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 8 FREDERIC RIESTERER, AND  
 DAVID GUETTA  
 9

10 UNITED STATES DISTRICT COURT  
 11 CENTRAL DISTRICT OF CALIFORNIA  
 12 SOUTHERN DIVISION

13 BRYAN PRINGLE, an individual,

14 Plaintiff,

15 v.

16 WILLIAM ADAMS, JR.; STACY  
 17 FERGUSON; ALLAN PINEDA; and  
 JAIME GOMEZ, all individually and  
 18 collectively as the music group The  
 Black Eyed Peas, et al.,

19 Defendants.  
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Case No. SACV 10-1656 JST(RZx)

Hon. Josephine Staton Tucker  
 Courtroom 10A

**DECLARATION OF BARRY I.  
 SLOTNICK IN SUPPORT OF  
 APPLICATION TO CONTINUE  
 HEARING DATE FOR  
 DEFENDANTS' SUMMARY  
 JUDGMENT MOTION, PRETRIAL  
 CONFERENCE DATE AND TRIAL  
 DATE**

Complaint Filed: October 28, 2010

Trial Date: March 27, 2012

1 I, BARRY I. SLOTNICK, declare as follows:

2 1. I am a partner of the law firm Loeb & Loeb LLP, attorneys for David  
3 Guetta, Frederic Riesterer and Shapiro, Bernstein & Co., Inc. (collectively “Guetta  
4 Defendants”) in this action. I am lead counsel for the Guetta Defendants in this  
5 action. I am a member in good standing of the Bar of the State of New York and  
6 have been admitted to practice in this Court *pro hac vice* by Order dated December  
7 21, 2010 (Doc. 70). I have personal knowledge of the facts set forth hereinafter, and  
8 I submit this declaration in support of the Guetta Defendants’ Application to  
9 Continue the Hearing Date for Defendants’ Summary Judgment Motion, Pretrial  
10 Conference Date and Trial Date.

11 2. On or about December 8, 2011, I learned that the January 23, 2012  
12 hearing date for the Guetta Defendants’ summary judgment motion conflicted with a  
13 jury trial that had been scheduled to commence on January 23, 2011 in a copyright  
14 dispute pending before Judge Pauley in the Southern District of New York (“New  
15 York jury trial”) in which I am also lead trial counsel. At that time, the New York  
16 jury trial was expected to last only five days and to be concluded by January 27,  
17 2012.

18 3. To accommodate that scheduling conflict, the parties to this action  
19 stipulated to a one-week adjournment of the January 23, 2012 hearing date to  
20 January 30, 2012 (Doc. 182), and the Court granted that request on December 13,  
21 2011 (Doc. 183).

22 4. On January 18, 2012, I participated in a pretrial conference with Judge  
23 Pauley, in which I learned that the New York jury trial will likely carry over to the  
24 week of January 30, 2012 and conflict with the January 30, 2012 hearing date for  
25 Defendants’ summary judgment motion in this action. When I advised Judge  
26 Pauley of the January 30, 2012 hearing date, he inquired as to whether the hearing  
27 could be adjourned.

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1           5.       As demonstrated by the Guetta Defendants' summary judgment reply  
2 papers (Doc. 213-223), ample grounds exist to grant Defendants' Motion for  
3 Summary Judgment without a holding hearing, including but not limited to the fact  
4 that (a) Plaintiff concedes that it would have been technologically impossible for  
5 Defendants to have sampled from the work he registered for copyright, (b) there is  
6 no evidence that the creators of "I Gotta Feeling" ever had access to Plaintiff's  
7 music, and (c) Plaintiff's own musicologists acknowledge that there are no  
8 protectable similarities between "I Gotta Feeling" and Plaintiff's song "Take a  
9 Dive".

10           6.       Nevertheless, should the Court have any concerns granting Defendants'  
11 summary judgment motion without holding a hearing, I respectfully request that the  
12 Court adjourn the hearing to a date when all lead counsel are able to attend, so that  
13 the Court has the full benefit of their arguments and input. Based on my office's  
14 communications with counsel for Plaintiff and counsel for the other Defendants, it  
15 appears that March 5, 2012 is the next available hearing date on which all lead  
16 counsel are available.

17           7.       Should the Court grant a continuance of the summary judgment hearing  
18 date, I respectfully submit that the Court should also grant an extension of the  
19 pretrial and trial dates. By operation of the Local Rules and this Court's February  
20 24, 2011 Order on Jury Trial Procedures (Doc. 116), the presently scheduled March  
21 12, 2012 final pretrial conference and March 27, 2012 trial date trigger the  
22 following deadlines:

23 24 25 26 27 28	February 1, 2012	Deadline to conduct meeting of counsel before final pretrial conference, including (i) agreement on stipulated facts, (ii) disclosure of all exhibits to be used at trial, (iii) identification of all witnesses to be presented at trial, (iv) attempt to resolve all evidentiary objections, and (v) identify all deposition testimony to be offered at trial and objections thereto. <i>See</i> Local Rule 16-2.
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1	February 13, 2012	Deadline to file Motions <i>In Limine</i> . See Local Rule 6-1; Order on Jury Trial Procedures § C.1. Defendants currently anticipate the need to file approximately twelve Motions <i>In Limine</i> .
2	February 17, 2012	Deadline to file Memoranda of Contentions of Fact and Law. See Local Rule 16-4; Order on Jury Trial Procedures § B.
3	February 17, 2012	Deadline for oppositions to Motions <i>In Limine</i> . See Local Rule 7-9; Order on Jury Trial Procedures (Doc. 116) § C.1.
4	February 27, 2012	Deadline for replies to Motions <i>In Limine</i> . See Local Rule 7-10; Order on Jury Trial Procedures § C.1.
5	March 1, 2012	Deadline to file Final Pretrial Conference Order. See Order on Jury Trial Procedures § B.
6	March 5, 2012	Deadline to file (i) Joint Statement of the Case, (ii) Voir Dire Questions, (iii) Joint Witness Lists, (iv) Joint Jury Instructions, (v) Special Verdict Forms, (vi) Joint Exhibit List. See Order on Jury Trial Procedures § C. 2-7.

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13 8. The need to expend significant party resources preparing these various  
14 pretrial materials will be obviated in the event the Court grants Defendants'  
15 summary judgment motion. At the very least, a decision on Defendants' summary  
16 judgment motion will likely narrow the issues that need to be tried and thus the  
17 scope of the pretrial materials. It would therefore be significantly more efficient to  
18 postpone these various pretrial deadlines until after a decision on Defendants'  
19 motion for summary judgment. That will prevent unnecessarily expending both  
20 party and judicial resources preparing to adjudicate claims and issues which may  
21 never be tried.

22 9. As a result, if the Court believes it would benefit from a hearing on  
23 Defendants' summary judgment motion and therefore grants Defendants' request to  
24 adjourn the hearing to March 5, 2012, I respectfully request that the Court also grant  
25 a 45-day continuance of the final pretrial conference and trial date, which will have  
26 the effect of adjourning the above deadlines by the same length of time.

