

**IN THE CIRCUIT COURT OF COLBERT COUNTY, ALABAMA****FAME ENTERPRISES, INC.****Plaintiff,**

v.

**KANYE WEST, TERRENCE THORNTON
a/k/a Pusha-T, UMG RECORDINGS, INC.
a/k/a Universal Music Group, DEF JAM
RECORDINGS, a division of UMG
Recordings, Inc., and GETTING OUT OUR
DREAMS, INC. d/b/a G.O.O.D. Music,****Defendants.****CIVIL ACTION NO.:****CV-2019-_____**

COMPLAINT

COMES NOW, Plaintiff FAME Enterprises, Inc. ("FAME" or "Plaintiff") and states its Complaint against Defendants Kanye West ("West"), Terrence Thornton a/k/a Pusha-T ("Pusha-T"), UMG Recordings, Inc. a/k/a Universal Music Group ("UMG Recordings"), Def Jam Recordings, a division of UMG Recordings, Inc., and Getting Out Our Dreams, Inc. a/k/a G.O.O.D. Music ("G.O.O.D. Music") as follows:

I. THE PARTIES

1. Plaintiff FAME is an Alabama corporation doing business in Colbert County, Alabama.
2. Defendant West is a musician who writes, produces, and performs under the UMG Recordings and G.O.O.D. Music labels, and who was the executive producer of the Pusha-T album and song at issue in this action.

3. Defendant Pusha-T is a musician who writes and produces recordings through UMG Recordings and G.O.O.D. Music labels. He serves as President of the G.O.O.D. Music label.

4. UMG Recordings is a record company that owns the Def Jam Recordings music label and sublabel of Def Jam Recordings, G.O.O.D. Music.

5. Defendant Def Jam Recordings is a music label founded in or around 1983. Def Jam Recordings is owned by and is a division of UMG Recordings.

6. Defendant G.O.O.D. Music is a music label founded by West in or around 2004. G.O.O.D. Music is a sublabel of and is distributed by Def Jam Recordings.

II. JURISDICTION AND VENUE

7. This Court has jurisdiction over the subject matter of this action pursuant to Alabama Code § 12-11-30 and § 12-11-31. The Court has personal jurisdiction over all the Defendants as they have purposefully availed themselves of doing business in Alabama via internet sales and otherwise, including sales of the sound recording in question, of which all shared in the benefits, and because Defendants purposefully misappropriated Plaintiff's sound recording which was created in Alabama and owned by an Alabama Corporation.

8. Venue is proper in this Court pursuant to Alabama Code §§ 6-3-2 and 6-3-7.

III. FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

9. On or about May 25, 2018, Pusha-T's album, *Daytona*, was released. The album includes the sound recording "Come Back Baby", which was produced by West.

10. The sound recording "Come Back Baby" contains repeated, unauthorized, unlicensed samples from the sound recording owned by Fame, "I Can't Do Without You".

11. “I Can’t Do Without You” was performed by George Jackson. “I Can’t Do Without You” was produced by FAME at FAME’s recording studio in Muscle Shoals, Alabama before 1972, and is therefore not subject to the Copyright Act of 1972.

12. The worldwide rights to the sound recording “I Can’t Do Without You” are 100% owned by FAME.

13. The sound recording “Come Back Baby” includes the following repeated, unauthorized, unlicensed samples from “I Can’t Do Without You”:

I wanna talk to all you addicts out there
 That's got yourself a great big Jones
 An' you done tried all the methadone
 An' you just can't leave that heroin alone
 I wonder, have you tried

[Verse 1]

Dope just touched down, I'm so grateful
 Numbers so low, bitch, be thankful
 They say don't let money change you
 That's how we know money ain't you
 Bitch, I been had, bitches been bad
 We buy big boats, bitch, I'm Sinbad
 Downright sinful, bitch, we been full
 All my dopeboys, we like kinfolk
 Bmore burnt spoon, DC glass pipe
 VA sent bales, 'bout that trap life
 Blew through thousands, we made millions
 Cocaine soldiers, once civilians
 Bought hoes Hondas, took care children
 Lent my pastor, build out buildin's
 Rapped on classics, I been brilliant
 Now we blend in, we chameleons, ahh!

[Chorus: George Jackson]

Never have I been locked up in a world of misery
 I need you darlin' to set me free
 Come back, baby, try me one more time

Ooh, baby, I'm 'bout to go out of my mind
I can't—

[Verse 2]

Who else got the luxury to drop when he want
'Cause nobody else can fuck with me? What a show-off
Nigga, wrist for wrist—let's have a glow-off
Fuck it, brick for brick—let's have a blow-off
If we go by connections made
I can still climb ladders when complexions fade (yugh)
White on white, that's the Testa
Black on black, that's the Tesla
See these diamonds in this watch face?
All that shit came from pressure
They don't miss you 'till you gone with the wind
And they tired of dancin' like a Ying Yang Twin
You can't have the Yin without the Yang, my friend
Real niggas bring balance to the game I'm in (eghck!)
Can't escape the scale if I tried, interstate trafficking's alive
Push

[Chorus: George Jackson]

Never have I been locked up in a world of misery
I need you darlin' to set me free
Come back, baby, try me one more time
Ooh, baby, I'm 'bout to go out of my mind
I can't—

[Verse 3]

Still fresh off the boat, niggas
Don't make me super-soak niggas
Your life ends up a quote, nigga
The good die young, all dogs go to heaven
It's really just momma's fallin' out on the reverend
I play musical chairs with these squares
Rich flair before they was Ric Flair's
Cocaine concierge, longest runnin' trapper of the year
Stood the test of time like Dapper Dan
Season my sauce like Zatarain's

Is he still in the caravan? (no)
 It's a mil' in the caravan? (whoa)
 Richard Mille on a leather band (whoa)
 Behind the wheel like an ambulance (go)
 On my way up to Maryland (gone)

[Chorus: George Jackson]

Never have I been locked up in a world of misery

I need you darlin' to set me free

Come back, baby, try me one more time

Ooh, baby, I'm 'bout to go out of my mind

I can't—

Come back, baby, try me one more time

Ooh, baby, I'm 'bout to go out of my mind

I—I can't—

14. “Come Back Baby” is approximately three minutes and twenty-seven seconds (3:27) in length. Approximately one minute and thirteen seconds (1:13) of this sound recording is sampled directly from “I Can’t Do Without You”. This means that over thirty-five percent (35%) of the entire sound recording “Come Back Baby” is comprised of unauthorized, unlicensed samples of “I Can’t Do Without You”.

15. Defendants used Plaintiff’s sound recording in their sound recording about drug addiction and the money made from selling drugs. Plaintiff would not have agreed to license “I Can’t Do Without You” for such a use under any circumstances.

16. Defendants willfully and without the permission or consent of Plaintiff extensively sampled portions of “I Can’t Do Without You”. Defendants have a pattern and practice of willfully sampling sound recordings without consent or permission.

COUNT I – VIOLATION OF ALABAMA CODE § 13A-8-80, et seq.

17. Plaintiff incorporates by reference the allegations previously stated in the Complaint in their entirety.

18. Plaintiff has the exclusive license to reproduce and distribute to the public copies of the original fixation of sounds embodied in the master phonograph records, master disc, or other device used for reproducing recorded sounds on different mediums and the rights to record or to authorize the recording of sounds related to the sound recording “I Can’t Do Without You”.

19. Defendants knowingly transferred or caused to be transferred, directly or indirectly, the sounds recorded and owned by Plaintiff in “I Can’t Do Without You” when Defendants wrongfully and without a license or permission sampled from this sound recording in “Come Back Baby”.

20. Defendants knowingly produced, manufactured, distributed, and sold the sound recording of “Come Back Baby” with knowledge that the recording contained unauthorized samples of “I Can’t Do Without You”.

21. Defendants wrongful actions have caused Plaintiff substantial damages.

22. The conduct of Defendants was wanton, reckless, and/or malicious to Plaintiff so as to allow the imposition of punitive damages under applicable law.

WHEREFORE, PREMISES CONSIDERED, Plaintiff demands judgment against Defendants for disgorgement of profits, compensatory, consequential, incidental, and punitive damages in an amount to be determined by the trier of fact in this case, plus statutory fines, costs, interest and expenses.

COUNT II – UNJUST ENRICHMENT

23. Plaintiff incorporates by reference the allegations previously stated in the Complaint in their entirety.

24. In a violation of statutory and common law, Defendants have wrongfully used and exploited Plaintiff's sound recording, production, and other property rights and unjustly reaped tremendous financial and other benefits in violation of Plaintiff's legal rights and under circumstances where Defendants have been unjustly enriched by wrongfully deriving profit and other benefits from their wrongful conduct.

25. Defendants have unjustly reaped tremendous profits and other benefits due to the wrongful use of Plaintiff's sound recording and production, and other violations of Plaintiff's rights. Defendants therefore hold money which in equity and good conscience belongs to the Plaintiff. Plaintiff has also suffered substantial damages because of Defendants' wrongful acts and omissions.

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests an award of the disgorged profits of the Defendants, compensatory, consequential and incidental damages in an amount to be determined by the trier of fact, plus costs, interest and expenses.

COUNT III – CONVERSION

26. Plaintiff incorporates by reference the allegations previously stated in the Complaint in their entirety.

27. Defendants wrongfully deprived and interfered with rights, interests, and property of Plaintiff by sampling portions of the sound recording and using Plaintiff's production of "I Can't Do Without You", selling and distributing or allowing the distribution of these samples, and

retaining the profits and monies derived from the sale of albums containing the sound recording “Come Back Baby”.

28. The conduct of Defendants was wanton, reckless, and/or malicious to Plaintiff so as to allow the imposition of punitive damages under applicable law.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs demand judgment against Defendants for disgorgement of profits, compensatory, consequential, incidental, and punitive damages in an amount to be determined by the trier of fact in this case, plus costs, interest and expenses.

COUNT IV – BREACH OF AGREEMENT IMPLIED AT LAW

29. Plaintiff incorporates by reference the allegations previously stated in the Complaint in their entirety.

30. Under applicable law there is a contract implied at law for Defendants to pay the Plaintiff for the reasonable value of services and use of property rights of the Plaintiff. Defendants have breached said agreement implied at law.

WHEREFORE, PREMISES CONSIDERED, Plaintiff demands judgment against Defendants for disgorgement of profits, compensatory, consequential, and incidental damages in an amount to be determined by the trier of fact in this case, plus costs, interest and expenses.

COUNT V – COMMON LAW COPYRIGHT

31. Plaintiff incorporates by reference the allegations previously stated in the Complaint in their entirety.

32. The Plaintiff has common law copyrights in the sound recording and the production thereof referenced above. The Defendants violated said rights by the unauthorized use and copying

of Plaintiff's sound recording and production, causing injury to the Plaintiff.

33. The conduct of Defendants was wanton, reckless, and/or malicious to Plaintiff so as to allow the imposition of punitive damages under applicable law.

WHEREFORE, PREMISES CONSIDERED, Plaintiff demands judgment against Defendants for disgorgement of profits, compensatory, consequential, incidental, and punitive damages in an amount to be determined by the trier of fact in this case, plus costs, interest and expenses.

COUNT VI – TRESPASS TO PERSONAL PROPERTY

34. Plaintiff incorporates by reference the allegations previously stated in the Complaint in their entirety.

35. The Defendants have damaged and abused the personal property of the Plaintiff in violation of Ala Code § 6-5-260 and/or § 6-5-262, thereby causing injury to the Plaintiff.

36. The conduct of Defendants was wanton, reckless, and/or malicious to Plaintiff so as to allow the imposition of punitive damages under applicable law.

WHEREFORE, PREMISES CONSIDERED, Plaintiff demands judgment against Defendants for disgorgement of profits, compensatory, consequential, incidental, emotional distress, and punitive damages in an amount to be determined by the trier of fact in this case, plus costs, interest and expenses.

COUNT VII – NUISANCE

37. Plaintiff incorporates by reference the allegations previously stated in the Complaint in their entirety.

38. The Defendants have committed acts of nuisance that have worked hurt, inconvenience and damage to the Plaintiff in violation of Ala. Code § 6-5-120.

39. The conduct of Defendants was wanton, reckless, and/or malicious to Plaintiff so as to allow the imposition of punitive damages under applicable law.

WHEREFORE, PREMISES CONSIDERED, Plaintiff demands judgment against Defendants for disgorgement of profits, compensatory, consequential, incidental, emotional distress, and punitive damages in an amount to be determined by the trier of fact in this case, plus costs, interest and expenses.

JURY DEMAND

Plaintiff demands a trial by jury on all allegations, claims, and requests for relief asserted herein or that may be asserted in any subsequent amendment hereto.

Respectfully submitted this 24th day of May, 2019.

s/ G. Rick Hall

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