

1 Dean A. Dickie (appearing *Pro Hac Vice*)
 Dickie@MillerCanfield.com
 2 Kathleen E. Koppenhoefer (appearing *Pro Hac Vice*)
 Koppenhoefer@MillerCanfield.com
 3 MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.
 225 West Washington Street, Suite 2600
 4 Chicago, IL 60606
 Telephone: 312.460.4200
 5 Facsimile: 312.460.4288

6 Ira Gould (appearing *Pro Hac Vice*)
 Gould@igouldlaw.com
 7 Ryan L. Greely (appearing *Pro Hac Vice*)
 Rgreely@igouldlaw.com
 8 GOULD LAW GROUP
 120 North LaSalle Street, Suite 2750
 9 Chicago, IL 60602
 Telephone: 312.781.0680
 10 Facsimile: 312.726.1328

11 George L. Hampton IV (State Bar No. 144433)
 ghampton@hamptonholley.com
 12 Colin C. Holley (State Bar No. 191999)
 cholley@hamptonholley.com
 13 HAMPTONHOLLEY LLP
 2101 East Coast Highway, Suite 260
 14 Corona del Mar, California 92625
 Telephone: 949.718.4550
 15 Facsimile: 949.718.4580

16 Attorneys for Plaintiff
 BRYAN PRINGLE
 17

18 **UNITED STATES DISTRICT COURT**
 19 **CENTRAL DISTRICT OF CALIFORNIA**
 20 **SOUTHERN DIVISION**

<p>21 BRYAN PRINGLE, an individual, 22 Plaintiff, 23 v. 24 WILLIAM ADAMS, JR.; STACY 25 FERGUSON; ALLAN PINEDA; and 26 JAIME GOMEZ, all individually and collectively as the music group The Black Eyed Peas, <i>et al.</i>, 27 Defendants.</p>) Case No. SACV 10-1656 JST(RZx))) DECLARATION OF) DEAN A. DICKIE IN) OBJECTION TO BARRY I.) SLOTNICK’S DECLARATION) IN SUPPORT OF DEFENDANT’S) APPLICATION FOR FEES) Complaint Filed: October 28, 2010) Trial Date: January 24, 2012)
---	--

1
2
3 Dean A. Dickie, having personal knowledge of the facts contained within this
4 declaration, states that if called as a witness, he could testify regarding the
5 following:

6 1. I am a partner at the law firm of Miller, Canfield, Paddock and Stone,
7 P.L.C., and am lead counsel for Plaintiff, Bryan Pringle (“Plaintiff” or “Pringle”) in
8 the above-captioned action. I am a member in good standing of the State Bar of
9 Illinois.

10 2. I submit this declaration in objection to the declaration of Barry I.
11 Slotnick filed on April 22, 2011 pursuant to Honorable Josephine Staton Tucker’s
12 April 12, 2011 Order directing Rister Editions (“Rister”) to file a declaration as to
13 the expenses, costs and attorneys’ fees incurred in filing its motion to dismiss for
14 improper service of Plaintiff’s Second Amended Complaint.

15 3. The Court’s Order of April 12, 2011 ordered as follows: “Thus,
16 Plaintiff’s counsel shall pay to Rister sanctions in the amount of the reasonable
17 expenses, costs, and attorneys’ fees Rister incurred in filing this motion. The Court
18 orders Rister to file promptly a detailed declaration as to those costs and expenses,
19 so that the Court may determine the sanctions amount to be paid by Plaintiff’s
20 counsel to Rister.” [Doc. #126] (emphasis added).

21 4. I have reviewed Mr. Slotnick’s declaration, the “Time Detail” report
22 attached as Exhibit B to Mr. Slotnick’s declaration as well as the involvement of
23 the five attorneys for whom expenses and costs are sought. I have also considered
24 my forty-two years of experience as a federal court trial lawyer and my knowledge
25 of the facts of this case. Based on that review and experience, the entries included
26 in Exhibit B do not reflect time reasonably and necessarily incurred in filing the
27 second Motion to Dismiss based on the same grounds as presented in the initial
28 Motion to Dismiss for improper service of process.

1 **Background**

2 5. On December 13, 2010, Rister filed its first motion to dismiss based on
3 improper service. [Doc. #53]

4 6. On January 27, 2011, the Court ordered Plaintiff simply to “promptly
5 serve” the summons and complaint on Rister. [Doc. #95]

6 7. Plaintiff’s counsel proceeded to investigate the various options in
7 serving both Rister and Frederic Riesterer (“Mr. Riesterer” or “Riesterer”) properly,
8 including examination of the use of the Hague Convention’s process and procedure,
9 which was determined to be both overly costly for Plaintiff and inefficient for
10 purposes of working within the Court’s timeframe for service.

11 8. On February 27, 2011, Bryan Cave, counsel for co-defendants, served
12 Rule 26 disclosures identifying Mr. Riesterer as a witness and providing his address
13 as the law firm of Loeb & Loeb, 345 Park Avenue, New York, NY 10154.

14 9. Concurrently, pursuant to Plaintiff counsel’s interpretation of the
15 Court’s January 27 order, Plaintiff’s entire litigation team in good faith determined
16 that it was necessary to remedy the proof of service issue raised by the Court for
17 purposes of properly serving Rister via its U.S. implied agent Shapiro Bernstein
18 Co., Ltd. Plaintiff’s counsel proceeded to serve Rister via Shapiro’s office with an
19 amended proof of service designating Shapiro as Rister’s agent.

20 10. With respect to service of Mr. Riesterer himself, based on Defendants’
21 representation as set forth in the Bryan Cave Rule 26 disclosure, Plaintiff’s counsel
22 attempted to serve Mr. Riesterer at Loeb & Loeb via a process server who was
23 informed by the managing partner for Loeb & Loeb that Loeb & Loeb was not
24 representing Mr. Riesterer despite the representations made in Defendants’ Rule 26
25 disclosures. *See* copy of Rule 26 Disclosures attached hereto as Exhibit A.

26 11. Plaintiff’s counsel then sent a letter to Kara Cenar at Bryan Cave, and
27 Barry I. Slotnick at Loeb & Loeb (now counsel for Riesterer) relaying these facts
28 and requesting that Loeb & Loeb provide Mr. Riesterer’s address in France. *See*

1 copy of correspondence between Dean A. Dickie and Kara Cenar and Barry
2 Slotnick attached hereto as Exhibit B.

3 12. On March 16, 2011, Loeb & Loeb again stated that they did not
4 represent Mr. Riesterer and refused to provide Mr. Riesterer's contact information.
5 See copy of correspondence between Dean A. Dickie and Barry Slotnick attached
6 hereto as Exhibit C.

7 13. On March 18, 2011, Plaintiff's counsel sent another letter to
8 Mr. Slotnick raising concerns regarding Loeb & Loeb's attempts to frustrate
9 Plaintiff's attempts at service of Rister via Shapiro Bernstein and Mr. Riesterer,
10 specifically noting concerns regarding Loeb & Loeb's refusal to provide
11 Mr. Riesterer's contact information. See Exhibit D.

12 14. On March 18, 2011, Mr. Slotnick responded to Plaintiff's
13 correspondence disavowing any agency relationship between Shapiro and Rister
14 and demanding that Plaintiff withdraw service on Rister Editions and/or Square
15 Rivoli via Shapiro. See copy of correspondence between Dean A. Dickie and Barry
16 Slotnick attached hereto as Exhibit E.

17 15. On March 21, 2011, Mr. Slotnick finally reversed his position and
18 conceded that Loeb & Loeb was representing Mr. Riesterer and would be willing to
19 provide his contact information. See copy of correspondence between Dean A.
20 Dickie and Barry Slotnick attached hereto as Exhibit F.

21 16. On April 15, 2011, Loeb & Loeb filed Mr. Risterer's answer to the
22 second amended complaint. [Doc. #127]

23 **Standard for Reasonable Attorneys' Fees**

24 17. Upon deciding to award attorneys' fees, district courts ordinarily
25 determine a reasonable award by starting with the lodestar amount. *Glass v. Sue*,
26 No. No. CV 09-8570, 2011 WL 561028 (C.D. Cal. Feb. 8, 2011) (citing *City of*
27 *Burlington v. Dague*, 505 U.S. 557, 559 (1992)); *Morales v. City of San Rafael*, 96
28

1 F.3d 359, 363 (9th Cir. 1996). The lodestar amount is calculated by multiplying the
2 number of hours reasonably expended on litigation by a reasonable hourly fee. *Id.*
3 Courts may adjust the lodestar upward or downward based on facts not subsumed
4 in the initial lodestar calculation. *Van Gerwen v. Guarantee Mut. Life Co.*, 214 F.3d
5 1041, 1045 (9th Cir. 2000). The amount of reasonable attorneys' fees is "committed
6 to the sound discretion of a trial judge." *Glass*, 2011 WL 561028, at *2 (citation
7 omitted).

8 18. In determining a reasonable hourly rate, courts generally consider
9 several factors, including: (1) the experience, skill, and reputation of the applicant;
10 (2) the prevailing rate in the community for comparable attorneys; and (3) the
11 novelty or difficulty of the issues presented. *See Welch v. Metro. Life Ins. Co.*, 480
12 F.3d 942, 946 (9th Cir. 2007); *Chalmers v. City of L.A.*, 796 F.2d 1205, 1210-11
13 (9th Cir. 1986).

14 19. Courts typically reduce the hours claimed when the documentation is
15 inadequate or the time has not been reasonably expended *Welch*, 480 F.3d at 948
16 (citing *Sorenson v. Mink*, 239 F.3d 1140, 1146 (9th Cir. 2001)).

17 20. Additionally, Courts may reduce a fee award if the prevailing party
18 unreasonably protracts the litigation, resulting in unnecessary fees or engages in
19 conduct that unduly multiplies the proceedings *Hensley v. Eckerhart*, 461 U.S. 424,
20 456 (1983); *Jankey v. Poop Deck*, 537 F.3d 1122, 1131-34 (9th Cir. 2008).

21 **Objection to Rister's Unreasonable Attorneys' Fees and Costs**

22 **A. The Attorneys' Fees Expended for a Refiled Motion to Dismiss** 23 **Are Unreasonable and Excessive**

24 21. The second Motion to Dismiss for lack of proper service is little more
25 than a rehash of the same arguments and overlapping caselaw citations raised in the
26 first motion to dismiss filed by Rister in December of 2010. [See Doc. #53 and Doc.
27
28

1 #122]. As such, the time Loeb & Loeb expended to essentially refile a motion to
2 dismiss on the same grounds as an earlier motion is excessive and unreasonable.

3 22. Based on the written exchange with Loeb & Loeb and the Internet
4 statement that Shapiro, Bernstein & Co. (“Shapiro”) was the representative for
5 Square Rivoli and Rister Editions (“**Shapiro Bernstein Representing Square**
6 **Rivoli and Rister Editions**” posted as an article on Shapiro’s own website,
7 advertising its relationship with Rister to the world), Plaintiff’s counsel concluded
8 that at the very least, Shapiro was the implied agent for service on Rister pursuant
9 to Federal Rule of Civil Procedure 4(e)(2). [A true and correct copy of the
10 Newpost is attached as Exhibit A to Doc. #123-1]

11 23. The expenditure of 71.3 hours, totaling **\$36,091.50**, presented by Loeb
12 & Loeb as billable time spent in filing the motion to dismiss is inaccurate, not
13 reasonable and completely unwarranted given the lack of novelty or difficulty of
14 the issue presented. Indeed, if Plaintiff counsel’s conduct was “reckless” little if any
15 research was needed and the service issue would have been facily dispatched.

16 24. However, reliance on an internet statement made by Shapiro Bernstein
17 to the public is neither reckless nor inappropriate under FRCP 4(e)(2).This is
18 particularly so given the fact that in there is an overlap of cases shown in the
19 motions despite the inclusion of extensive billable entries for legal research.

20 25. The expenses sought go beyond that which the Court directed be
21 addressed. Upon careful review of the billable entries included in the “Time
22 Detail” submitted, it quickly becomes clear that the billable entries submitted by
23 Loeb & Loeb do not solely relate to the expenses incurred in the filing of the
24 motion to dismiss as directed by the Court’s order. Instead, the entries appear to
25 encompass all time apparently spent by Loeb & Loeb on behalf of Rister in this
26 matter, expenses not those incurred directly in filing the motion.

27
28

1 26. The second motion to dismiss and memorandum filed by Loeb & Loeb
2 totals eight (8) pages, the substance of which greatly mirrors the argument
3 contained within the first motion to dismiss filed in December of 2010. [See Doc.
4 #53 and #122 for comparison].

5 27. The “Time Detail” provided shows that Loeb & Loeb seeks
6 compensation for **29.5** hours related to the filing of an 8-page second motion to
7 dismiss and memorandum, totaling **\$15,725.00**. The motion and reply total 16
8 pages. [Doc. #128-2, at 1 and 2] Nothing in the Declaration of Mr. Slotnick sets
9 forth why almost 30 hours of attorney time was required to refile a previous
10 motion. Plaintiff’s counsel should not be expected to pay for Rister’s re-creation of
11 the proverbial “wheel.”

12 28. Thus, the expenditure of 29.5 hours on an eight (8) page motion to
13 dismiss and memorandum in support of the motion cannot be reasonable or
14 justified. Moreover, the 30 hours of time to draft an 8-page motion would seem to
15 be evidence of either inexperience or excessive billing.

16 29. Likewise, the Reply filed by Loeb & Loeb in support of the motion to
17 dismiss encompasses only eight (8) pages. Yet Loeb & Loeb billed 26.7 hours to
18 same, totaling **\$11,644.40**.

19 30. There is no explanation of how or why 26.7 hours of lawyer time were
20 required to draft an eight (8) page Reply brief.

21 31. 56.2 hours to draft 16 pages on a topic which was previously briefed
22 by the same firm simply cannot be justified.

23 32. Of further significant note, Mr. Slotnick’s declaration shows that Loeb
24 & Loeb spent 10.7 hours, totaling **\$4,285.00** in preparing the application for
25 attorneys’ fees *alone*.

26
27
28

1 33. Preparing the application for fees to this Court does not constitute fees
2 incurred in filing the motion. Rather, that calculation constitutes fees on fees, not
3 fees incurred in filing the Motion to Dismiss and as such, is not appropriate.

4
5 **B. The Number of Senior Billing Attorneys Is Unreasonable and
6 Excessive**

7 34. Mr. Slotnick's declaration provides the background and extensive
8 experience level of the five billing attorneys involved in this matter. [See Doc.
9 #128, p.5-6]. Of the five attorneys, Mr. Schwartz is the only junior associate noted
10 as billing on this matter. Of the 71.3 hours included in the "Time Detail," only
11 eight (8) were expended by the least expensive attorney on the matter.

12 35. Nowhere in the declaration does Mr. Slotnick provide any legitimate
13 reason, nor does one exist, as to why five separate attorneys, including a senior
14 partner and three senior associates, were required to bill time on motion to dismiss
15 which 1) sought a remedy to which Rister was not even entitled as a matter of law
16 (dismissal with prejudice); and 2) involved neither a complex legal issue or novel
17 creative analysis. This was a simple, straightforward motion to dismiss for lack of
18 proper service under FRCP Rule 4.

19 36. Furthermore, given the experience level of the associates and partner
20 involved, there exists no legitimate reason why it was necessary for the billing
21 attorneys to expend 52 hours in drafting the 16 pages that make up the totality of
22 the legal argument presented.

23 **C. Erroneous Inclusion of Improper Billable Entries Should Be
24 Stricken**

25 37. Mr. Slotnick erroneously included the following entry in the "Time
26 Detail" allegedly incurred in filing the motion to dismiss: "DRAFT ANSWER FOR
27 FREDERIC RIESTERER TO PLAINTIFF'S COMPLAINT; DRAFT TIMELINE
28 AND SUMMARY OF KEY CASE EVENTS." That billable entry is for 4.10
hours, totaling **\$2,050.00**.

1 38. Surely, Mr. Slotnick is not taking the disingenuous position that
2 drafting an answer on behalf of Mr. Riesterer is a billable entry related to the
3 motion to dismiss filed on Rister's behalf. That entry should be stricken.

4 **D. Conclusion**

5 39. Plaintiff's counsel objects to the declaration and "Time Detail"
6 submitted by Loeb & Loeb in support of its application for fees. It is insufficient in
7 detail and explanation as to why five (5) lawyers and two (2) paralegals were
8 necessary to file 16 pages on an issue that had previously been briefed. Plaintiff
9 respectfully requests that the Court reduce the amount of fees requested by Rister
10 due to the excessive and unreasonable nature and amount of the billable entries; the
11 unreasonable staffing of this non-complex matter with senior attorneys; and the
12 inclusion of blatantly erroneous and inapplicable billing entries.

13 40. Plaintiff further requests that the Court also apply the lodestar amount
14 towards a more reasonable number of hours expended on filing the second motion
15 to dismiss multiplied by a reasonable hourly fee in this jurisdiction.

16 I declare under penalty of perjury that the statements contained in this
17 Declaration are true and correct.

18 Executed this 26th day of April, 2011.

19
20
21 

22 _____
23 Dean A. Dickie

EXHIBIT “A”

1 **BRYAN CAVE LLP**
Jonathan Pink, California Bar No. 179685
2 3161 Michelson Drive, Suite 1500
Irvine, California 92612-4414
3 Telephone: (949) 223-7000
Facsimile: (949) 223-7100
4 E-mail: jonathan.pink@bryancave.com

5 **BRYAN CAVE LLP**
Kara E. F. Cenar, (*Pro Hac Vice*)
6 Mariangela M. Seale, (*Pro Hac Vice*)
161 North Clark Street, Suite 4300
7 Chicago, IL 60601-3315
Telephone: (312) 602-5000
8 Facsimile: (312) 602-5050
E-mail: kara.cenar@bryancave.com
9 merili.seale@bryancave.com

10 Attorneys for Defendants
WILLIAM ADAMS; STACY FERGUSON; ALLAN PINEDA; and JAIME
11 GOMEZ, all individually and collectively as the music group THE BLACK EYED
PEAS; will.i.am music, llc; TAB MAGNETIC PUBLISHING; CHERRY RIVER
12 MUSIC CO.; HEADPHONE JUNKIE PUBLISHING, LLC; JEEPNEY MUSIC,
INC.; EMI APRIL MUSIC, INC.

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**
15

16 BRYAN PRINGLE, an individual,
17 Plaintiff,
18 v.

19 WILLIAM ADAMS, JR.; STACY
FERGUSON; ALLAN PINEDA; and
20 JAIME GOMEZ, all individually and
collectively as the music group the
21 Black Eyed Peas; DAVID GUETTA;
FREDERICK RIESTERER; UMG
22 RECORDINGS, INC.; INTERSCOPE
RECORDS; EMI APRIL MUSIC,
23 INC.; HEADPHONE JUNKIE
PUBLISHING, LLC; WILL.I.AM.
24 MUSIC, LLC; JEEPNEY MUSIC,
INC.; TAB MAGNETIC
25 PUBLISHING; CHERRY RIVER
MUSIC CO.; SQUARE RIVOLI
26 PUBLISHING; RISTER EDITIONS;
and SHAPIRO, BERNSTEIN & CO.,
27
28 Defendants.

Case No. SACV10-1656 JST (RZx)

Hon. Josephine Staton Tucker
Courtroom 10A

INITIAL DISCLOSURES

Complaint Filed: October 28, 2010
Trial Date: Not Assigned

1 Defendants WILLIAM ADAMS; STACY FERGUSON; ALLAN PINEDA;
2 and JAIME GOMEZ, all individually and collectively as the music group THE
3 BLACK EYED PEAS; will.i.am music, llc; TAB MAGNETIC PUBLISHING;
4 CHERRY RIVER MUSIC CO.; HEADPHONE JUNKIE PUBLISHING, LLC;
5 JEEPNEY MUSIC, INC.; EMI APRIL MUSIC, INC. hereby submit their Initial
6 Disclosures pursuant to Fed. R. Civ. P. 26(a)(1).

7
8 **INITIAL DISCLOSURES**

9
10 *(i) the name and, if known, the address and telephone number of each*
11 *individual likely to have discoverable information – along with the subjects of that*
12 *information – that the disclosing party may use to support its claims or defenses,*
13 *unless the use would be solely for impeachment;*

14 **1. Bryan Pringle**, c/o Hampton Holley LLP, 2101 East Coast Highway,
15 Ste 260, Corona del Mar, CA 92625. Subject Matter: Mr. Pringle is believed to
16 have knowledge regarding, among other things, the validity of the copyright being
17 asserted, deficiencies in the copyright registration and related copyright misuse,
18 factual information regarding the creation and dissemination of “Take a Dive” and
19 all derivative works thereof, including what he refers to as to the “guitar twang”).
20 Mr. Pringle also is believed to have knowledge regarding Plaintiff’s improper
21 dissemination and manipulation of Defendants’ musical composition and recording
22 thereof, Plaintiff’s use of a fabricated claim to use The Black Eyed Peas’ reputation
23 for personal gain, and Plaintiff’s communications with Ebony LaTrice Batts and/or
24 Manfred Mohr in furtherance of the same.

25 **2. UMG Recordings, Inc.**, c/o Caldwell Leslie & Proctor, PC, 1000
26 Wilshire Boulevard, Suite 600, Los Angeles, CA 90017. (213) 629-9040. Subject
27 Matter: The issues raised by Plaintiff regarding his claims that recordings of certain
28 musical compositions he alleges to have authored were sent to and received by

1 UMG, and financial issues related to the challenged musical composition and sound
2 recording.

3 **3. Interscope Records**, c/o Caldwell Leslie & Proctor, PC, 1000 Wilshire
4 Boulevard, Suite 600, Los Angeles, CA 90017. (213) 629-9040. Subject Matter:
5 The issues raised by Plaintiff regarding his claims that certain recordings of musical
6 compositions he alleges to have authored were sent to and received by UMG, and
7 financial issues related to the challenged musical composition and sound recording

8 **4. David Guetta**, c/o Loeb & Loeb LLP, 345 Park Avenue, New York,
9 NY 10154. (212) 407-4000. Subject Matter: Mr. Guetta is believed to have
10 knowledge regarding, among other things, the musical material employed in the
11 musical composition “I Gotta Feeling,” including the independent and anterior
12 creation of what Plaintiff refers to as the “guitar twang,” as well as the recording
13 thereof.

14 **5. Frederick Riesterer**, c/o Loeb & Loeb LLP, 345 Park Avenue, New
15 York, NY 10154. (212) 407-4000). Subject Matter: Mr. Riesterer is believed to
16 have knowledge regarding, among other things, the musical material employed in
17 the musical composition “I Gotta Feeling,” including the independent and anterior
18 creation of what Plaintiff refers to as the “guitar twang,” as well as the recording
19 thereof.

20 **6. Shapiro, Bernstein & Co.**, c/o Loeb & Loeb LLP, 345 Park Avenue,
21 New York, NY 10154. (212) 407-4000). Subject Matter: A representative of this
22 company is believed to have knowledge regarding, among other things, the
23 ownership and exploitation of the musical material employed in the musical
24 composition “I Gotta Feeling,” including the independent and anterior creation of
25 what Plaintiff refers to as the “guitar twang.”

26 **7. Williams Adams**, Bryan Cave LLP, 161 N. Clark Street, Suite 4300,
27 Chicago, Illinois, 60601-3305. (312) 602-5000. Subject Matter: Mr. Adams is
28 believed to have knowledge regarding, among other things, the authorship of the

1 musical composition “I Gotta Feeling,” including the independent and anterior
2 creation of what Plaintiff refers to as the “guitar twang” as well as the performance
3 thereof embodied in the challenged sound recording. Mr. Adams is also believed to
4 have information concerning reputational suffered by The Black Eyed Peas in
5 connection with Plaintiff’s action, as well as financial issues related to the
6 challenged musical composition and challenged sound recording thereof.¹

7 *(ii) a copy—or a description by category and location—of all documents,*
8 *electronically stored information, and tangible things that the disclosing party has*
9 *in its possession, custody, or control and may use to support its claims or defenses,*
10 *unless the use would be solely for impeachment;*

11 1. Audio exhibits of the sound recording of the musical composition,
12 “Take a Dive.” (provided in connection with Preliminary injunction proceedings).

13 2. Audio exhibits of the sound recording of the musical composition,
14 “Take a Dive (Dance Version).” (provided in connection with Preliminary
15 injunction proceedings).

16 3. Other audio exhibits (provided in connection with Preliminary
17 injunction proceedings).

18 4. Documents, references, and other public information cited to or
19 submitted by Defendants in connection with the preliminary injunction proceedings.

20 5. Documents, electronically stored information, and tangible things
21 related to the creation, constituent elements, performance, recording of and/or
22 financial information related to the musical composition, “I Gotta Feeling” are
23 located in whole or in part at the addresses of the various Defendants or their
24 counsel’s offices. To the extent the aforementioned documents and things contain
25 proprietary and confidential information, a mutual agreement governing
26 confidentiality will be required.

27 _____
28 ¹ These disclosing parties reserve the right to supplement this list of witnesses to include, among others, witnesses disclosed by other parties.

1 6. Documents, electronically stored information, and tangible things
2 related to the various subject matters identified under Plaintiff above are believed to
3 be located at his address as identified in the Complaint, or pursuant to preservation
4 requests, in Plaintiff's counsel's office in Chicago.

5 7. Documents, electronically stored information, and tangible things
6 related to the applications and registrations of claims to copyright in the works at
7 issue in this case, are located in the U.S. Copyright office, as well as the files of the
8 owners of the respective applications and registration certificates.

9 8. Documents, electronically stored information, and tangible things
10 related to statements that Plaintiff made to various media outlets relating to, among
11 other things, this lawsuit and the alleged infringement of Plaintiff's musical
12 composition(s) and sound recording(s) thereof, and postings by Mr. Pringle are
13 believed to be located at his address or, pursuant to preservation requests, in
14 Plaintiff's counsel's office in Chicago.

15 9. Given the current status of the litigation, and the lack of specificity to
16 the basis for Plaintiff's claim, including which particular musical composition and
17 recording thereof he claims were infringed, it is not yet believed that each category
18 set forth above may be used to support a defense or that such defense may be
19 necessary. The categories have therefore been provided conditionally. To the
20 extent the aforementioned documents, electronically stored information, or tangible
21 things contain proprietary and confidential information, a mutual agreement
22 governing confidentiality may be required. Also, it is anticipated that additional
23 documents will be located through further investigation and discovery.
24 Accordingly, Defendants may provide a supplemental disclosure at a later date.

25 *(iii) a computation of each category of damages claimed by the disclosing*
26 *party—who must also make available for inspection and copying as under Rule 34*
27 *the documents or other evidentiary material, unless privileged or protected from*
28 *disclosure, on which each computation is based, including materials bearing on the*

1 *nature and extent of injuries suffered; and*

2 Defendants will seek to recover all attorneys' fees and costs incurred herein.
3 To date, Defendants have not alleged any claims against Plaintiff for damages but
4 would seek to off set any damage claim of Plaintiff by the value of the unjust
5 enrichment obtained, and or the value and benefit obtained by Plaintiff beyond the
6 scope of the copyright registration. Notwithstanding these initial disclosures,
7 Defendants reserve the right to allege a claim against Plaintiff for damages. If
8 Defendants assert such a claim, Defendants will provide a computation of damages,
9 to the extent that such a computation is possible, and to the extent required by the
10 Federal Rules of Civil Procedure.

11 *(iv) for inspection and copying as under Rule 34, any insurance agreement*
12 *under which an insurance business may be liable to satisfy all or part of a possible*
13 *judgment in the action or to indemnify or reimburse for payments made to satisfy the*
14 *judgment.*

15 Pursuant to Fed. R. Civ. P. 26(a)(1)(A)(iv), these responding defendants are
16 not aware of any applicable insurance agreement at this time. If any agreements that
17 may provide coverage are discovered in the future, Defendants will provide a
18 supplemental disclosure.

19 Dated: February 28, 2011

BRYAN CAVE LLP

Kara E.F. Cenar

Jonathan Pink

20
21
22 By: 

Jonathan Pink

Attorneys for Defendants

23
24 WILLIAM ADAMS; STACY FERGUSON;
25 ALLAN PINEDA; and JAIME GOMEZ, all
26 individually and collectively as the music
27 group THE BLACK EYED PEAS; will.i.am
28 music, llc; TAB MAGNETIC
PUBLISHING; CHERRY RIVER MUSIC
CO.; HEADPHONE JUNKIE
PUBLISHING, LLC; JEEPNEY MUSIC,
INC.; EMI APRIL MUSIC, INC.

**PROOF OF SERVICE
CCP 1013A(3) REVISED 5/1/88**

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is: 3161 Michelson Drive, Suite 1500, Irvine, CA 92612-4414.

On February 28, 2011, I served the foregoing document(s) described as:

INITIAL DISCLOSURES

on all interested parties in this action by placing a true copy the original thereof enclosed in sealed envelopes addressed as follows:

Dean A. Dickie
Miller Canfield Paddock and Stone, P.L.C.
225 West Washington Street, Suite 2600
Chicago, IL 60606
Attorneys for Plaintiff BRYAN PRINGLE
Phone: 312-460-4217
Fax: 312-460-4288
Email:
dickie@millercanfield.com

Ira Gould
Ryan L. Greely
Gould Law Group
120 North LaSalle Street, Suite 2750
Chicago, IL 60602
Phone: 312-781-0680
Fax: 312-726-1328
Email: gould@igould.com
rgreely@igould.com

George L. Hampton IV
Colin C. Holley
Hampton Holley LLP
2101 East Coast Highway, Suite 260
Corona del Mar, CA 92625
Phone: 949-718-4550
Fax: 949-718-4580
Email:
ghampton@hamptonholley.com
cholley@hamptonholley.com

Linda M. Burrow
Caldwell Leslie & Proctor, PC
1000 Wilshire Blvd., Suite 600
Los Angeles, CA 90017-2463
Attorneys for Universal Music Group, Inc.; UMG Recordings, Inc.; Interscope Records
Phone:
Fax:
Email: burrow@caldwell-leslie.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Donald A. Miller
Loeb & Loeb LLP
10100 Santa Monica Blvd., Suite 2200
Los Angeles, CA 90067-4120

Attorneys for Shapiro,
Bernstein & Co., Inc.; Rister
Editions; David Guetta
Phone: 310-282-2000
Fax: 310-282-2200
Email: kthorland@loeb.com ;
dmiller@loeb.com

BY CM/ECF NOTICE OF ELECTRONIC FILING: I caused said document(s) to be served by means of this Court's electronic transmission of the Notice of Electronic filing through the Court's transmission facilities, to the parties and/or counsel who are registered CM/ECF Users set forth in the service list obtained from this Court.

BY MAIL - As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at Irvine, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

BY FACSIMILE - I caused said document to be transmitted to a facsimile machine maintained by the office of the addressee(s) at the facsimile machine number(s) indicated. Said facsimile number(s) are the most recent numbers appearing on documents filed and served by the addressee(s). I received electronic confirmation from the facsimile machine that said document was successfully transmitted without error.


BY OVERNIGHT DELIVERY - Depositing the above document(s) in a box or other facility regularly maintained by FedEx in an envelope or package designated by FedEx with delivery fees paid or provided for.

BY PERSONAL DELIVERY - I caused such envelope to be hand delivered to the offices of the addressee.

BY EMAIL - I caused a true copy of the foregoing document(s) to be served by electronic email transmission at the time shown on each transmission, to each interested party at the email address shown above. Each transmission was reported as complete and without error.

FEDERAL - I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on February 28, 2011, at Irvine, California.



Elaine Hellwig

EXHIBIT “B”

Founded in 1852
by Sidney Davy Miller

MILLER CANFIELD

DEAN A. DICKIE
TEL (312) 460-4227
FAX (312) 460-4288
E-MAIL dickie@millercanfield.com

Miller, Canfield, Paddock and Stone, P.L.C.
225 W. Washington, Suite 2600
Chicago, Illinois 60606
TEL (312) 460-4200
FAX (312) 460-4201
www.millercanfield.com

MICHIGAN: Ann Arbor
Detroit • Grand Rapids
Kalamazoo • Lansing
Saginaw • Troy

FLORIDA: Naples

ILLINOIS: Chicago

NEW YORK: New York

CANADA: Toronto • Windsor

CHINA: Shanghai

MEXICO: Monterrey

POLAND: Gdynia
Warsaw • Wrocław

March 15, 2011

Via Email

Barry I. Slotnick, Esq.
LOEB & LOEB LLP
345 Park Avenue
New York, NY 10154

Kara Cenar, Esq.
BRYAN CAVE LLC
161 North Clark Street
Suite 4300
Chicago, IL 60601

Re: Pringle v. William Adams Jr., et al. - Case No. SACV10-1656 JST

Dear Mr. Slotnick and Ms. Cenar:

The February 28, 2011 Rule 26 Disclosures served by Bryan Cave indicate that the address for Defendant Frederic Riesterer is the law firm of Loeb & Loeb LLP, 345 Park Avenue, New York, NY 10154. Given that this was the address that counsel provided us in a federal pleading, we attempted to serve Mr. Riesterer at that address. Our process server informs us that he spoke with Loeb & Loeb's managing partner regarding acceptance of service, that the managing partner called Mr. Riesterer on the phone, spoke with him, and relayed that, contrary to the representations made in the Rule 26 disclosures, Loeb & Loeb is, in fact, not representing him.

In addition to identifying the address for Loeb & Loeb as Mr. Riesterer's address, Bryan Cave has also filed a declaration on Mr. Riesterer's behalf with the federal court in the Central District of California.

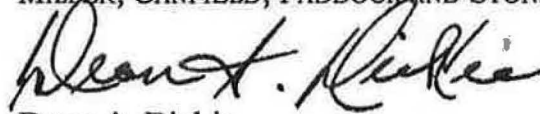
As it is apparent that both of your offices have had contact with Mr. Riesterer, either by way of speaking with him on the phone, or else communicating with him in order to file a Declaration on his behalf, we request that you provide us with his address in France so that we may serve him.

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

We look forward to hearing from you by Thursday with the requested information. If you have any questions, do not hesitate to contact us.

Very truly yours,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.



Dean A. Dickie

DAD/mbs

EXHIBIT “C”



BARRY I. SLOTNICK
Partner

345 Park Avenue
New York, NY 10154

Direct 212.407.4162
Main 212.407.4000
Fax 212.202.7942
bslotnick@loeb.com

Via E-mail

March 16, 2011

Dean A. Dickie, Esq.
Miller, Canfield, Paddock and Stone, P.L.C.
225 W. Washington, Suite 2600 Chicago,
Illinois 60606

Re: *Pringle v. Adams, et al.*, Case No. SACV10-1656 (JST)

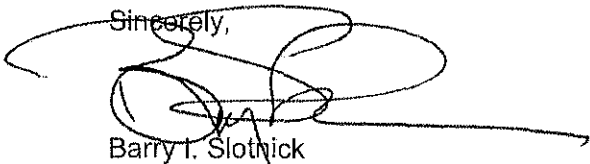
Dear Mr. Dickie:

This is in response to your March 15, 2011 letter. As you know from our February 13, 2010 Memorandum in Support of Motion to Dismiss, neither we nor any defendants are authorized to accept service on Mr. Riesterer's behalf. Neither the Rule 26 initial disclosures (which are not a pleading) nor any declaration submitted by another party changes that fact. Certainly you must be aware that a lawyer, merely by the fact of generally representing a client, does not become an agent for service of process.

Your letter contains numerous errors of fact, which we will assume were the result of misstatements to you by your process server. The person with whom your process server spoke did not identify himself as our managing partner, but as our managing clerk. While both are valuable members of our firm, they are hardly interchangeable or likely to be confused with one another. Indeed, our clerk advised me that he has had many prior dealings with your process server. Our clerk then spoke with me, not Mr. Riesterer, and confirmed to your process server only that, as you already knew, we are not authorized to accept service on Mr. Riesterer's behalf.

Lastly, with respect to your request that we provide Mr. Riesterer's address in France, even assuming we had that information, which we do not, we are not aware of any requirement that we provide that information to you. I think it fitting that on numerous occasions when other counsel for a defendant requested the most basic information regarding your client's claims, you adamantly rejected out of hand any such "expedited discovery".

Sincerely,



Barry I. Slotnick
Partner

cc: Kara Cenar, Esq.

EXHIBIT “D”

Founded in 1852
by Sidney Davy Miller

MILLER CANFIELD

DEAN A. DICKIE
TEL (312) 460-4227
FAX (312) 460-4288
E-MAIL dickie@millercanfield.com

Miller, Canfield, Paddock and Stone, P.L.C.
225 W. Washington, Suite 2600
Chicago, Illinois 60606
TEL (312) 460-4200
FAX (312) 460-4201
www.millercanfield.com

MICHIGAN: Ann Arbor
Detroit • Grand Rapids
Kalamazoo • Lansing
Saginaw • Troy

FLORIDA: Naples

ILLINOIS: Chicago

NEW YORK: New York

CANADA: Toronto • Windsor

CHINA: Shanghai

MEXICO: Monterrey

POLAND: Gdynia
Warsaw • Wrocław

March 18, 2011

Via Email

Barry I. Slotnick, Esq.
LOEB & LOEB LLP
345 Park Avenue
New York, NY 10154

Re: Pringle v. William Adams Jr., et al. - Case No. SACV10-1656
JST—Service on Rister Editions and Square Rivoli Publishing

Dear Mr. Slotnick:

We are writing in response to your March 18, 2011 letter regarding service on Defendants Rister Editions and Square Rivoli Publishing.

As you know, the Federal Rules of Civil Procedure specifically allow service of process by delivering a copy of the summons and operative complaint “to an agent authorized by appointment or by law to receive service of process” including a foreign entity’s managing agent. Fed. R. Civ. P. 4. Shapiro Bernstein is Rister Editions and Squire Rivoli’s representative in the United States and has been since 2009. During our investigation and research into addresses for each of these defendants, we uncovered the Shapiro Bernstein website which states “Shapiro Bernstein is representing Square Rivoli Music and Rister Editions of France for the USA.” See attached website page.

From the tone of your correspondence demanding that service be withdrawn, it appears that you are attempting to help these defendants avoid service, despite the fact that Shapiro Bernstein is their managing agent in the United States. This concern is amplified by your refusal to provide any contact information for Defendant Riesterer, and we hope it is not the case. We are happy to discuss this matter with you further. If you would like to set up a call, let us know.

Very truly yours,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.



Dean A. Dickie

DAD/mbs

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

EXHIBIT “E”



BARRY I. SLOTNICK
Partner

345 Park Avenue
New York, NY 10154

Direct 212.407.4162
Main 212.407.4000
Fax 212.202.7942
bslotnick@loeb.com

Via E-mail

March 18, 2011

Dean A. Dickie, Esq.
Miller, Canfield, Paddock and Stone, P.L.C.
224 W. Washington, Suite 2300
Chicago, Illinois 60606

Re: Pringle v. Adams, et al., Case No. SACV10-1656 (JST)

Dear Mr. Dickie:

We write with regard to your improper and harassing attempts to use our client, Shapiro, Bernstein & Co., Inc. ("Shapiro Bernstein"), as a means to effect service of process on other unrelated entities, Rister Editions and Square Rivoli. Because the Court has already ruled that such service is ineffective, we can only assume that the purpose of your recent attempted service is solely to harass our clients and force us to engage in additional costly motion practice.

As you know, on November 5, 2010 and December 2, 2010, you attempted to serve process on Square Rivoli and Rister Editions by delivering a copy of the summons and complaint to Shapiro Bernstein's offices. By letter dated December 8, 2010, I informed you that "Shapiro Bernstein is not an agent for service of process and is not authorized to accept service on [Frederic Riesterer's, Rister Editions' or Square Rivoli Publishing's] respective behalves." Nevertheless, on December 12, 2010, you proceeded to file purported proofs of service on Rister Editions and Square Rivoli based on this ineffective service, thereby forcing us to incur the cost of a motion to dismiss based on improper service. (Dkt. Nos. 53-1, 53-2.)

In its January 27, 2011 Order, the Court recognized that your purported service was invalid, and ordered you to serve the summons and complaint, in a proper manner, within 120 days of your commencement of the action on October 28, 2010 (*i.e.*, by February 28, 2011). We were therefore astonished to learn that on Wednesday of this week, you again attempted to serve process on Rister Editions and Square Rivoli by delivering copies of the summons and complaints to Shapiro Bernstein's offices. Given our prior communications and the Court's January 27th Order, there is absolutely no good faith basis for your continued belief that service on Rister Editions and/or Square Rivoli can properly be effected via Shapiro Bernstein.

In light of the above, we demand that, by the close of business on Monday, March 21, 2011, you acknowledge in writing: (i) your withdrawal of any and all attempted service on Rister Editions and/or Square Rivoli via Shapiro Bernstein, and (ii) that you will refrain from any such attempted service in the future. If you do not, we will be forced to file yet another motion to dismiss, and to seek to recover all of our attorneys fees and costs incurred in connection therewith.



Nothing in this letter is intended to waive, or shall be construed as a waiver, of our clients' respective rights and remedies, at law or in equity, all of which are expressly reserved.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Barry I. Slotnick', written over a horizontal line.

Barry I. Slotnick
Partner

EXHIBIT ‘F’



BARRY I. SLOTNICK
Partner

345 Park Avenue
New York, NY 10154

Direct 212.407.4162
Main 212.407.4000
Fax 212.202.7942
bslotnick@loeb.com

Via E-mail

March 21, 2011

Dean A. Dickie, Esq.
Miller, Canfield, Paddock and Stone, P.L.C.
224 W. Washington, Suite 2300
Chicago, Illinois 60606

Re: Pringle v. Adams, et al., Case No. SACV10-1656 (JST)

Dear Mr. Dickie:

This is in response to your March 18, 2011 letter which seeks contact information for Frederic Riesterer,¹ with reference to your March 15 letter, and our March 16 letter, regarding your improper attempt to serve Mr. Riesterer via our offices. Because your March 15 letter sought Mr. Riesterer's contact information from Loeb & Loeb LLP in its own capacity, and not as counsel for Shapiro Bernstein, we properly informed you by letter dated March 16 that we did not have Mr. Riesterer's contact information and were under no obligation to provide it to you.

Your March 18 letter now appears to request Mr. Riesterer's contact information from us as counsel for Shapiro Bernstein. We have therefore consulted with our client and will agree to furnish Mr. Riesterer's contact information to you in that capacity.

We note, however, that on January 27, 2011, the Court ruled that you had 120 days from the October 28, 2010 commencement of this action (*i.e.*, until February 28, 2011) to serve the summons and complaint(s). As such, our agreement to provide you with Mr. Riesterer's contact information is without prejudice to his rights to challenge any subsequent service of process.

We presume that this addresses the concerns raised in your March 18, 2011 letter. If you wish to discuss this matter further, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Barry I. Slotnick", written over a horizontal line.

Barry I. Slotnick
Partner

¹ Although your letter demanded a response by the close of business on March 18 (the same day it was sent), we did not receive your letter until it was transmitted to us by email after the close of business on that date. Consequently, we were not in a position to respond in the time frame you demanded.