UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

A.R.I. AGENT, LLC, a Delaware limited liability company, LIGHTS OUT ENTERPRISES INC., a Delaware corporation, and LIGHTS OUT HOLDINGS LLC, a Wyoming limited liability company,	:	
Plaintiffs,	:	Civil Action No.: 1:26-cv-03778-JAV
-against-	:	
SHAWNE MERRIMAN, individually, and as Trustee of Trust M250124, and LIGHTS OUT HOLDINGS LLC, a California limited liability company,	:	
Defendants,	:	

PLAINTIFFS' STATEMENT PURSUANT TO LOCAL RULE 56.1

Pursuant to Rule 56.1 of the Local Rules of the United States District Court for the Southern District of New York, A.R.I. Agent, LLC ("ARI"), Lights Out Enterprises, Inc. ("LOE"), and Lights Out Holdings, LLC, a Wyoming limited liability company ("LOHWY") (collectively the "Plaintiffs"), set forth the following statement of material facts as to which there is no genuine issue to be tried.

A. Merriman Seeks Financing and Represents That the Collateral is Unencumbered

1. In 2023, Merriman sought financing from ARI for Lights Out XF, Inc. ("LXF"). Declaration of Zack Ellison, **Exhibit A**,[1] ¶ 5.

2. During diligence from February through May 2024, ARI requested information about LXF's indebtedness, affiliates, collateral ownership, and existing liens. *Id.*

[1] All referenced exhibits are attached to the Declaration of Daniel P. Filor.

3. On March 29, 2024, approximately six weeks before ARI funded the original loan, Merriman executed a Perfection Certificate and Legal Diligence Request. Perfection Certificate, (Mar. 29, 2024), **Exhibit B**.

4. The Original Perfection Certificate was provided as part of ARI's pre-closing diligence and identified Andrew Skale of Mintz Levin as legal counsel for LXF in connection with the financing. Ex. A, ¶ 8.

5. On January 3, 2024, more than four months before ARI disbursed capital to LXF, Merriman had executed a $190,000 promissory note in favor of Shamir Mamdani (the "Mamdani Note"), a personal obligation that Merriman secured by pledging company collateral that substantially overlapped with the Intellectual Property and other collateral later pledged to ARI. Mamdani Note, **Exhibit C**.

6. Merriman and his counsel at Mintz Levin did not identify the Mamdani Note, any lien or encumbrance on the Intellectual Property, or any personal obligation secured by company assets. Ex. A, ¶ 11.

7. Nor did Merriman disclose the material details of the wrongful-death action then pending against him. *Id.*, ¶ 12.

B. The Loan and Security Agreement, the Guaranties, and the Grant of Security Interest in the Intellectual Property

8. By July 15, 2024, ARI had advanced $1,000,000 to LXF. Ex. A, ¶ 14.

9. The LSA required monthly principal payments, defined nonpayment as an Event of Default, and conditioned funding on delivery of an Intellectual Property Security Agreement (the "IPSA") and stock purchase Warrant. Loan and Security Agreement, **Exhibit D**, §§ 2.2, 8.1, and 3.1.

10. The LSA granted ARI a security interest in collateral including LXF's copyrights, trademarks, and patents. *Id.*, §§ 5.2, 6.7.

11. LXF represented that it held good title to the collateral, free of liens other than permitted liens, and that ARI's security interest was first-priority and perfected. *Id.*, 5.2, 4.2.

12. Upon an Event of Default, the LSA also authorized ARI, as attorney-in-fact, to take actions necessary or advisable to preserve and protect the collateral. *Id.*, § 9.2.

13. When Merriman sought additional financing in October 2024, ARI requested further disclosures concerning affiliated entities. Ex A., ¶ 19.

14. On October 15, 2024, Merriman executed a perfection certificate for Lights Out Sports LLC, certifying that its contents were accurate and that ARI could rely on them. The certificate did not identify the Mamdani Note or any related encumbrance. *Id.*, ¶ 20.

15. Between December 23 and December 31, 2024, Merriman executed additional loan amendments, joinders, guaranties, and collateral documents involving M250124 LLC (which was subsequently converted to LOE), LOHWY, Lights Out Pro LLC, and Lights Out Sports LLC. *See* Joinder No.1 to Loan and Security Agreement, **Exhibit E;** LOHWY Perfection Certificate, **Exhibit F**; LXF, Perfection Certificate, **Exhibit G**; Merriman Guaranty, **Exhibit H**; IPSA, **Exhibit I**.

16. Merriman and the Trust provided guaranties and voting-proxy rights exercisable upon default. *See* Ex. H, § 4.2(a); *see also* Trust Guaranty, **Exhibit J**, § 4.2(a)

17. LXF had issued a common-stock Warrant in May 2024, and LOE subsequently issued an amended and restated preferred-stock Warrant in August 2025. *See* Warrant to Purchase Common Stock, **Exhibit K**.

18. Merriman executed LOHWY's December 31, 2024 Perfection Certificate (the "LOHWY Perfection Certificate"), identifying its business as a "Holding company for Intellectual Property." Its intellectual-property schedule listed trademarks including "Lights Out," "The Ultimate Fan Zone," and "Lights Out Sports TV," together with a copyright, under the ownership name "Lights Out Holdings LLC," without distinguishing between the Wyoming and California entities. *See* Ex. F, § 2, Exhibit A. The indebtedness and encumbrance schedules identified none. *See id.* Merriman certified that the disclosures were accurate and acknowledged ARI's right to rely on them. *Id.*, at 14.

19. That same day, Merriman executed the Intellectual Property Security Agreement (the "IPSA") on behalf of LOHWY, purporting to grant ARI a security interest in the identified Intellectual Property. *See* Ex. I.

20. The agreement was recorded with the United States Patent and Trademark Office ("USPTO") on January 13, 2025. *See* Notice of Recordation, **Exhibit L**.

C. Merriman and the Loan Parties Were Represented by Their Own Counsel Throughout the Financing

21. For more than fifteen years, Merriman has been represented by Mintz Levin in matters involving the "Lights Out" brand and associated Intellectual Property, including trademark litigation against Nike and Under Armour. Ex. A, ¶ 27.

22. In connection with ARI's financing, Merriman and the Loan Parties engaged three law firms: Mintz Levin, E.W. TURK, and LegalScale LLP. *Id.*, ¶ 28.

23. Mintz Levin's longstanding involvement is particularly significant because its representation concerned the very Intellectual Property subsequently pledged as collateral to ARI. *Id.*, ¶ 29.

24. On March 29, 2024, approximately six weeks before ARI advanced capital, Merriman expressly identified his longtime Mintz Levin attorney, Andrew Skale, as LXF's legal counsel in the Original Perfection Certificate. *See* Ex. B.

25. The LSA separately designates Mintz Levin, Attention: Andrew Skale, as a recipient of legal notices. Ex. D, § 10.

26. The December 31, 2024 Perfection Certificate for M250124 LLC (noting again that this entity was subsequently converted to LOE) identified Evan W. Turk of E.W. TURK as counsel, while LOHWY's separate Perfection Certificate identified Mehak Rashid of LegalScale LLP. *See* M2501024 LLC, Perfection Certificate, **Exhibit M**, § 15.

27. LegalScale's billing records document work on the December 2024 loan amendments, joinders, entity documentation, IPSA, and various perfection certificates delivered to ARI. *See* Billing Records, **Composite Exhibit N**.

28. The collateral disclosures, guaranties, voting proxies, warrants, and other creditor protections were documented in financing transactions in which Merriman and the Loan Parties identified experienced legal counsel from three different firms, including one – Mintz Levin – that had frequently represented Merriman and the Lights Out Loan Parties' collateral in complex commercial litigation dating back more than a decade. Ex. A, ¶ 34.

29. These protections were negotiated and established before the defaults giving rise to this action. *Id.*, ¶ 35.

30. ARI's subsequent exercise of its contractual rights was therefore an exercise of preexisting, documented creditor protections, not an attempt to impose new rights after the parties' relationship deteriorated. *Id.*, ¶ 36.

D. The Loan Parties Default While Merriman Conceals a $4,000,000 Verdict Against Him

31. On September 25, 2025, the Loan Parties failed to repay $300,000 in matured principal. Ex. A, ¶ 37.

32. The November 25, 2025 Fifth Amendment to Loan and Security Agreement and Forbearance Agreement (the "Fifth Amendment") acknowledged that default and unpaid October and November interest, granted forbearance through December 31, and required payment of outstanding October–December interest on December 1. *See* Fifth Amendment, attached as **Exhibit O**, at 1, § 1.3.5.

33. Neither the Loan Parties nor the guarantors made that payment. Ex. A, ¶ 39.

34. Merriman also had not disclosed the wrongful death action brought by Kimberly Fattorini's parents in July 2019. *Id.*, ¶ 40.

35. Their Complaint asserted claims including battery, violation of California's Drug Dealer Liability Act, and negligence, and alleged that Merriman participated in events surrounding Kimberly's drugging with GHB, commonly known as a date-rape drug, and her subsequent death. Complaint, Fattorini Matter, **Exhibit P**.

36. On December 5, 2025, the Los Angeles Superior Court ruled that a $4,000,000 judgment would be entered against Merriman and other defendants jointly and severally. Merriman did not disclose that ruling to ARI. Order, Fattorini Matter, **Exhibit Q.**

37. On December 11, 2025, Merriman requested another $500,000 from ARI, including approximately $240,000 to pay Mamdani. Ex. A, ¶ 43.

38. ARI circulated a proposed additional financing and forbearance agreement on December 12. *Id.*, ¶ 44.

39. On December 16, 2025, Merriman rejected ARI's proposed Sixth Amendment and Forbearance Agreement and told ARI's Chief Investment Officer that bankruptcy was "inevitable." *Id.*, ¶ 45.

40. On January 1, 2026, Merriman rejected a further ARI proposal by email, directing that all future correspondence be sent to his bankruptcy counsel "as we move forward with the bankruptcy filings." *See* E-Mail Chain (Jan. 1, 2026), **Exhibit R**.

41. These were not idle threats: Merriman had filed a Chapter 13 petition in November 2018. *See* Pet. for Bankruptcy, Case 2:18-bk-23173-VZ (Bankr. C.D. Cal. Nov. 18, 2018), **Exhibit S**.

E. ARI Exercises Its Contractual Governance and Warrant Rights

42. On January 2, 2026, ARI notified the Loan Parties, Merriman, and the Trust of the defaults and accelerated the outstanding obligations. *See* Notice of Default, **Exhibit T**.

43. Exercising its contractual voting proxies over a majority of LOE's shares, ARI executed a stockholder written consent removing Merriman as a director. *See* Acton by Written Consent of the Stockholders of Lights Out Enterprises, Inc. (Jan. 2, 2026), **Exhibit U.**

44. On January 5, LOE's stockholders ratified those actions, and its board unanimously removed Merriman from all corporate offices, declaring that he had "no authority to act on behalf of the Company in any capacity." *See* Written Consent of the Stockholders of Lights Out Enterprises, Inc. (Jan. 5, 2026), **Exhibit V**; *see also* Action by Unanimous Consent of the Board of Directors, § 2, **Exhibit W**.

45. ARI also exercised its rights under LOE's Amended and Restated Warrant to Purchase Preferred Stock, issued August 27, 2025. *See* Notice of Exercise (Jan. 5, 2026), **Exhibit X**.

46. Through notices of exercise dated January 3 and January 5, 2026, ARI acquired 53,051,836 shares at the agreed exercise price of $0.01 per share, paying approximately $530,518 in new equity capital. *See, e.g., id.*, Notice of Exercise (Jan. 3, 2026), **Exhibit Y**.

47. Following those exercises, ARI owned approximately 84% of LOE's 63,296,691 outstanding shares. Ex. A, ¶ 53.

F. Merriman and Mintz Levin Obstruct ARI's Control of LOE

48. Having exercised its contractual control rights and acquired majority ownership, ARI moved to assume management of LOE, stabilize its operations, and implement a strategy to preserve and grow the enterprise's value. Ex. A, ¶ 54.

49. Rather than seeking to liquidate the business or dispose of its assets, ARI intended to continue operating LOE as a going concern and capitalize on the commercial opportunities underlying its original investment. *Id.*, ¶ 55.

50. On January 8, 2026, ARI publicly announced its acquisition of a controlling majority interest in LOE in a Business Wire press release entitled "A.R.I. Acquires Controlling Majority Interest in Lights Out Sports." *Id.*, ¶ 56; *see also A.R.I. Acquires Controlling Majority Interest in Lights Out Sports*, BusinessWires.com, httpts:/www.businesswire.com/news/home/20260108388142/en/A.R.I.-Acquires-Controlling-Majority-Interest-in-Lights-Out-Sports (last visited Nov. 18, 2026).

51. The announcement outlined ARI's plans to expand Lights Out Xtreme Fighting, capitalize on its recently announced multi-year media rights agreement with ESPN and Disney+, grow its streaming television platform, and develop new sponsorships and strategic partnerships. Ex. A, ¶ 57.

52. However, Merriman, assisted by Skale of Mintz Levin, sought to prevent ARI from exercising its contractual rights. *Id.*, ¶ 58.

53. Between January 4 and January 11, 2026, Merriman repeatedly contacted Ellison, leaving at least six voicemail messages urging him to bypass counsel, dismissing the lawyers' involvement as "a waste of time" and "running up a tab," and declaring that he was "not taking anything back to [his] attorney." *Id.*, ¶ 59. As the messages progressed, Merriman warned Ellison that he did not understand the "ramifications," that he was "about to open a can of worms," and that the consequences would not be "good." *Id.*

54. On January 9, 2026, the day after ARI's public announcement, Skale escalated those threats substantially by threatening litigation unless ARI surrendered its contractual rights. In an email to ARI's counsel, Skale accused ARI of "unlawful activity regarding Lights Out" and attached a draft complaint that Merriman intended to file "along with an immediate request for a TRO." *See* E-Mail Chain (Jan. 9, 2026), **Exhibit Z**. Skale offered to "hold off filing the complaint" only if ARI agreed to inform its contacts "that Shawne is still CEO of Lights Out," and "cease and desist from pursuit of any remedies under the loan agreement." Skale demanded a response by the end of that day. *Id.*

55. Skale thus demanded that ARI relinquish governance and ownership rights already exercised under the financing documents, publicly recognize Merriman as CEO despite his removal, and abandon its contractual remedies without repayment of the outstanding obligations. Ex. A, ¶ 61.

56. Two days later, on January 11, 2026, Merriman left another voicemail describing the dispute as a "nuclear situation," using the word "nuclear" eight times, and warning Ellison that the consequences would extend to his "future," "partners," "board," and "investors." *Id.*, ¶ 63.

57. Merriman expressly threatened consequences for Ellison's professional relationships and reputation if ARI continued exercising its contractual rights. *Id.*, ¶ 64.

58. The resulting interference materially disrupted ARI's efforts to restore LOE's operations. *Id.*, ¶ 65.

59. ARI was compelled to reassess its operational strategy and consider alternative means of protecting the value of its investment, including foreclosure upon and disposition of the pledged collateral. *Id.*, ¶ 66.

60. On January 19, 2026, ARI was forced to pause Lights Out's operations due to Merriman's and Mintz Levin's interference. *Id.*, ¶ 67.

61. Rather than devote its resources to developing LOE's commercial opportunities, ARI was forced to address Merriman's continued assertions of management authority, threats of litigation, and refusal to recognize ARI's contractual control. *Id.*, ¶ 68.

G. ARI's Investigation Reveals That Merriman Concealed the Actual Ownership of the Intellectual Property Pledged as Collateral

62. In January 2026, as ARI evaluated enforcement options, its counsel at Troutman Pepper Locke investigated the pledged intellectual property. Ex. A, ¶ 69.

63. Its review of USPTO records around January 12 revealed – *for the first time* – that Merriman controlled two entities that were both named *Lights Out Holdings LLC*: LOHWY, which had executed ARI's collateral documents, and a separate company, LOH California. *Id.*, ¶ 70.

64. The LOHWY Perfection Certificate identified LOHWY as a "Holding company for Intellectual Property" and attached schedules identifying registered marks under the undifferentiated name "Lights Out Holdings LLC." *See* Ex. F.

65. Merriman signed the related security agreement for LOHWY. *Id.*, at 14. But USPTO records identified LOH California – *not* LOHWY – as the registered owner of the intellectual property. *See* Composite USPTO Records, **Composite Exhibit AA**.

66. LOH California had not executed ARI's security agreement. Ex. A, ¶ 72.

67. ARI had advanced millions of dollars in reliance on representations that its financing was secured by the Lights Out Intellectual Property. *Id.*, ¶ 73.

68. Yet when ARI sought to evaluate enforcement of its collateral remedies following default, it discovered that a fundamental defect in the collateral structure had materially impaired ARI's ability to establish and enforce the Intellectual Property security interest it had bargained for. *Id.*, ¶ 74.

69. The discrepancy compounded the previously undisclosed Mamdani Note, which purported to encumber overlapping assets. *Id.*, ¶ 75.

70. Most importantly, it prohibited ARI from enforcing its rights to collateral. *Id.*, ¶ 76.

H. Merriman Files the Nevada Action That was Subsequently Dismissed

71. On January 22, 2026, Merriman, represented by Ross C. Goodman ("Goodman") of Goodman Law Group, commenced an action against ARI in Nevada state court, notwithstanding the mandatory New York forum-selection clause in the LSA and related loan documents. Complaint, Nevada Action, **Exhibit BB**.

72. Merriman's own Verified Complaint acknowledged that Lights Out had "missed three (3) months of interest payments between October and December 2025," yet asserted that ARI "does not have any management or ownership rights in the Company." *Id.*, ¶¶ 19, 20.

73. Merriman's central theory was that ARI could not exercise its negotiated governance and warrant rights and instead was limited to remedies against its collateral. *See generally id.*

74. His Verified Complaint asserted that the proxy and attorney-in-fact provisions "are security devices intended to protect collateral value, not grants of managerial authority or ownership rights," and accused ARI of breaching the LSA by "not taking commercially reasonable steps to dispose of the collateral." *Id.*, ¶¶ 26, 28.

75. Merriman thus demanded that ARI pursue collateral remedies while concealing the ownership discrepancy affecting the very Intellectual Property he had pledged as collateral. He repeated these positions in his application for injunctive relief and opposition to ARI's motion to dismiss. Ex. A, ¶ 81.

76. ARI notified Goodman on March 9 and April 2, 2026, that Merriman's representations contradicted the executed financing documents. Neither Goodman nor Merriman corrected them.

77. He repeated these positions in his application for injunctive relief and opposition to ARI's motion to dismiss. *See, e,g.,* Nevada Action, Application for Temporary Restraining Order and Motion for Preliminary Injunction, **Exhibit CC**; Nevada Action, Opposition to Motion to Dismiss, **Exhibit DD**.

78. On May 19, ARI served a motion seeking sanctions against Goodman and Merriman under Nevada Rule of Civil Procedure 11, providing the required 21-day opportunity to withdraw or correct the challenged contentions. *See* Nevada Action, Defendants' Motion for Sanctions, **Exhibit EE**.

79. When they declined, ARI filed the motion on June 10, seeking dismissal with prejudice and attorneys' fees. Ex. A, ¶ 83.

80. On June 16, 2026, six days after ARI filed its sanctions motion, Merriman stipulated to dismiss the Nevada Action without prejudice, withdrawing all pending motions. Ex. A, ¶ 84.

81. The court entered the dismissal order on June 17 without ruling on sanctions. Nevada Action, Order (June 17, 2026), **Exhibit FF**.

I. Merriman and Mintz Levin Publicly Attack ARI and its Founder

82. Merriman and Mintz Levin also carried their accusations into the public domain. On February 4, 2026, ML Strategies, LLC, the government relations and strategic consulting affiliate of Mintz Levin, issued a press release accusing ARI and its founder of taking "completely unauthorized actions" and attempting to "wrongfully take over" LOE. See *Lights Out® Enterprises Owner Shawne Merriman Files Lawsuit Against Zack Ellison's Applied Real Intelligence, Seeking In*, EIN Presswire (Feb. 4, 2026), **Exhibit GG**.

83. The release identified Merriman as LOE's owner and CEO despite his removal from management and ARI's majority ownership position; characterized admitted payment defaults as disputed; asserted that Merriman had made continual efforts to repay the debt; and claimed that LOE's valuation vastly exceeded the outstanding obligations. *See id.*

Dated: November 19, 2026

Respectfully submitted,

GREENBERG TRAURIG, LLP

By: /s/ *Daniel Filor*
Daniel P. Filor
One Vanderbilt Avenue
New York, New York 10017
Telephone: 212.801.9200
Email: filord@gtlaw.com

Joel E. Tasca, Esq. (Admitted Pro Hac Vice
Nevada Bar No. 14124
10845 Griffith Peak Drive, Suite 600
Las Vegas, NV 89135
Telephone: 702.792.3773
Email: Joel.Tasca@gtlaw.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of October, I caused a copy of the foregoing to be electronically filed with the Clerk of Court using the CM/ECF system, which then sent a notice of filing (NEF) to the parties of record.

/s/ Daniel Filor