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IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

ARISTA MUSIC,

No. C 10-03744 WHA

Plaintiff,

v.

**ORDER DENYING
MOTION TO DISMISS**

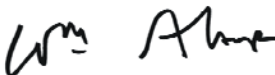
LOWELL LEVINGER, PERRY MILLER,
 formerly known as Jesse Colin Young,
 JERRY CORBITT, STUART KUTCHINS,
 HERB GART, and THE YOUNGBLOOD
 COMPANY,

Defendants.

Plaintiff filed this action for rescission (or alternatively termination) of an agreement with defendants, damages, and indemnification. Defendants move to dismiss the complaint under Federal Rule of Civil Procedure 12(b)(6), based on statutes of limitations and derivative arguments. Their motion is based on documents not appended to the complaint, not items upon which the complaint necessarily relies, and whose contents are not alleged in the complaint. This is improper. The complaint states claims upon which relief can be granted. As such, defendants' motion is **DENIED** and the hearing on the motion is **VACATED**.

IT IS SO ORDERED.

Dated: January 18, 2011.



 WILLIAM ALSUP
 UNITED STATES DISTRICT JUDGE