

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

JOHN WAITE, an individual; KASIM  
SULTON, an individual; SUSAN STRAW  
HARRIS p/k/a SYD STRAW, an individual;  
LEONARD GRAVES PHILLIPS, an  
individual; STAN SOBOL a/k/a STAN LEE,  
an individual; STEVE WYNN, an individual;  
DENNIS MEHAFFEY, p/k/a DENNIS  
DUCK, an individual; and JOEL DAVID  
PELLISH, p/k/a DAVE PROVOST, an  
individual; and on behalf of all others  
similarly situated,

Plaintiffs,

v.

UMG RECORDINGS, INC., a Delaware  
corporation doing business as Universal  
Music Group; and CAPITOL RECORDS,  
LLC, a Delaware limited liability company;

Defendants.

No. 1:19-cv-01091(LAK)

ORAL ARGUMENT REQUESTED

**PLAINTIFFS’ NOTICE OF MOTION AND  
MOTION FOR CLASS CERTIFICATION**

To: All Parties and their Counsel of Record

PLEASE TAKE NOTICE that on a date and at a time determined by the Court, at the Daniel Patrick Moynihan United States Courthouse located at 500 Pearl Street, New York, NY 10007, in the Courtroom of the Honorable Lewis A. Kaplan, Plaintiffs Kasim Sulton, Susan Straw Harris p/k/a Syd Straw, Leonard Graves Phillips, Stan Sobol p/k/a Stan Lee, Steve Wynn, Dennis Mehaffey p/k/a Dennis Duck, and Joel David Pellish p/k/a Dave Provost, on behalf of themselves and all others similarly situated (collectively, “Plaintiffs”), will, and hereby do, move the Court pursuant to Fed. R. Civ. P. 23, for an Order: (1) granting Plaintiffs’ Motion for Class Certification; (2) certifying the following proposed “Class A” and “Class B” classes of recording artists (and their statutory heirs and

personal representatives); (3) appointing the named Plaintiffs as the Class Representatives; and (3) appointing the law firms of Blank Rome LLP and Cohen Music Law as Class Counsel for the proposed Classes:

- (A) “Class A” – All recording artists (and statutory heirs and personal representatives of those recording artists, if applicable) who have served Defendants with Notices of Termination pursuant to the United States Copyright Act, 17 U.S.C. § 203, describing an effective date of termination for a particular sound recording (i) occurring on or after January 1, 2013, and (ii) occurring no later than the date the Court grants certification of Class A.
- (B) “Class B” – All recording artists (and statutory heirs and personal representatives of those recording artists, if applicable) who have served Defendants with Notices of Termination pursuant to the United States Copyright Act, 17 U.S.C. § 203, describing an effective date of termination for a particular sound recording (i) occurring on or after the date the Court grants certification of Class A, and (ii) occurring no later than December 31, 2031.

Excluded from the proposed Classes are: (i) Defendants, and their parents, subsidiaries, and affiliates, directors, and employees; (ii) any recording artist who, according to the Court’s prior rulings, granted rights to Defendants (or their predecessor companies) with respect to the sound recording via a “loan-out company” or whose sound recordings were provided to Defendants (or their predecessor companies) via a “furnishing company”; (iii) any recording artist who executed a written agreement with Defendants pursuant to 17 U.S.C. § 203(b)(4) whereby a Defendant has been granted a “further grant” of the relevant copyright, or the recording artist has otherwise affirmatively revoked or withdrawn his or her Notice of Termination (*e.g.*, pursuant to an individual settlement agreement, a revocation or withdrawal of termination notice, or further grant of rights);

and (iv) any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, and any juror assigned to this action.

Plaintiffs' Motion for Class Certification is made on the grounds that proposed Classes A and B satisfy the requirements of Rule 23(a) (*i.e.*, numerosity, commonality, typicality, and adequacy of representation), as well as the requirements of Rule 23(b)(3) that the questions of law and fact common to all class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy. Further, both proposed Classes satisfy the requirements of Rule 23(b)(2) in that the Defendants acted or refused to act on grounds that apply generally to the Classes so that final injunctive or corresponding declaratory relief is appropriate with respect to the Classes as a whole. In addition to satisfying any adequacy of representation requirements of Rule 23(a)(4), Plaintiffs' Counsel should be appointed as Class Counsel because they more than satisfy the requirements of Rule 23(g).

Submitted in support of this Motion for Class Certification are:

- (1) Plaintiffs' Memorandum of Law in Support of Plaintiffs' Motion for Class Certification;
- (2) Declaration of Ryan E. Cronin attaching exhibits in support of Plaintiffs' Motion for Class Certification;
- (3) Declarations of Kasim Sulton, Susan Straw Harris p/k/a Syd Straw, Leonard Graves Phillips, Stan Sobol a/k/a Stan Lee, Steve Wynn, Dennis Mehaffey p/k/a Dennis Duck, Joel David Pellish p/k/a Dave Provost in support of Plaintiffs' Motion for Class Certification;
- (4) Declarations of Roy W. Arnold, Gregory M. Bordo, David M. Perry, Ryan E. Cronin, Heidi S. Crikelair, Evan S. Cohen, and Maryann R. Marzano in support of Plaintiffs' Motion for Class Certification;
- (5) All of the pleadings, files and records in this action, and any matters of which this Court may take judicial notice or otherwise consider; and any

further pleadings, argument or evidence that Plaintiffs may present to the Court prior to or at any hearing on Plaintiffs' Motion for Class Certification.

Plaintiffs reserve the right to amend, modify or revise Plaintiffs' Motion for Class Certification with the approval of the Court, including with respect to the scope of the proposed Classes.

Dated: New York, New York  
April 15, 2022

Respectfully submitted,

**BLANK ROME LLP**

/s/ Roy W. Arnold

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*Counsel for Plaintiffs and the proposed Classes*

**CERTIFICATE OF SERVICE**

I hereby certify that on April 15, 2022, the foregoing Plaintiffs' Notice of Motion and Motion for Class Certification was electronically filed through the Court's CM/ECF system and thereby served on the following recipients:

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*Counsel for Defendants*

By: /s/ Roy W. Arnold  
Counsel for Plaintiffs