

## Form 6. Civil Appeals Docketing Statement

USCA DOCKET # (IF KNOWN)

**UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT**  
**CIVIL APPEALS DOCKETING STATEMENT**

PLEASE ATTACH ADDITIONAL PAGES IF NECESSARY.

<b>TITLE IN FULL:</b>  ARC MUSIC, INC., a California corporation, Plaintiff, v. WAYNE HENDERSON, SR., an individual, and DOES 1-10, Defendants; WAYNE HENDERSON, SR., Counterclaimant, v. ARC MUSIC, INC., et al., Counterdefendants	<b>DISTRICT:</b> Central <b>JUDGE:</b> Dale S. Fischer
<b>DISTRICT COURT NUMBER:</b> CV 09-07967 DSF (CWx)	
<b>DATE NOTICE OF APPEAL</b> FILED: April 23, 2010	<b>IS THIS A CROSS-APPEAL?</b> <input type="checkbox"/> YES
<b>IF THIS MATTER HAS BEEN BEFORE THIS COURT PREVIOUSLY, PLEASE PROVIDE THE DOCKET NUMBER AND CITATION (IF ANY):</b>	

**BRIEF DESCRIPTION OF ACTION AND RESULT BELOW:**

Plaintiff, a music publisher, sued Defendant, a musician, songwriter and music publisher, for declaratory judgment and breach of contract. Defendant counterclaimed against Plaintiff and others for copyright infringement, declaratory judgment, breach of contract and other claims.

**PRINCIPAL ISSUES PROPOSED TO BE RAISED ON APPEAL:**

The principal issues to be raised on appeal, are, without limitation: 1) Whether the District Court erred in granting summary adjudication and in dismissing Counterclaimant's copyright infringement claim; and 2) Whether, pursuant to Federal Rule of Civil Procedure Rule 56(f), the District Court erred in refusing to deny or continue Plaintiff's motion for summary adjudication and motion to dismiss.

**PLEASE IDENTIFY ANY OTHER LEGAL PROCEEDING THAT MAY HAVE A BEARING ON THIS CASE (INCLUDE PENDING DISTRICT COURT POST-JUDGMENT MOTIONS):****DOES THIS APPEAL INVOLVE ANY OF THE FOLLOWING:**

Possibility of settlement  
 Likelihood that intervening precedent will control outcome of appeal  
 Likelihood of a motion to expedite or to stay the appeal, or other procedural matters (specify)

Any other information relevant to the inclusion of this case in the Mediation Program

Pursuant to the District Court action, the principal parties attorneys have attempted to schedule mediation.

Possibility parties would stipulate to binding award by Appellate Commissioner in lieu of submission to judges.

Effective 7/1/2000

### LOWER COURT INFORMATION

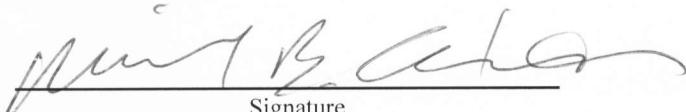
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JURISDICTION		DISTRICT COURT DISPOSITION	
FEDERAL	APPELLATE	TYPE OF JUDGMENT / ORDER APPEALED	RELIEF
<input checked="" type="checkbox"/> FEDERAL QUESTION	<input checked="" type="checkbox"/> FINAL DECISION OF DISTRICT COURT	<input type="checkbox"/> DEFAULT JUDGMENT <input type="checkbox"/> DISMISSAL / JURISDICTION <input checked="" type="checkbox"/> DISMISSAL / MERITS <input type="checkbox"/> SUMMARY JUDGMENT <input type="checkbox"/> JUDGMENT / COURT DECISION <input type="checkbox"/> JUDGMENT / JURY VERDICT <input checked="" type="checkbox"/> DECLARATORY JUDGMENT <input type="checkbox"/> JUDGMENT AS A MATTER OF LAW <input checked="" type="checkbox"/> OTHER (SPECIFY): <div style="text-align: center;">Summary Adjudication</div>	<input type="checkbox"/> DAMAGES: SOUGHT \$ _____ AWARDED \$ _____
<input type="checkbox"/> DIVERSITY	<input checked="" type="checkbox"/> INTERLOCUTORY DECISION APPEALABLE AS OF RIGHT	<input type="checkbox"/> PRELIMINARY <input type="checkbox"/> PERMANENT <input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> INJUNCTIONS: <input type="checkbox"/> ATTORNEY FEES: SOUGHT \$ _____ AWARDED \$ _____ <input type="checkbox"/> PENDING
<input type="checkbox"/> OTHER (SPECIFY)	<input type="checkbox"/> INTERLOCUTORY ORDER CERTIFIED BY DISTRICT JUDGE (SPECIFY):  <input type="checkbox"/> OTHER (SPECIFY):		<input type="checkbox"/> COSTS: \$ _____

### CERTIFICATION OF COUNSEL

**I CERTIFY THAT:**

1. COPIES OF ORDER / JUDGMENT APPEALED FROM ARE ATTACHED.
2. A CURRENT SERVICE LIST OR REPRESENTATION STATEMENT WITH TELEPHONE AND FAX NUMBERS IS ATTACHED ( SEE 9<sup>TH</sup> CIR. RULE 3-2
3. A COPY OF THIS CIVIL APPEALS DOCKETING STATEMENT WAS SERVED IN COMPLIANCE WITH FRAP 25.
4. I UNDERSTAND THAT FAILURE TO COMPLY WITH THESE FILING REQUIREMENTS MAY RESULT IN SANCTIONS, INCLUDING DISMISSAL OF THIS APPEAL.



Signature

April 25, 2010

Date

### COUNSEL WHO COMPLETED THIS FORM

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\* THIS DOCUMENT SHOULD BE FILED IN THE DISTRICT COURT WITH THE NOTICE OF APPEAL\*  
 \* IF FILED LATE, IT SHOULD BE FILED DIRECTLY WITH THE U.S. COURT OF APPEALS\*