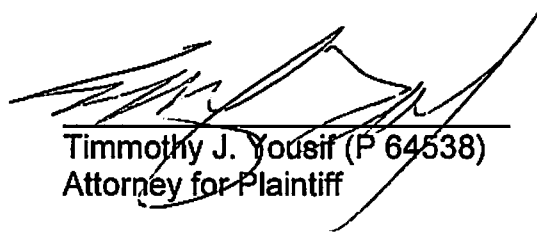
Further, it is Plaintiffs' position that Macy's and Bucher conspired to use the criminal process, through the Wayne County Sheriff Department, to cause a raid to be performed, merchandise seized, and vendors to be contacted with false allegations of counterfeit merchandise being sold.

### **CONCLUSION**

WHEREFORE, Plaintiffs respectfully request this Honorable Court deny Defendants' Motion for Summary Judgment.

Respectfully submitted:

LAW OFFICES OF CYRIL C. HALL, P.C.



Timothy J. Yousif (P 64538)  
Attorney for Plaintiff

Dated: November 10, 2009



# **EXHIBIT A**

36-07-68707

SEARCH WARRANT AND AFFIANT

STATE OF MICHIGAN  
COUNTY OF WAYNE SS

W.C. Case #27272-07

TO THE SHERIFF OR ANY PEACE OFFICER OF SAID COUNTY: OFC. Kristyn MONTGOMERY Affiant, having subscribed and sworn to an affidavit for a Search Warrant, and I, having under oath examined Affiant, am satisfied that probable cause exists;

THEREFORE: IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN, I command that you search the following described place: The entire premises and curtilage of 18334 W. Warren in the city of Detroit with the business name of GOODFELLAS WEAR. Further described as a 2 story, Brown & tan brick buidling. Further having the numbers of 18334 W. WARREN attached to the side of the location with red and yellow lettering on the building. Further described as being on the Northeast corner of W. WARREN & PENROD Located in the City of Detroit, County of Wayne, State of Michigan.

AND TO SEIZE, SECURE, TABULATE AND MAKE RETURN ACCORDING TO LAW THE FOLLOWING PROPERTY AND THINGS: ALL suspected Stolen Merchandise; all monies, books, records, electronic and telephonic devices used in connection with illegal activity, all equipment and supplies used in the delivery, of stolen Merchandise, all firearms used in connection with the above described activities; all evidence of ownership, occupancy, possession or control of premises.

THE FOLLOWING FACTS ARE SWORN TO BY AFFIANT IN SUPPORT OF THE ISSUANCE OF THIS WARRANT: The affiant is a member of the Wayne County Auto Theft Unit working an investigation of undercover purchases of suspected stolen property being fenced at the above described location 18334 W. WARREN Detroit, Michigan. The affiant has been an experience law-enforcement officer for 9 years.

AFFIANT

Page 1 of 2 Pages

Subscribed and sworn to before me and issued under my hand this 1<sup>st</sup> day of DECEMBER, 2007

Approved: [Signature]  
Assisting Prosecuting Attorney

[Signature]  
Judge/Magistrate of 36th DJ  
Court, Wayne County, MI

DEC 13 2007

On November 6, 2007 Deputy Maxwell sold 1-pair of COOGI PANTS, 1-COOGI TEE SHIRT to Mohammed Aoun stating that the property was stolen from Macy's. The clothing marked with hidden identifiers by Macys' personnel.

Macys' security personnel told Affiant that they have observed Mohammed Aoun deliver bags of merchandise to the location to be searched on November 6, 2007.

Macys' security personnel told Affiant that on December 5, 2007 they entered the location to be searched and observed the same merchandise Deputy Maxwell sold to Aoun on November 6, 2007 being sold. Macys' personnel were able to identify the merchandise based upon the above hidden identifiers. The Macys' price tags originally on the clothing had been covered with price tags from Goodfellas Wear.

On December 06, 2007 affiant acting in an undercover capacity along with Macys' security personnel and Members of the Wayne County Auto Theft Unit went to the location to be searched and purchased the clothing sold to Aoun by Deputy Maxwell on November 6, 2007.

Page 2 of 2 Pages

  
AFFIANT

Subscribed and sworn to before me and issued under my hand this 12th day of December, 2007.

Approved:  44075  
Assisting Prosecuting Attorney

Judge/Magistrate of 36th Dist.  
Court, Wayne County, MI.

## **EXHIBIT B**

GOODFELLAS WEAR, LLC, ET AL v. WAYNE  
COUNTY, ET AL

WISSAM AOUN

April 6, 2009

*Prepared for you by*



Bingham Farms | Ann Arbor | Detroit | Flint | Grand Rapids | Jackson | Lansing | Mt. Clemens

PHONE: 248.644.8888 FAX: 248.644.1120

[www.bienenstock.com](http://www.bienenstock.com)

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1 **BY MS. DAMICO:**  
2 Q. So, what you've been told since the accident -- since  
3 the incident is that these Macy's items that were in  
4 this bag were on your sales floor the day of the raid?  
5 A. **That's what I was told, yes.**  
6 Q. Did you know this information before you brought the  
7 action to get your property back or is it something  
8 you learned after that lawsuit?  
9 A. **I learned it after the raid. I'm not sure how many**  
10 **days after the raid.**  
11 Q. But before you brought the action to have your items  
12 returned?  
13 A. **What do you mean? Can you repeat that?**  
14 Q. Before you went to court to get your items returned to  
15 you from Wayne County, you learned about the Macy's  
16 clothes in the bag that were left by Mohammed, you  
17 knew about that?  
18 A. **Yes, I did.**  
19 Q. In fact you were at this hearing, correct, it was in  
20 Wayne County Circuit Court?  
21 A. **No, I wasn't.**  
22 Q. You didn't go to the hearing?  
23 A. **No. The hearing of Mohammed?**  
24 Q. No, your hearing to get your items back.  
25 A. **Yes, I was.**

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1 Q. Did you go to that hearing?  
2 A. **Yes.**  
3 Q. Did anyone from Macy's testify at that hearing?  
4 A. **Not that I know of.**  
5 Q. Did you ever see any affidavits or any sworn documents  
6 by anyone from Macy's at that hearing or prior to that  
7 hearing with respect to your items?  
8 A. **I didn't see any.**  
9 Q. Did you know a person or do you know a person named  
10 Douglas Bucher?  
11 A. **No, I don't.**  
12 Q. Do you know why he's named in your lawsuit against  
13 Macy's?  
14 A. **I asked my attorney who was Douglas Bucher and he said**  
15 **that's one of the people from Macy's that was at your**  
16 **store.**  
17 Q. How come you didn't file against -- or file a lawsuit  
18 against Macy's when you filed a lawsuit against Wayne  
19 County to get your items back?  
20 A. **Because the people with the badges were Wayne County.**  
21 **They are the ones who took the stuff. I knew that**  
22 **Wayne County had the merchandise.**  
23 Q. But at that point you thought that Macy's had done  
24 something wrong, correct?  
25 A. **Yes.**

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1 Q. And you could have sued Macy's at that time but you  
2 elected not to?  
3 A. **I think I wanted to get the merchandise first.**  
4 Q. Okay. When you got that merchandise back, you said --  
5 we talked about you got back everything except the  
6 items you could remember that we just talked about,  
7 the hats and the leather jackets, correct?  
8 A. **Yes.**  
9 Q. What happened to that merchandise?  
10 A. **It's seasonal stuff. In hip-hop clothing almost every**  
11 **month you get something new and it goes out of style,**  
12 **and most of it was winter stuff for Christmas. I had**  
13 **my store loaded with merchandise for the first**  
14 **Christmas at Goodfellas and advertising and all that**  
15 **for winter clothes. When I got it back it was**  
16 **summertime and it was all old, stained, stepped on,**  
17 **wrinkled.**  
18 Q. Where is the clothing now?  
19 A. **I gave a lot away. I gave -- like when customers**  
20 **purchased -- I got a lot of good customers that come**  
21 **to the store and spend money. I gave a lot away. I**  
22 **gave some at 60 percent off. Most of it at 70 percent**  
23 **off just to get some money back.**  
24 Q. Do you have records of how much this merchandise, the  
25 seized merchandise you sold at 60 to 70 percent off?

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1 A. **I could probably get records, yes, because the invoice**  
2 **that I had were mostly Sean John at the time and the**  
3 **main ones were Coogi, purchased a lot of Coogi at the**  
4 **time. I had two walls or three walls full of Coogi.**  
5 Q. Okay. So, these items that you sold at 60 to 70  
6 percent off, you can get me some records or documents  
7 showing me how much of that merchandise you sold at a  
8 discount?  
9 A. **I could probably get some. Because like I said, some**  
10 **of it we gave away.**  
11 Q. And that's my other question. Have you kept track of  
12 what you gave away?  
13 A. **No. I gave an okay to the employees to give customers**  
14 **that spend over a number like over 150 like an item**  
15 **off the racks. We had about eight or ten racks at the**  
16 **time for those merchandise in the store and we told**  
17 **the customers, just go pick yourself -- after the**  
18 **purchase go pick yourself something off the rack.**  
19 Q. Do you have a list of all the merchandise that was  
20 returned to you, an inventory?  
21 A. **No.**  
22 Q. When you got it back, did you take an inventory?  
23 A. **No, I didn't, because I didn't know what went out.**  
24 Q. But when you got it back, you had it all there and you  
25 could have inventoried it?

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1 A. I could have inventoried it but I wasn't that good  
2 with the computer system yet.  
3 Q. You could have -- I'm sorry? I didn't mean to  
4 interrupt you.  
5 A. I wasn't good with the computer system yet because I  
6 didn't know if I re inventoried it, it's still in the  
7 system at Goodfellas.  
8 Q. You could have had an employee or someone count up all  
9 the merchandise you got back and put it into  
10 categories like Coogi, Roca Wear and Sean John, you  
11 could have done that without any computers?  
12 A. I could have did that.  
13 Q. And you didn't do that?  
14 A. I didn't do that, no.  
15 Q. You are claiming in your lawsuit about three hundred  
16 thousand dollars worth of items that were seized and  
17 returned to you either in a condition that you  
18 couldn't sell or were not returned, is that correct?  
19 A. Yes.  
20 Q. Okay. We've already discussed about 90 percent of the  
21 stuff was returned to you, correct?  
22 A. Yes.  
23 Q. But in your opinion it was not sellable because it was  
24 outdated or it was past season?  
25 A. Right.

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1 Q. Or it was wrinkled or stained, correct?  
2 A. Yes.  
3 Q. And in this lawsuit you've got to prove that you  
4 sustained this three hundred thousand dollars worth of  
5 damages. So, I'm asking you these questions as to  
6 what amount you sold what amount so we can figure out  
7 how much of this three hundred thousand you actually  
8 recouped already. Do you understand why I'm asking  
9 you that?  
10 A. Very little. I'm not sure of the number.  
11 Q. Okay. And is there any way other than -- any way you  
12 can figure out how much of that three hundred thousand  
13 dollars worth of merchandise you actually sold, can  
14 you figure that out?  
15 A. I can get with the employees. I could probably get  
16 with the employees to see -- the majority of it was  
17 give-aways. Even at 60 or 70 percent people weren't  
18 buying it.  
19 Q. What do you do when you purchase merchandise at the  
20 trade show, let's say you purchase a bunch of winter  
21 merchandise and at the end of winter you don't sell  
22 it, do you send it back to the manufacturer for any  
23 kind of discount on your order?  
24 A. No, I can't. If it's over 30 days -- I don't order --  
25 I don't over-order -- if I know I need a dozen for my

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1 store, I don't order two dozen.  
2 Q. There are situations where you don't sell everything  
3 you buy?  
4 A. Right.  
5 Q. What do you do?  
6 A. I start out at like 10 percent and then go down to 20  
7 percent and then at the most 30 percent.  
8 Q. What if it doesn't sell at all, do you write it off?  
9 A. Fifty percent.  
10 Q. Is there any items that don't get sold and --  
11 A. Barely. Let's say out of ten thousand dollars worth  
12 of merchandise that I purchase, I probably get left  
13 with about two to three hundred dollars worth.  
14 Q. And what do you do with that?  
15 A. Like if something doesn't match, if they buy all the  
16 pants and there is about two shirts left, I put the  
17 shirts on the rack or if they buy the shirts and there  
18 is pants left, put those in the racks.  
19 Q. What's that called in the retail world when you have  
20 merchandise that you don't sell? It's not called  
21 shrinkage, there's like a term for it.  
22 A. I don't know. The only way I know is put it on the  
23 racks and sell it.  
24 Q. Okay. And there is no -- you don't have any  
25 agreements with any of the manufacturers that if you

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1 don't sell the items, you can give them back to the  
2 manufacturer?  
3 A. No, I don't.  
4 Q. Okay. With respect to the items that you claim were  
5 stained or wrinkled, what happened to those items?  
6 A. Same, they were all put on the racks.  
7 Q. Did you get rid of everything?  
8 A. I'm not sure if there is still any in the back room in  
9 boxes. I'm not sure yet.  
10 Q. Of the 90 percent of the items that you got back that  
11 were seized, how much do you have left do you think?  
12 A. I really don't know.  
13 Q. So, you did make some money off the resale of these  
14 items, you just don't know how much at this point?  
15 A. Yes.  
16 Q. What do you have to prove that three hundred thousand  
17 dollars worth of merchandise was taken? Do you have  
18 invoices? What evidence do you have?  
19 A. I've got invoices of purchases and when I took  
20 pictures, I got pictures before the raid and I got  
21 pictures after bare walls, just like this, bare,  
22 nothing on it.  
23 Q. How did you calculate the three hundred thousand  
24 dollars, how did you come up with that number?  
25 A. I said around three hundred. It wasn't exactly three

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1 hundred.  
2 Q. I understand.  
3 A. It was between two and three hundred.  
4 Q. Okay. Between two and three hundred. How did you  
5 come up with that number?  
6 A. Since I've been in the business, I just estimated, I  
7 estimated the merchandise that were on the walls.  
8 Q. And you do have invoices -- I know you don't know  
9 exactly which ones were taken and which ones weren't,  
10 but you have invoices showing the purchase?  
11 A. I've got invoices from the companies that the  
12 merchandise was taken from.  
13 Q. And if I ask for those invoices, what should I ask for  
14 so we are on the same page?  
15 A. What manufacturer?  
16 Q. Yes.  
17 A. Sean John, Akademiks, Enyce, Pelle Pelle, Coogi, New  
18 Era, Gino Green.  
19 Q. Okay. And if I ask for those invoices -- I just want  
20 to make sure we are clear when I ask for them. So  
21 invoices from these manufacturers that show property  
22 -- show merchandise that was in your store on the day  
23 of the raid?  
24 A. Yes.  
25 Q. Is there a time period I should ask for?

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1 A. Probably for invoices for November and December.  
2 Q. Did you have an opportunity to look at your complaint  
3 that was filed on your behalf? It's the document that  
4 actually starts the whole lawsuit. I've got it.  
5 A. Kind of.  
6 Q. I'm going to hand you -- here's a copy here so we can  
7 each look at one. You can take a second to look at  
8 that.  
9 A. Yes, I looked at this one.  
10 Q. Okay. Can you look at paragraph 18 and 19? Nineteen  
11 specifically. Nineteen says that all defendants knew  
12 or should have known that none of the items seized  
13 were stolen or were of counterfeit nature.  
14 We've already talked about that now and  
15 actually even though you didn't know until after,  
16 there was stolen merchandise in your store seized in  
17 the raid, correct, and you learned about that  
18 afterwards?  
19 MR. YOUSIF: I'm going to object. I don't  
20 think he's answered that he knew the merchandise was  
21 stolen from Macy's, it's what he learned or what he  
22 heard after that items were stolen. Again it's just  
23 to say that he didn't know that they were stolen.  
24 MS. DAMICO: It's his allegations.  
25 BY MS. DAMICO:

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1 Q. Defendants knew or should have known that none of the  
2 items seized were stolen and/or counterfeit in nature.  
3 That's not true, correct?  
4 A. I believe in a way I believe it's true because they  
5 should have had a list of items that they were coming  
6 to seize if there was any, not take the whole store  
7 down.  
8 Q. And do you know if they had a list?  
9 A. I don't believe they had a list. If they would have  
10 had a list, they wouldn't have taken anything.  
11 Q. Number 24 finally upon return of the inventory all  
12 inventory were virtually unsellable.  
13 We talked about that. Unsellable because  
14 they were out of style, wrinkled or stained?  
15 A. Damaged, yes.  
16 Q. Can you estimate that of the property that was  
17 returned to you what percentage was wrinkled or  
18 stained and what percentage was just outdated?  
19 A. Wrinkled, stained, outdated a hundred percent.  
20 Q. The wrinkles, do you have a steamer?  
21 A. No, I don't.  
22 Q. When you get merchandise from a manufacturer, it often  
23 comes wrinkled?  
24 A. No, it comes in plastic on hangers.  
25 Q. Have you ever used a steamer to get wrinkles out?

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1 A. No, because all my merchandise are hung on hangers or  
2 folded up.  
3 Q. Do you know you can get wrinkles out with a steamer?  
4 A. At the dry cleaner, yeah. When I say wrinkled, it  
5 wasn't just like somebody bent a shirt or an item, it  
6 was like how you throw paper in the garbage, that's  
7 how it was, like balled.  
8 Q. As part of your damages your attorneys by way of this  
9 lawsuit are claiming that you had contracts with  
10 third-parties, and I'm assuming namely these  
11 manufacturers that we talked about, and these  
12 contracts were ruined or damaged somehow because of  
13 this raid.  
14 Can you explain that to me?  
15 A. Yes. CIT is the factoring company that factors my --  
16 that is my bread and butter to the business. Without  
17 them it's very difficult to operate. I've got to have  
18 money on hand without them or CODs and most companies  
19 don't do CODs.  
20 They were contacted by somebody.  
21 Q. What does CIT stand for?  
22 A. I don't know. It's a big factoring company. And if  
23 you're not factored with CIT, that's 80 percent of the  
24 business done in the store is through CIT.  
25 Q. So, someone contacted CIT?



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1 A. Yes.  
2 Q. Okay. And did what?  
3 A. CIT informed a couple of my merchants, the big ones  
4 that we're involved in counterfeit merchandise, those  
5 sales reps from those merchants contacted me either by  
6 phone or text message said what happened to your  
7 store, is that true what we heard, they caught over  
8 three hundred thousand worth of stolen or counterfeit  
9 merchandise at your store, kept denying, it's not  
10 true.  
11 They said at this time we cannot do  
12 anything, we cannot sell you any more merchandise  
13 because corporate is very strict about counterfeit and  
14 until you're proven not guilty or until this is over  
15 with, we can't do any more business with you.  
16 Q. Okay. I just want to back this up a little bit. So,  
17 do you have a contract with CIT?  
18 A. Yes, I do.  
19 Q. Is it a written contract?  
20 A. I believe so, yes.  
21 Q. Do you have a copy of it?  
22 A. I could get it.  
23 Q. What do I ask for, just written contract between  
24 Goodfellas and CIT?  
25 A. Yes.

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1 Q. You said before besides CIT there was another  
2 factoring company?  
3 A. There are about eight factors but the people -- CIT is  
4 like the main one and it branches off to little  
5 factors that factor like five thousand or four  
6 thousand, you know, all of them get tied with CIT.  
7 Q. Your contract was through CIT?  
8 A. Yes, and Wells Fargo.  
9 Q. And Wells Fargo. If I ask for both of those, they are  
10 two separate contracts?  
11 A. I believe I could find them, yes.  
12 Q. Is it a contract that you issue each year or stays in  
13 existence?  
14 A. Stays in existence.  
15 Q. Are you still able to use the factoring services now?  
16 A. No.  
17 Q. How do you purchase items?  
18 A. COD or credit card.  
19 Q. Do you use your line of credit through the banks that  
20 you have?  
21 A. No. That was all taken out.  
22 Q. You said that you currently owed 250 to Citibank and  
23 another 55 to Bank of America?  
24 A. Yes.  
25 Q. Have you maxed out those lines of credit?

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1 A. Yes.  
2 Q. So, you had this contract with CIT and you said CIT  
3 was contacted by someone. Do you know who contacted  
4 CIT?  
5 A. No, I don't.  
6 Q. Who told you that -- how did you learn that CIT was  
7 contacted by someone?  
8 A. From Cheryl McGowen from Sean John.  
9 Q. Cheryl McGowen said she was contacted by CIT?  
10 A. She was contacted by corporate that she worked for  
11 Sean John to stop all orders or do any business at the  
12 time with Goodfellas.  
13 Q. I'm just trying to go through the line of how this  
14 happened. So, you first learn about this issue with  
15 CIT when you are contacted by Cheryl McGowen?  
16 A. Yes.  
17 Q. When was that?  
18 A. That was the next day of the raid.  
19 Q. So, 12-13-07?  
20 A. Yes.  
21 Q. She hears about it already?  
22 A. Right.  
23 Q. And she's already contacted by corporate saying don't  
24 -- that corporate tells her not to sell to you  
25 anymore?

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1 A. Right.  
2 Q. Do you know who at corporate contacted her?  
3 A. No, I don't.  
4 Q. She just said someone at corporate?  
5 A. Yes, she said it came from -- said the orders are not  
6 from me, Sam, I know, I've been to your store, I know  
7 you have everything legit, but I cannot do anything  
8 because it's corporate and they are very strict about  
9 counterfeit.  
10 Q. I know this is hearsay within hearsay within hearsay,  
11 but I've got to know, did she tell you how corporate  
12 got contacted, who contacted corporate?  
13 A. She said either -- at the time she said I believe  
14 Macy's -- she said either Macy's or CIT did. She  
15 wasn't sure at the time.  
16 Q. Have you talked to her since?  
17 A. Yes, because the account is open again.  
18 Q. When did it become open?  
19 A. It became open after I received the merchandise I  
20 believe and that I had proof that I went to court and  
21 got all my stuff back.  
22 Q. Have you talked to her since to determine who  
23 contacted corporate, whether it was Macy's or CIT?  
24 A. No.  
25 Q. So, sitting here today you have no facts or evidence

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1 that it was someone specifically from Macy's who  
2 contacted Cheryl's corporate office with respect to  
3 this raid?  
4 **A. I don't know exactly who called, no.**  
5 Q. You have no facts that prove that Macy's did this?  
6 **A. No.**  
7 Q. And in fact you don't know if it was Macy's or someone  
8 from CIT that contacted Cheryl's corporate office?  
9 **A. She just told me it was probably Macy's or CIT.**  
10 Q. But you don't know?  
11 **A. No.**  
12 Q. You don't know who the person was at corporate that  
13 told her this?  
14 **A. No, I don't.**  
15 Q. And you don't know what was exactly said by this  
16 person to this corporate person?  
17 **A. No, I don't.**  
18 Q. Other than this conversation you have with Cheryl, did  
19 you hear from any other manufacturers regarding your  
20 dealings with CIT or dealings with -- future dealings  
21 with that company?  
22 **A. Yes.**  
23 Q. Who did you hear from?  
24 **A. Melissa Butrum from Coogi.**  
25 Q. When did you hear from her?

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1 **A. I heard from her the same thing, the day after.**  
2 Q. On 12-13-07?  
3 **A. Yes.**  
4 Q. She called you?  
5 **A. It was another person from Coogi named Trevor.**  
6 Q. Trevor called you?  
7 **A. I don't know his last name. He's at the office in**  
8 **Coogi.**  
9 Q. In Chicago?  
10 **A. New York, the main office in New York.**  
11 Q. Did you call Trevor?  
12 **A. I called Trevor to find out what should I do to open**  
13 **this account and all this is a lie.**  
14 Q. Because your account was closed down immediately?  
15 **A. It was closed down immediately.**  
16 Q. So, you called Trevor the next day?  
17 **A. Right, because it was around Christmas time, I needed**  
18 **to reload while the stuff was confiscated, I needed to**  
19 **do something before Christmas to try to save my**  
20 **business.**  
21 Q. What did Trevor tell you?  
22 **A. Said we can't do nothing at the time, I can't help**  
23 **you, you have to prove that all this was wasn't true,**  
24 **that you didn't have any counterfeit merchandise in**  
25 **your store and they are also very strict about**

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1 **counterfeit merchandise.**  
2 Q. Did you ask him how he knew about this incident or  
3 were you the one who told him --  
4 **A. I asked him how they knew. He said somebody from**  
5 **Macy's contacted Bruce. Bruce is one of the owners at**  
6 **Coogi and Bruce contacted his sales rep which is**  
7 **Melissa and told her to stop.**  
8 Q. What's Bruce's last name?  
9 **A. Bruce -- I don't know his last name.**  
10 Q. Bruce contacted Melissa. Do you know who from Macy's  
11 contacted Bruce and when?  
12 **A. I'm sorry. There was another person at -- under --**  
13 **that worked under Bruce where her name was Pam. She**  
14 **is one of the people that told Melissa not to sell us**  
15 **anymore.**  
16 Q. Do you know who contacted Bruce from Macy's?  
17 **A. He didn't tell -- he just said we got contacted by**  
18 **Macy's and said that you were involved in selling**  
19 **counterfeit and stolen merchandise.**  
20 Q. Do you know the reason someone from Macy's made this  
21 call to Bruce?  
22 **A. I believe it was to verify if we did buy merchandise**  
23 **-- because they took the whole filing -- all the files**  
24 **from my office and they wanted -- because they**  
25 **contacted every sales rep from every company they had**

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1 **files from contacted me and said they were contacted**  
2 **by Macy's to prove that we sold their merchandise.**  
3 Q. Because Macy's wanted to figure out if you actually  
4 sold it?  
5 **A. Yes.**  
6 Q. Right.  
7 **A. If we were allowed to sell it in the store.**  
8 Q. Because it would help their case if you weren't  
9 allowed to sell it, right?  
10 **A. No, I believe -- they contacted even merchants that**  
11 **weren't -- that weren't in the boxes when they raided**  
12 **-- let's say they contacted LRG. Their stuff was in**  
13 **the boxes. Their stuff wasn't confiscated. They just**  
14 **had the files.**  
15 Q. Do you know the reason why Macy's did that?  
16 **A. To me to make my business look bad.**  
17 Q. Do you have any proof that that's the reason Macy's  
18 contacted -- that was the reason Macy's contacted  
19 those manufacturers?  
20 **A. I don't believe there is any other reason why wouldn't**  
21 **they call them.**  
22 Q. What other manufacturers were you contacted by?  
23 You've got Coogi. Who did Cheryl work for?  
24 **A. Sean John.**  
25 Q. Okay. Anyone from Akademiks contact you?

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1 A. Greg.  
2 Q. Greg?  
3 A. Yes.  
4 Q. I just want to go through again. Enyce?  
5 A. Enyce, nobody from Enyce contacted --  
6 Q. How about Pelle Pelle?  
7 A. Pelle Pelle, yes, Ken. I contacted him and asked him  
8 what's going on, why you guys send police to take my  
9 stuff for Pelle Pelle and I buy from you. He said  
10 well, we didn't send nobody. I said I was raided and  
11 they took Pelle Pelle along with Macy's. He said we  
12 don't sell Macy's Pelle Pelle. Why did they take your  
13 stuff. That's what I'm trying to ask you.  
14 Q. Was that the first he learned of it when you called  
15 him?  
16 A. Yes.  
17 Q. Okay.  
18 A. That was the next day after the raid I contacted him  
19 after I started finding out from all these companies,  
20 I contacted him and I believe he e-mailed me and said  
21 if there is any help that you need from me to try to  
22 prove that your merchandise was legit, let me know.  
23 Q. So, Macy's did nothing to interfere with your business  
24 relationship with Ken at Pelle Pelle?  
25 A. Yes, they did.

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1 Q. What did they do?  
2 A. Well, I'm not sure who ordered the taking of the Pelle  
3 Pelle, that's the only -- my relation with him isn't  
4 as good as it was before. I got mad at him. I  
5 figured out later it wasn't his fault.  
6 Q. Did Ken still sell you Pelle Pelle merchandise after  
7 this incident?  
8 A. Yes, he did.  
9 Q. You still have a business relationship with Ken, in  
10 fact it's better than it was before?  
11 A. It's not better.  
12 Q. Has he sold you less?  
13 A. Me and him got into a couple words because of this and  
14 I e-mailed him saying I'm not going to do business  
15 with you no more because you don't want to send me a  
16 letter saying that Macy's shouldn't have took this  
17 item that they don't sell at the store.  
18 Q. Do you believe that Macy's contacted any of these  
19 manufacturers prior to the raid, do you know?  
20 A. No.  
21 Q. Do you believe that Macy's contacted all of these  
22 manufacturers the day after the raid? Because you  
23 keep saying 12-13.  
24 A. That's when I got contacted. That's how I found out  
25 that they were -- that they knew.

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1 Q. New Era caps, did you get contacted by anyone from New  
2 Era?  
3 A. Yes, I did.  
4 Q. From whom?  
5 A. Tim Rogers.  
6 Q. When did Tim contact you?  
7 A. He contacted me the day after.  
8 Q. Now, did you contact him or -- it just seems odd to me  
9 that everybody contacts you the next day.  
10 A. I believe he contacted me too to ask me what's going  
11 on at Goodfellas.  
12 Q. Right. Did he say he had been contacted by anyone?  
13 A. I didn't ask him how he found out because I had a lot  
14 of phone calls from a lot of reps.  
15 Q. Do you know if anyone from Macy's contacted Mr. Rogers  
16 after the raid?  
17 A. See, they all know each other, the clothing reps. I  
18 don't know if they told each other about it but some  
19 of them that I knew that were contacted by Macy's  
20 told me they got contacted by Macy's.  
21 Q. Who are these -- Cheryl doesn't know. Trevor says he  
22 was contacted specifically from --  
23 A. Yes.  
24 Q. Who from Macy's contacted Trevor?  
25 A. I don't know. I didn't ask him the name of the

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1 person. He just said Macy's. When he says Macy's, I  
2 don't know --  
3 Q. Did he tell you what Macy's, the person from Macy's  
4 said, the purpose of their call?  
5 A. Yes, that we have -- they found counterfeit  
6 merchandise at Goodfellas.  
7 Q. Did they -- is that the only reason they called or  
8 were they checking for UPC codes, product  
9 identification numbers, do you know the reason the  
10 Macy's person called Trevor?  
11 A. At that time, no, they were just contacted to let them  
12 know we got involved in counterfeit but they called  
13 them around a couple months afterwards, Trevor  
14 contacted me and said someone from -- someone that did  
15 the raid, I'm not sure if he meant Wayne County or  
16 Macy's contacted them to get codes or invoices or  
17 something like that.  
18 Q. The purpose of that -- and do you believe that the  
19 purpose of that call was to verify and get codes was  
20 to mess up your business relationship with Trevor?  
21 A. That was two months after the raid. It was already  
22 messed up.  
23 Q. Do you believe that they called that second time  
24 either Macy's or Wayne County to further damage your  
25 relationship with Trevor?

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1 A. No.  
2 Q. Okay.  
3 A. They probably wanted to match the invoices that I had.  
4 Q. Anyone from Gino Green call you?  
5 A. No.  
6 Q. Anyone from Roca Wear?  
7 A. No.  
8 Q. So, I just want to make sure we've got everyone.  
9 Cheryl contacted you?  
10 A. Uh-huh.  
11 Q. Melissa -- oh, Trevor, Trevor --  
12 A. And Melissa. Melissa is the sales rep for Coogi.  
13 Q. Ken from Pelle Pelle you talked to?  
14 A. Yes.  
15 Q. Did you talk to anyone else after this raid that told  
16 you they had been contacted by Macy's or another party  
17 about this incident?  
18 A. No.  
19 Q. And sitting here today you have no idea who the person  
20 was at Macy's that contacted Ken because he's the only  
21 one that said he was specifically contacted by someone  
22 from Macy's, correct?  
23 A. He didn't say he was contacted by Macy's, he said he  
24 heard about it or he got contacted. I'm not sure how  
25 he heard about it.

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1 Q. Right.  
2 A. I don't remember how he heard about it.  
3 Q. Did Cheryl, Melissa, Trevor or Ken tell you  
4 specifically they were contacted by anyone from  
5 Macy's?  
6 A. Melissa -- I'm sorry. Melissa heard from her  
7 corporate office that they were contacted. Okay.  
8 Trevor, yes, he did.  
9 Q. Trevor was specifically contacted by Macy's?  
10 A. He works in the corporate office.  
11 Q. So, Trevor --  
12 A. When he said we, that means corporate office we got  
13 contacted by Macy's.  
14 Q. And that was through Bruce you believe?  
15 A. I believe it was Bruce or Pam.  
16 Q. Or Pam. Anyone else say they were contacted by  
17 Macy's after the raid?  
18 A. After the raid, yes, it was a couple months that they  
19 called Larry from LRG, he's a sales rep, Larry.  
20 Q. You say they. Who is they?  
21 A. He didn't tell me who contacted him. He just said  
22 they called to verify that we do business with you.  
23 Q. You don't know if it was Wayne County or Macy's?  
24 A. I'm not sure. I could probably ask him.  
25 Q. What's Larry's last name?

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1 A. Mondragon, M O N D R --  
2 Q. Right. Anyone else?  
3 A. Another guy named Jerry was contacted because his  
4 number was on the invoices.  
5 Q. Who was Jerry contacted by?  
6 A. He didn't tell me who.  
7 Q. Wayne County or Macy's or --  
8 A. He didn't tell me who contacted him. They just asked  
9 if they did business with Goodfellas.  
10 Q. Do you know what the purpose of that phone call was?  
11 A. To verify that we do business with them and if we did,  
12 if we had invoices.  
13 Q. Do you know of anyone from Macy's -- do you have any  
14 facts or evidence that anyone from Macy's called up  
15 any of your manufacturers and told them don't do  
16 business with Goodfellas? I'm asking for facts.  
17 A. No, I don't have any facts.  
18 Q. What facts do you have that Macy's acted or caused any  
19 of these manufacturers to stop doing business with  
20 you?  
21 A. How they acted?  
22 Q. What facts do you have that Macy's did something to  
23 cause these parties, these manufacturers to not do  
24 business with you?  
25 A. The only facts I got right now is through the sales

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1 rep -- it could be at least one, one sales rep that  
2 knew that Macy's contacted them, their corporate  
3 office.  
4 That's how I found out, and then from  
5 there, and another thing is through that -- through  
6 the Wayne County sheriff guy that I knew back then  
7 that told me that Macy's got them in this mess.  
8 Q. When you say that sales rep, who are you talking  
9 about?  
10 A. Sales rep from Melissa, Melissa Butrum.  
11 Q. You don't know if Macy's was contacting Coogi to match  
12 up UPC codes or to see if -- you don't know the  
13 purpose of that phone call?  
14 A. I don't know the purpose. The only purpose I know is  
15 that Macy's gave them information that we were selling  
16 counterfeit merchandise.  
17 Q. And you know that because that's what Melissa told  
18 you?  
19 A. Trevor, Melissa, yeah.  
20 Q. Do you know what investigation Macy's conducted to  
21 identify the products seized, whether they were their  
22 products or products you purchased?  
23 A. I don't know what kind of investigation.  
24 Q. You don't know if it was part of Macy's investigation  
25 to actually contact these manufacturers to see if they