

1 GERARD FOX LAW P.C.
Gerard P. Fox (SBN 151649)
2 gfox@gerardfoxlaw.com
Lauren M. Greene (SBN 271397)
3 lgreene@gerardfoxlaw.com
Banu S. Naraghi (SBN 312754)
4 bnaraghi@gerardfoxlaw.com
1880 Century Park East, Suite 1410
5 Los Angeles, CA 90067
Telephone: (310) 441-0500
6 Facsimile: (310) 441-4447

7 *Attorneys for Plaintiffs*
8 SEAN HALL D.B.A. GIMME SOME HOT
SAUCE MUSIC AND NATHAN BUTLER
9 D.B.A. FAITH FORCE MUSIC

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 SEAN HALL d.b.a. GIMME SOME
13 HOT SAUCE MUSIC, an individual,
14 and NATHAN BUTLER d.b.a. FAITH
FORCE MUSIC, an individual,

15
16 Plaintiffs,

17 v.

18 TAYLOR SWIFT, an individual, KARL
19 MARTIN SANDBERG, an individual,
20 KARL JOHAN SCHUSTER, an
individual, SONY/ATV MUSIC
21 PUBLISHING, LLC a limited liability
22 company, KOBALT MUSIC
23 PUBLISHING AMERICA INC. a
Delaware Corporation, BIG MACHINE
24 LABEL GROUP, LLC, a limited
liability company, UNIVERSAL
25 MUSIC GROUP, INC., a California
26 Corporation, and DOES 1-5,

27 Defendants.
28

Case No.

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiffs, SEAN HALL D.B.A. GIMME SOME HOT SAUCE MUSIC and
2 NATHAN BUTLER D.B.A. FAITH FORCE MUSIC hereby allege as follows:

3 **PARTIES**

4 1. Plaintiff SEAN HALL D.B.A. GIMME SOME HOT SAUCE MUSIC
5 (“Hall”) is a songwriter and a resident of the State of California. Hall is a co-author
6 of the musical composition entitled “*Playas Gon’ Play*” and a legal and/or beneficial
7 owner of a copyright interest in and to that musical composition.

8 2. Plaintiff NATHAN BUTLER D.B.A. FAITH FORCE MUSIC
9 (“Butler”) is a songwriter and a resident of the State of Georgia. Butler is a co-author
10 of the musical composition entitled “*Playas Gon’ Play*” and a legal and/or beneficial
11 owner of a copyright interest in and to that musical composition.

12 3. On information and belief, Defendant, TAYLOR SWIFT (“Swift”), is a
13 songwriter and a resident of the State of California and, at all material times, is and
14 was doing business in the State of California and within this judicial district.

15 4. On information and belief, Defendant KARL MARTIN SANDBERG
16 aka Max Martin (“Sandberg”), is a songwriter and a resident of the State of
17 California and, at all material times, is and was doing business in the State of
18 California and within this judicial district.

19 5. On information and belief, Defendant KARL JOHAN SCHUSTER aka
20 Shellback (“Schuster”), is a songwriter and a resident of the State of California and,
21 at all material times, is and was doing business in the State of California and within
22 this judicial district.

23 6. Defendant SONY/ATV MUSIC PUBLISHING, LLC (“Sony”) is a
24 limited liability company existing under the law of the State of Delaware, admitted
25 and authorized to conduct business in the State of California, and with offices in the
26 County of Los Angeles, State of California. On information and belief, Plaintiffs
27 allege that Sony owns or co-owns the publishing rights in and to the infringing
28 musical composition “*Shake it Off*”.

1 Defendants reside or may be found within this district and personal jurisdiction may
2 be properly obtained over the Defendants.

3 **GENERAL ALLEGATIONS**

4 **Plaintiffs And 3LW's "*Playas Gon' Play*"**

5 13. Plaintiff Hall is a songwriter and music producer. Since roughly 1993,
6 Hall has written and produced hundreds of songs for various artists such as Justin
7 Bieber, Color Me Badd, Xscape, 98°, Lionel Richie, Pink!, and Maroon 5.

8 14. Plaintiff Butler is a songwriter, music producer, vocal producer, and
9 recording artist. He has worked with multi-platinum artists such as Luther
10 Vandross, Victoria Beckham aka Posh Spice, Backstreet Boys, Christina
11 Milian, Stacie Orrico, JoJo, Aaron Carter, and several others. To date, Butler has
12 accounted for over 45 million records sold worldwide.

13 15. In 2001, Plaintiffs Hall and Butler co-authored the song entitled
14 "*Playas Gon' Play*". "*Playas Gon' Play*" was recorded by the girl group 3LW and
15 released to the public in May 2001.

16 16. After its release, "*Playas Gon' Play*" became a hit. "*Playas Gon' Play*"
17 stayed on Billboard's Hot 100 chart for weeks peaking at No. 81. "*Playas Gon'*
18 *Play*" also reached No. 56 on Billboard's Hot R&B/Hip-Hop Songs chart and No. 17
19 on Billboard's Rhythmic chart.

20 17. "*Playas Gon' Play*" helped springboard the career of 3LW – one of the
21 top girl groups of their era. The song "*Playas Gon' Play*" served as the second single
22 on 3LW's self-titled debut album *3LW*. That album reached No. 29 on the Billboard
23 200 album chart, No. 19 on the Billboard Top R&B/Hip-Hop chart, and was
24 certified platinum by the RIAA with over 1,000,000 units sold.

25 18. In addition, on March 7, 2001 "*Playas Gon' Play*" debuted at #7 on
26 TRL, MTV's video countdown show which played the ten most requested music
27 videos of the day. In the early 2000s, inclusion on the TRL top ten countdown was
28 the benchmark for a top 40 song's popularity.

1 19. In addition, 3LW performed “*Playas Gon’ Play*” several times national
2 television including on Regis & Kelly, MTV, and Fox Family.

3 20. “*Playas Gon’ Play*” includes the lyrical phrase “Playas, they gonna
4 play / And haters, they gonna hate.” The combination of playas/players playing
5 along with hatas/haters¹ hating may seem like common parlance today², however, in
6 2001 it was completely original and unique. Indeed, the combination had not been
7 used in popular culture prior to Plaintiffs’ original use.

8 21. While previous artists had used terms such as “playa hater(s)” or “playa
9 hater(s) hate...” those do not make Plaintiffs’ phrase any less original. The term
10 “playa hater(s)” was often used as a noun to describe a type of person. As commonly
11 used “playa hater(s)” described just one person, a person who hates playas.

12 22. Similarly, the term “playa haters hate” or simply “haters hate” was
13 often used to describe a certain thing that the playa hater or the hater actually held
14 with discontent. When used in this way the term described one person, either a playa
15 hater or a hater, who often engaged in hating.

16 23. Through Plaintiffs’ own originality they created the original and unique
17 lyrical phrase “Playas, they gonna play / And haters, they gonna hate” which is
18 featured prominently in the chorus of Plaintiffs’ work. A version of this phrase “The
19 playas gon’ play / Them haters gonna hate” appears in the introduction of the song.
20 As created by Plaintiffs, the lyrical phrase describes two separate people – one playa
21 who engages in playing and one hater who engages in hating.

22 24. That Plaintiffs originated the linguistic combination of playas/players
23 playing along with hatas/haters hating was recently espoused by the United States
24 District Court for the Central District of Los Angeles in the case *Jessie Braham v.*
25 *Sony/ATV Music Publishing, et. al.*, United States District Court for the Central
26

27 ¹ The terms’ spellings “playa”/”player” and “hater”/”hata” have been used interchangeably in
popular and hip hop culture.

28 ² In large part due to the success of the infringing song “*Shake it Off*”.

1 District of Los Angeles Case No. 2:15-cv-8422 MWF(GJSx). In its Memorandum
2 Supporting Recommendation of Denial of Application to Proceed In Forma Pauperis
3 the Court sets forth the history of the combination and noted that Plaintiffs' work
4 was the first use in public. *Braham v. Sony/ATV Music Publ'g*, No.
5 215CV8422MWFGJSX, 2015 WL 7074571, at *4 (C.D. Cal. Nov. 10, 2015).

6 25. The next line of "*Playas Gon' Play*" furthers the linguistic sequence
7 with the lyrical phrases "Ballers, they gonna ball" and "Shot callers, they gonna
8 call." In all, "*Playas Gon' Play*" prominently features a sequence of four peoples
9 (playas, haters, callers, and ballers) who engage in four activities (playing, hating,
10 calling, and balling). Plaintiffs were the first to put such a sequence together using
11 the terms playas and haters, and prior to Defendants' use at issue herein, the
12 combination had not since been used in popular music. Thus, this sequence created
13 by Plaintiffs is unique and copyrightable.

14 **Defendants' Infringement**

15 26. In 2014, Defendants Swift, Sandberg, and Schuster co-authored the
16 musical composition entitled "*Shake it Off*". The composition was recorded and
17 performed by Defendant Swift and was released to the general public in August
18 2014.

19 27. "*Shake it Off*" copies and includes Plaintiffs' lyrical phrase "Playas,
20 they gonna play / And haters, they gonna hate" by featuring the lyrical phrase
21 "Cause the players gonna play, play, play, play, play and the haters gonna hate, hate,
22 hate, hate, hate" prominently throughout the chorus of "*Shake it Off*". In all, the
23 infringed copyrighted material accounts for roughly 20% of "*Shake if Off*".

24 28. Just like "*Playas Gon' Play*", "*Shake it Off*" continues into a four part
25 lyrical sequence with actors engaging in a type of activity. In Defendants' version,
26 the players and haters are followed by "Heartbreakers gonna break, break, break,
27 break, break/And the fakers gonna fake, fake, fake, fake, fake." The sequence is
28 substantially similar to the sequence in "*Playas Gon' Play*" created by Plaintiffs.

1 29. Defendants undoubtedly had access to “*Playas Gon’ Play*” prior to
2 writing and releasing “*Shake it Off*” given its wide commercial success. Defendant
3 Swift has admitted that she watched MTV’s TRL which promoted “*Playas Gon’*
4 *Play*”. Defendants Sandberg and Schuster are music industry songwriters who
5 specialize in popular music and who have had songs which were also featured on
6 MTV’s TRL.

7 30. Additionally, had Defendants searched Google for the intended lyrics of
8 “*Shake it Off*” in 2014, “*Playas Gon’ Play*” would have appeared further informing
9 Defendants of Plaintiffs’ copyrighted work.

10 31. Defendants knew or should have known that “*Playas Gon’ Play*” could
11 not be used in a musical work by Defendants without a license and/or songwriting
12 credit, as is customary standard practice in the music industry. For example,
13 Beyoncé’s song “*Hold Up*” features lyrics from two previous copyrighted works –
14 the Yeah Yeah Yeahs’ “*Maps*” and Soulja Boy’s “*Turn My Swag On*”. The chorus in
15 “*Maps*” includes the lyrics “Wait, they don’t love you like a love you.” “*Hold Up*”
16 riffs off of these lyrics with the chorus “Hold up, they don’t love you like I love you
17 / Slow down, they don’t love you like I love you / Back up, they don’t love you like
18 I love you / Step down, they don’t love you like I love you.”

19 32. Similarly, “*Turn My Swag On*” includes the lyrics “Hopped up out the
20 bed turn my swag on / Took a look in the mirror said what’s up” while “*Hold Up*”
21 interpolates this lyric with “I hop up out the bed and get my swag on / I look in the
22 mirror, say, ‘What’s up?’” Similar to how “*Shake if Off*” repeats the words “play,”
23 “hate,” “break,” and “fake” at the end of the phrase, the lyrics in “*Hold Up*” repeat
24 the phrase “What’s Up” three times at the end of the phrase.

25 33. Even though “*Hold Up*” did not use the lyrics from “*Turn My Swag*
26 *On*” or “*Maps*” verbatim, the use of the lyrics from both of these songs was still
27 cleared in advance with the copyright owners. This demonstrates the industry
28 standard practice to clear such lyrical similarities.

1 34. Despite this industry standard practice, Defendants never sought a
2 license or other permission from Plaintiffs.

3 35. Upon release “*Shake it Off*” debuted at No. 1 on Billboard’s Hot 100
4 chart. The song went on to become a massive worldwide hit for Swift. “*Shake it Off*”
5 stayed on the Hot 100 for fifty weeks – 24 of them on the top 10. “*Shake it Off*” has
6 been certified 9x Platinum by the RIAA with over 9,000,000 copies sold. The music
7 video for “*Shake it Off*” featuring the song debuted on August 18, 2014 and has
8 approximately 2,380,831,410 views on YouTube.³ Indeed, “*Shake it Off*” is the
9 seventh most viewed video of all time on YouTube.⁴

10 36. Swift’s album *1989*, for which “*Shake it Off*” was the lead single, has
11 been certified 6x Multi-Platinum by the RIAA with over 6,000,000 certified units
12 sold in the United States. In addition, *1989* has sold over 10,000,000 units
13 worldwide.

14 37. Defendants’ infringing acts include, but are not limited to, unlawfully
15 creating, recording, manufacturing, producing, selling, licensing marketing and/or
16 distributing the musical composition and sound recording of “*Shake it Off*”.
17 Defendants’ infringement amounts to the unlawful appropriation of Plaintiffs’
18 copyrighted material including the lyrical phrase “Playas, they gonna play/And
19 haters, they gonna hate.”

20 38. “*Shake it Off*” has also been extensively licensed by Defendants to
21 various third parties for commercial and advertising uses including film,
22 advertisements, television, and video games.

23 39. On information and belief, Defendants have exploited, and continue to
24 exploit, “*Shake it Off*” in this District, the State of California, and throughout the
25 United States and the World by reproducing, preparing derivative works,
26

27 ³ See https://www.youtube.com/watch?v=nfWlot6h_JM (last accessed September 18, 2017).

28 ⁴ See https://www.youtube.com/playlist?list=PLirAqAtl_h2r5g8xGajEwdXd3x1sZh8hC (last accessed September 18, 2017).

1 distributing, licensing, publically performing and otherwise exploiting “*Shake it*
2 *Off*”.

3 40. Defendants’ infringement is continuing as “*Shake it Off*” continues to
4 be sold and licensed by Defendants. Plaintiffs informed Defendants of the
5 infringement, yet, nevertheless, Defendants have persisted in their infringement.

6 **FIRST CLAIM FOR RELIEF**

7 **(For Copyright Infringement Against All Defendants)**

8 41. Plaintiffs restate and incorporate by reference paragraphs 1 through 40
9 as if fully set forth herein.

10 42. Plaintiffs’ composition “*Playas Gon’ Play*” contains copyrightable
11 subject matter under the copyright laws of the United States. At all relevant times
12 herein, Plaintiffs were the owners of the copyright to “*Playas Gon’ Play*” which is
13 the subject of a valid Certificate of Copyright Registration issued by the Register of
14 Copyrights.

15 43. The lyrical phrase “Playas, they gonna play / And haters, they gonna
16 hate” along with the four part sequence of actors engaging in a specific activity
17 detailed above is unique and original, and as such, is properly the subject of
18 copyright protection.

19 44. Among the exclusive rights granted to each Plaintiff under the
20 Copyright Act are the exclusive rights to reproduce and distribute the copyrighted
21 materials to the public and prepare derivative works.

22 45. Defendants have continued to copy and publicly perform Plaintiffs’
23 copyrighted material and have authorized the making or distribution of phonorecords
24 substantially utilizing Plaintiffs’ copyrighted material in and as part of “*Shake it Off*”
25 throughout the world.

26 46. Defendants’ exploitation of “*Playas Gon’ Play*” was made without
27 Plaintiffs’ knowledge or consent constitutes a violation of Sections 106 and 501 of
28 the Copyright Act, 17 U.S.C. §§ 106 and 501.

1 47. Plaintiffs are informed and believe, and based thereon allege, that the
2 foregoing acts of infringement have been willful and intentional, in disregard for and
3 indifference to Plaintiffs' rights.

4 48. Defendants have profited substantially from their infringing activities,
5 have collected, and continue to collect, fees, and royalties from the sale of the
6 infringing work or any derivatives thereof, and have retained a portion of those fees
7 and royalties without submitting any amount to Plaintiffs. Defendants should be held
8 jointly and severally liable for all profits derived as a result of their infringing
9 activities, whether or not collected and retained by them, as practical partners.

10 49. As a result of Defendants' willful infringement of Plaintiffs' copyrights
11 and exclusive rights under copyright, Plaintiffs are entitled to maximum statutory
12 damages pursuant to 17 U.S.C. § 504(c), or to recover their actual damages and
13 profits attributable to the infringement pursuant to 17 U.S.C. § 504(b), at Plaintiffs'
14 election, and such other relief as is provided by law. Plaintiffs are further entitled to
15 their attorney's fees and full costs pursuant to 17 U.S.C. § 505.

16 50. The conduct of Defendants is causing and, unless enjoined and
17 restrained by this Court, will continue to cause Plaintiffs great and irreparable injury
18 that cannot fully be compensated or measured in money. Plaintiffs have no adequate
19 remedy at law. Pursuant to 17 U.S.C. §§ 502 and 503, Plaintiffs are entitled to
20 injunctive relief prohibiting Defendants from further infringing Plaintiffs'
21 copyrights, and ordering Defendants to destroy all copies of the infringing work
22 and/or other material made in violation of Plaintiffs' exclusive rights.

23 **WHEREFORE**, Plaintiffs SEAN HALL D.B.A. GIMME SOME HOT
24 SAUCE MUSIC and NATHAN BUTLER D.B.A. FAITH FORCE MUSIC pray for
25 relief as follows:

26 1. For a judicial determination that Plaintiffs' copyright has been infringed
27 upon by Defendants.

28 2. For damages in such amount as may be found, or as otherwise

1 permitted by law.

2 3. For attorney's fees and costs pursuant to 17 U.S.C. §505.

3 4. For any such other and further relief as the Court may deem just and
4 proper.

5 DATED: September 18, 2017

BY: GERARD FOX LAW P.C.

6
7 /s/ Gerard P. Fox

8 Gerard P. Fox

9 Lauren M. Greene

Banu S. Naraghi

10 *Attorneys for Plaintiffs*

11 SEAN HALL D.B.A. GIMME SOME

12 HOT SAUCE MUSIC and NATHAN

13 BUTLER D.B.A. FAITH FORCE

14 MUSIC
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

Plaintiffs respectfully demand a trial by jury in this action.

DATED: September 18, 2017

BY: GERARD FOX LAW P.C.

/s/ Gerard P. Fox

Gerard P. Fox

Lauren M. Greene

Banu S. Naraghi

Attorneys for Plaintiffs

SEAN HALL D.B.A. GIMME SOME

HOT SAUCE MUSIC and NATHAN

BUTLER D.B.A. FAITH FORCE

MUSIC