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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY: _____

6 Attorneys for Plaintiff
THE RAY CHARLES FOUNDATION

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

11 THE RAY CHARLES
FOUNDATION, a California
12 corporation,

13 Plaintiff,

14 v.

15 RAY CHARLES ROBINSON, JR.,
an individual; MARY JANE ROSS,
16 an individual; RANDOM HOUSE,
INC., a New York corporation; THE
17 CROWN PUBLISHING GROUP, a
division of RANDOM HOUSE,
18 INC., a New York corporation; and
DOES 1 through 10, inclusive,

19 Defendants.
20

Case No. **CV 10 8799** - R
(AJWk)
**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**
DEMAND FOR JURY TRIAL

21
22 Plaintiff The Ray Charles Foundation (“Plaintiff” or the “Foundation”)
23 hereby alleges and avers based on knowledge as to its acts and information and
24 belief as to the acts of others, as follows:

25 **NATURE OF THE ACTION**

26 1. This is a straightforward action for copyright infringement arising
27 from the unauthorized use of a copy of Plaintiff’s copyrighted photograph of the
28 late Ray Charles on the cover of the book entitled *You Don’t Know Me: Reflections*

1 of My Father, Ray Charles (the “Book”) by defendants Ray Charles Robinson, Jr.
2 (“Robinson”), Mary Jane Ross (“Ross”), Random House, Inc. (“Random House”),
3 and The Crown Publishing Group (“Crown”) (collectively, “Defendants”). The
4 Book also infringes Plaintiff’s copyrights in and to certain of Ray Charles’s musical
5 compositions, which were published in the Book without Plaintiff’s knowledge or
6 consent. Plaintiff brings this action to protect its valuable intellectual property and
7 obtain legal redress for Defendants’ misconduct.

8 **JURISDICTION AND VENUE**

9 2. This Court has subject matter jurisdiction over this matter pursuant to
10 17 U.S.C. § 501 and 28 U.S.C. 1338(a) in that this case arises under the copyright
11 laws of the United States, 17 U.S.C. §§ 101 *et seq.*

12 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because
13 Defendants either reside and/or conduct business within this District and a
14 substantial part of the events and omissions giving rise to Plaintiff’s claims
15 occurred within this District.

16 **THE PARTIES**

17 4. Plaintiff is, and at all time mentioned herein was, a California
18 corporation with its principal place of business in the County of Los Angeles,
19 California. Ray Charles established The Robinson Foundation for Hearing
20 Disorders, Inc. (the “Robinson Foundation”) during his lifetime. The name of the
21 Robinson Foundation was later changed to The Ray Charles Foundation. Plaintiff
22 owns all rights in and to the intellectual property of the late Ray Charles.

23 5. Defendant Robinson is an individual residing in the County of Los
24 Angeles, California, and is the oldest son of the late Ray Charles.

25 6. Plaintiff is informed and believes, and based thereon avers, that
26 Defendant Ross is an individual residing in the County of Los Angeles, California.

27 7. Plaintiff is informed and believes, and based thereon avers, that
28 Defendant Random House is a corporation organized and existing under the laws of

1 the State of New York and doing business in the State of California. Plaintiff is
2 further informed and believes, and based thereon avers, that Random House is the
3 world’s largest English-language trade book publisher and is engaged in the book
4 publishing business.

5 8. Plaintiff is informed and believes, and based thereon avers, that
6 Defendant Crown is a division of Random House which publishes books through
7 various imprints, including Harmony Books.

8 9. Plaintiff is unaware of the true names and capacities, whether
9 individual, corporate, associate, or otherwise, of defendants Does 1 through 10,
10 inclusive, or any of them, and therefore sues these defendants, and each of them, by
11 such fictitious names. Plaintiff will seek leave of Court to amend this Complaint
12 when the identities of these defendants are ascertained.

13 10. Plaintiff is informed and believes, and based thereon avers, that each
14 of the defendants named herein as Does 1 through 10, inclusive, was the employee,
15 agent or co-conspirator of each of the other named or Doe defendants.

16 **FIRST CLAIM FOR RELIEF**

17 **(Copyright Infringement (Photograph) Against All Defendants)**

18 11. Plaintiff re-avers and incorporates herein by reference paragraphs 1
19 through 10, inclusive, of this Complaint as though set forth in full herein.

20 12. In or about 1965, an employee of Plaintiff’s predecessor-in-interest,
21 Ray Charles Enterprises, Inc. (“RCE”), took a photograph of the late Ray Charles
22 (the “Photograph”) as a work made for hire.

23 13. Plaintiff is the owner of the copyright in and to the Photograph.
24 Plaintiff has applied for a copyright registration for the Photograph.

25 14. In or about June 2010, Defendants Random House and Crown
26 published, released and began selling the Book to the general public. The Book
27 was written by Defendants Robinson and Ross, and published by Defendants
28 Random House and Crown through their Harmony Books imprint.

1 15. Defendants made, used, published, reproduced, adapted and distributed
2 the Photograph as the cover of the Book.

3 16. Defendants neither sought nor were granted permission from Plaintiff
4 to use the Photograph. At no time has Plaintiff consented – expressly or impliedly
5 – to the use, reproduction, adaptation and/or distribution by Defendants of the
6 Photograph as the cover of the Book or otherwise.

7 17. By reason of Defendants’ infringement, Plaintiff has sustained and will
8 continue to sustain substantial injury, loss and damage to its ownership rights in the
9 copyrighted Photograph and is entitled to those damages permitted by federal
10 copyright law, including but not limited to, statutory damages or compensatory
11 damages and the profits derived by the Defendants as a result of its infringing acts,
12 in an amount to be determined according to proof at trial. Plaintiff will seek leave
13 of Court to amend this Complaint when the full nature and extent of such monetary
14 damages are ascertained.

15 18. Further irreparable harm to Plaintiff is imminent as a result of
16 Defendants’ conduct, and Plaintiff is without an adequate remedy at law. Plaintiff
17 is entitled to a preliminary and a permanent injunction restraining Defendants, their
18 officers, directors, agents, employees, representatives and all persons acting in
19 concert with them from engaging in further such acts of copyright infringement.

20 19. Furthermore, in acting as alleged above, Defendants acted
21 oppressively, fraudulently, maliciously and willfully and with a conscious disregard
22 of the rights of Plaintiff, and, therefore, Plaintiff is entitled to additional damages,
23 by way of example and to punish Defendants, for willful copyright infringement in
24 the amount of One Hundred Fifty Thousand Dollars (\$150,000.00) for each act of
25 infringement or otherwise according to proof.

26 ///

27 ///

28 ///

SECOND CLAIM FOR RELIEF

(Copyright Infringement (Musical Compositions) Against All Defendants)

20. Plaintiff re-avers and incorporates herein by reference paragraphs 1 through 10 and 14, inclusive, of this Complaint as though set forth in full herein.

21. Ray Charles wrote a musical composition entitled "I got a woman." Plaintiff is the owner of the copyright in and to this musical composition.

22. Ray Charles wrote a musical composition entitled "Hallelujah I love her so." Plaintiff is the owner of the copyright in and to this musical composition.

23. Ray Charles wrote a musical composition entitled "What kind of man are you?" Plaintiff is the owner of the copyright in and to this musical composition.

24. Ray Charles wrote a musical composition entitled "Mr. Charles' blues." Plaintiff is the owner of the copyright in and to this musical composition.

These musical compositions are collectively referred to herein as the "Compositions."

25. Defendants made, used, published, reproduced, adapted and distributed the titles of and lyrics from the Compositions in the Book.

26. Defendants neither sought nor were granted permission from Plaintiff to use the Compositions. At no time has Plaintiff consented – expressly or impliedly – to the use, reproduction, adaptation and/or distribution by Defendants of the Compositions in the Book or otherwise.

27. By reason of Defendants' infringement, Plaintiff has sustained and will continue to sustain substantial injury, loss and damage to its ownership rights in the copyrighted Compositions and is entitled to those damages permitted by federal copyright law, including but not limited to, statutory damages or compensatory damages and the profits derived by the Defendants as a result of its infringing acts, in an amount to be determined according to proof at trial. Plaintiff will seek leave of Court to amend this Complaint when the full nature and extent of such monetary damages are ascertained.

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destruction or other reasonable disposition all such materials and means for producing same in Defendants' possession or control.


3. For all damages permitted by federal copyright law, including without limitation, Plaintiff's actual damages and Defendants' profits, or statutory damages, in an amount to be determined at trial, plus interest.

4. For costs of suit herein incurred.

5. For reasonable attorneys' fees.

6. For such other and further relief as this Court may deem just and proper.

DATED: November 17, 2010 **ROBINS, KAPLAN, MILLER & CIRESI L.L.P.**

By: 

Yakub Hazzard
Lauren Sudar

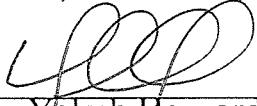
**ATTORNEYS FOR PLAINTIFF
THE RAY CHARLES FOUNDATION**

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DEMAND FOR JURY TRIAL

Plaintiff The Ray Charles Foundation hereby demands a trial by jury.

DATED: November 17, 2010 **ROBINS, KAPLAN, MILLER & CIRESI L.L.P.**

By: 

Yakub Hazzard
Lauren Sudar

**ATTORNEYS FOR PLAINTIFF
THE RAY CHARLES FOUNDATION**

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

THE RAY CHARLES FOUNDATION, a California corporation,

PLAINTIFF(S)

v.

RAY CHARLES ROBINSON, JR., an individual; MARY JANE ROSS, an individual; RANDOM HOUSE, INC., a New York corporation; THE CROWN PUBLISHING GROUP, a division of RANDOM HOUSE, INC., a New York Corporation; and DOES 1 through 10, inclusive, DEFENDANT(S).

CASE NUMBER

CV 10 8799-R (Axy)

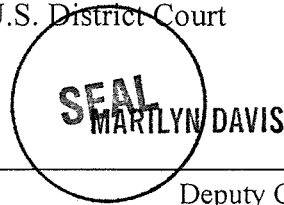
SUMMONS

TO: DEFENDANT(S): The Above-Named Defendants

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Yakub Hazzard, Esq., whose address is Robins, Kaplan, Miller & Ciresi, L.L.P., 2049 Century Park East, Suite 3400, Los Angeles, CA 90067. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court



By: _____
Deputy Clerk

Dated: November 17, 2010

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I (a) PLAINTIFFS (Check box if you are representing yourself)

THE RAY CHARLES FOUNDATION, a California corporation

DEFENDANTS

RAY CHARLES ROBINSON, JR., an individual; MARY JANE ROSS; an individual; RANDOM HOUSE, INC., a New York corporation; THE CROWN PUBLISHING GROUP, a division of RANDOM HOUSE, INC., a New York corporation; and DOES 1 through 10, inclusive

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Yakub Hazzard (State Bar No. 150242)
Lauren Sudar (State Bar No. 222743)
Robins, Kaplan, Miller & Ciresi L.L.P.
2049 Century Park East, Suite 3400
Los Angeles, California 90067-3208

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

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

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. 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 (specify): 6 Multi-District Litigation 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No

MONEY DEMANDED IN COMPLAINT: \$ TBD at trial

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

17 U.S.C. §101 et seq.: Two claims for copyright infringement related to (1) the use of Plaintiff's copyrighted photograph as the cover of Defendants' book without Plaintiff's consent, and (2) the use of Plaintiff's copyrighted musical compositions in Defendants' book without Plaintiff's consent

VII. NATURE OF SUIT (Place an X in one box only.)

<p align="center">OTHER STATUTES</p> <p><input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes</p>	<p align="center">CONTRACT</p> <p><input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property</p>	<p align="center">TORTS</p> <p align="center">PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions</p>	<p align="center">TORTS</p> <p align="center">PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights</p>	<p align="center">PRISONER PETITIONS</p> <p><input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other</p>	<p align="center">LABOR</p> <p><input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609</p>
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CV 10 8799

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply)

- A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County, California	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County, California	New York

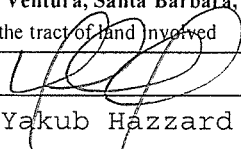
(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California, or Foreign Country
Los Angeles County, California	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date November 17, 2010

Yakub Hazzard

Notice to Counsel/Parties: The CV-71 (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. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))