

IN IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BISHOP DAVID PAUL MOTEN,

Plaintiff,

vs.

DEF JAM RECORDINGS, UMG
RECORDINGS, INC.,
YE f/k/a KANYE WEST, and
G.O.O.D. MUSIC

Defendants.

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Case No.

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff BISHOP DAVID PAUL MOTEN ("BISHOP MOTEN" or "Plaintiff") and states its Complaint against Defendants YE f/k/a Kanye West ("West"), UMG Recordings, Inc. a/k/a Universal Music Group ("UMG Recordings"), Def Jam Recordings, a division of UMG Recordings, Inc. ("Def Jam"), 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 Bishop David Paul Moten is a resident of Texas who does business in Dallas County, Texas.
2. Defendant West is a musician who writes, produces, and performs under the UMG

3. Defendant 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.

4. 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.

5. 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

6. The claims at issue in this case arise under § 106 of the Copyright Act (Title 17 of the United States Code).

7. This Court has jurisdiction over the subject matter of this action pursuant to Section 1338(a) of Title 28 of the United States Code, which provides the federal district courts shall have original jurisdiction of any civil action arising under any Act of Congress relating to patents, plant variety protection, copyrights and trademarks. Such jurisdiction shall be exclusive of the courts of the states in patent, plant variety protection and copyright cases.

8. The Court has personal jurisdiction over all the Defendants as they have purposefully availed themselves of doing business in Texas 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 Texas and owned by a Texas resident.

9. Venue is proper in this judicial district under both 28 U.S.C. § 1391(e)(1)(B)

occurred in this District.

III. FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

10. On or about August 29, 2021, West's album, *Donda*, was released. The album includes the sound recording "Come to Life", which was produced by West, Jeff Bhasker, Warrryn Campbell, Mark Williams, and Raul Cubina.

11. The sound recording "Come to Life" contains repeated, unauthorized, unlicensed samples from the sound recording of a sermon delivered and owned by Plaintiff (the "Sermon").

12. The sound recording "Come to Life" includes the following repeated, unauthorized, unlicensed samples from the Sermon:

[Intro]

My soul cries out, "Hallelujah"
And I thank God for saving me
I, I thank God

[Chorus]

Here Go All Your Problems Again (I Thank God)
Three, Two, One, You're Pain (I Thank God)
Uncle Now He Back In The Pain (Hallelujah)
Auntie Shut Down Again
Did She Finally Come To Life?
(Thank You, Jesus)
Ever Wish You Had Another Life?
Ever Wish You Had Another Life?
Ever Wish You Had Another Life?

[Verse 1]

Don't You Wish The Night Would Go Numb?
I've Been Feeling Low For So Long
I Ain't Had A High In So Long
I Been In The Dark For So Long

I Don't Wanna Die Alone
I Don't Wanna Die Alone
I Get Mad When She Gone
Mad When She Home
Sad When She Gone
Mad When She Home
Sad When She Gone
(Loosen Right Now
The Spirit That Wants To Run)
Floating On A Silver Lining (In The Name Of Jesus)
Yeah! You Know Where To Find Me, Riding On A Silver Lining
And My God Won't Deny Me, Tell The Devil, Get Behind Me
All The Stars Are Aligned, Lift Me Up Every Time
You Know Exactly Where To Find Me

[Interlude]

Hallelujah (Thank You, Jesus)

Hallelujah (Yes)

Hallelujah...

[Pre-Chorus]

Did Those Ideas Ever Really Come To Life?
Make It All Come To Life
Make It All Come To Life
Praying For A Change In Your Life
Well, Maybe It's Gone Come Tonight

[Chorus]

Sadness Setting In Again
Three, Two, One, You're Pain
Uncle Right Back In The Pain
Tell Me How Auntie Been
Took Your Thoughts And Penciled Them In
Should've Wrote Them Down In Pain
And Maybe They'll Come To Life
And Maybe They'll Come To Life
Sadness Setting In Again
Three, Two, One, You're Pain
Uncle Right Back To The Pain
Tell Me How Auntie Been
Thoughts, You Had Penciled Them In
Probably Should've Wrote Them In Pain

[Verse 2]

You Know Where To Find Me, They Cannot Define Me
So They Crucify Me, How So Fazed When I Leave?
Come And Purify Me, Come And Sanctify Me
You The Air That I Breathe, The Ultra-Ultralight Beam
Brought A Gift To Northie, All She Want Was Nikes
This Is Not About Me, God Is Still Alive
So I'm Free
Floating On A Silver Lining
Floating On A Silver Lining
So When I'm Free, I'm Free...

13. “Come to Life” is approximately five minutes and ten seconds (5:10) in length. Approximately one minute and ten seconds (1:10) of this sound recording is sampled directly from Plaintiff’s sermon and appears to run on a loop underscoring the pre-chorus and chorus throughout the song in question. Consequently, no twenty percent (20%) of the entire sound recording “Come to Life” is comprised of unauthorized, unlicensed samples of the Sermon.

14. Defendants willfully and without the permission or consent of Plaintiff extensively sampled portions of the Sermon. Over the span of several years, Defendants have demonstrated an alarming pattern and practice of willfully and egregiously sampling sound recordings of others without consent or permission.

**COUNT I – VIOLATION OF U.S. COPYRIGHT ACT (17 U.S.C. §§
101, et seq.)**

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

16. Plaintiff has exclusive rights, title and license to the Sermon, as well as the sole right and license to reproduce, distribute, record or authorize the recording of sounds related to the sound recording of the Sermon.

17. Defendants knowingly transferred or caused to be transferred, directly or indirectly, the sounds recorded and owned by Plaintiff when Defendants wrongfully and without a license or permission sampled from this sound recording in “Come to Life”.

18. Defendants knowingly produced, manufactured, distributed, and sold the sound recording of “Come to Life” with knowledge that the recording contained unauthorized samples of the Sermon.

19. Defendants’ wrongful actions have caused Plaintiff substantial damages.

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

21. Based on the foregoing, 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/QUANTUM MERUIT

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

23. 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
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circumstances where Defendants have been unjustly enriched by wrongfully deriving profit and
other benefits from their wrongful conduct.

24. Defendants have seen a considerable influx of ill-gotten financial gains and other benefits as a direct consequence of their wrongful use of Plaintiff's sound recording and production, and other violations of Plaintiff's rights. Consequently, 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.

25. Based on the foregoing, 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 the Sermon, 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 to Life."

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.

29. Based on the foregoing, Plaintiff hereby 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.

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

31. 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.

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

33. Based on the foregoing, 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.

JURY DEMAND

34. 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.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendants be cited to appear and answer and that upon trial of this cause Plaintiff recovers all relief requested herein, including all actual, direct, indirect, incidental, and consequential damages, along with attorney's fees, costs, and pre- and post-judgment interest at the highest rate allowable by law, and for such other and further relief, both at law and in equity, to which Plaintiff may be justly entitled.

DATED: April 18, 2022.

By: /s/ Brandon Smith
Brandon Smith
SBN:24075919
bsmith@smithdallaslaw.com
Attorney for Plaintiff

PLEASE SERVE DEFENDANTS BY CERTIFIED MAIL:

Kanye West
c/o Def Jam Records, Inc.
CT Corporation System
1755 Broadway
New York, NY 10019

UMG Recordings, Inc. a/k/a Universal Music Group
CT Corporation System
111 8th Ave., 13 Floor
New York, NY 10011

Def Jam Recordings, a division of UMG Recordings, Inc.
CT Corporation System
1755 Broadway
New York, NY 10019

G.O.O.D. Music
Maximilian Jo
6 Centerpointe Drive, Suite 620
La Palma, CA 90623

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

BISHOP DAVID PAUL MOTEN

Plaintiff

v.

Civil Action No.

YE f/k/a Kanye West, UMG
Recordings, Inc. a/k/a Universal
Music Group, Def Jam
Recordings, a division of UMG
Recordings, Inc., and Getting
Out Our Dreams, Inc. a/k/a
G.O.O.D. Music.

Defendants

CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT

(This form also satisfies Fed. R. Civ. P. 7.1)

Pursuant to Fed. R. Civ. P. 7.1 and LR 3.1(c), LR 3.2(e), LR 7.4, LR 81.1(a)(4)(D), and LR 81.2,
BISHOP DAVID PAUL MOTEN, by and through his attorney, Brandon Smith

provides the following information:

For a nongovernmental corporate party, the name(s) of its parent corporation and any publicly held corporation that owns 10% or more of its stock (if none, state "None"):

NONE

A complete list of all persons, associations of persons, firms, partnerships, corporations, guarantors, insurers, affiliates, parent or subsidiary corporations, or other legal entities that are financially interested in the outcome of the case:

BISHOP DAVID PAUL MOTEN, YE f/k/a KANYE WEST, UNIVERSAL MUSIC GROUP,
DEF JAM RECORDINGS, INC., and GETTING OUT OUR DREAMS, INC.

Date: April 18, 2022
Signature: /s/ Brandon Smith
Print Name: Brandon Smith
Bar Number: 24075919
Address: 2838 Market Loop, Suite 100
City, State, Zip: Southlake, Texas 76092
Telephone: 469-351-0879
Fax: _____
E-Mail: bsmith@smithdallaslaw.com

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Bishop David Paul Moten

(b) County of Residence of First Listed Plaintiff Dallas (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Smith & Smith Law Group, PLLC, 2838 Market Loop, Suite 100, Southlake, Texas T: (469)-351-0879

DEFENDANTS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 1 1, 2 2, 3 3, 4 4, 5 5, 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Property Damage, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

17 U.S.C. Section 101, et seq.

Brief description of cause:

Defendants wrongfully sampled copyrighted materials without a license or consent.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related cases, if any. If a related case exists, whether pending or closed, insert the docket numbers and the corresponding judge names for such cases. A case is related to this filing if the case: 1) involves some or all of the same parties and is based on the same or similar claim; 2) involves the same property, transaction, or event; 3) involves substantially similar issues of law and fact; and/or 4) involves the same estate in a bankruptcy appeal.

Date and Attorney Signature. Date and sign the civil cover sheet.