James Curtis Morrow
[redacted]
jamescurtis[redacted]
July 9, 2014

Chief, Litigation III Section
Antitrust Division
U.S. Department of Justice
450 5th Street NW, Suite 4000
Washington, DC 20001
VIA: United States Certified Mail

Re: Review of *United States v. ASCAP*, 41 Civ. 1395 (S.D.N.Y.)

Dear Sir/Madam:
Commenter, James Curtis Morrow requests that the Antitrust Division take notice of *Morrow v ASCAP* et al. Case No. 1:2013cv04974. (Attached with exhibits)

In particular, please note ¶¶ 233-243 as they relate to the division's review of the ASCAP Consent Decree.

Sincerely yours,

James Curtis Morrow

cc: Honorable Renee Marie Bumb, United States District Court, Mitchell H. Cohen Building & U.S. Courthouse, 4th & Cooper Streets Room 1050 Camden, NJ 08101

RECEIVED kmw
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U.S. DEPT OF JUSTICE

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ANTITRUST CONSENT DECREE REVIEW

American Society of Composers, Authors and Publishers/Broadcast Music, Inc.

Antitrust Division Opens Review of *ASCAP* and *BMI* Consent Decrees

The U.S. Department of Justice, Antitrust Division, is responsible for overseeing the enforcement of the Final Judgments in *United States v. ASCAP*, 41 Civ. 1395 (S.D.N.Y.), and *United States v. BMI*, 64 Civ. 3787 (S.D.N.Y.) ("Consent Decrees"). The Consent Decrees, originally entered in 1941, are the products of lawsuits brought by the United States against ASCAP and BMI under Section 1 of the Sherman Act, 15 U.S.C. § 1, to address competitive concerns arising from the market power each organization acquired through the aggregation of public performance rights held by their member songwriters and music publishers. Since their entry in 1941, the Department has periodically reviewed the operation and effectiveness of the Consent Decrees. Both Consent Decrees have been amended since their entry. The ASCAP Consent Decree was last amended in 2001 and the BMI Consent Decree was last amended in 1994.

The Antitrust Division currently is undertaking a review to examine the operation and effectiveness of the Consent Decrees. The Department understands that ASCAP, BMI and some other firms in the music industry believe that the Consent Decrees need to be modified to account for changes in how music is delivered to and experienced by listeners. The Department's review will explore whether the Consent Decrees should be modified and, if so, what modifications would be appropriate.

Public Comments Are Solicited

As part of its review, the Department invites interested persons, including songwriters and composers, publishers, licensees, and service providers, to provide the Division with information or comments relevant to whether the Consent Decrees continue to protect competition. While Performance Rights Organizations, such as ASCAP and BMI, monitor for unlicensed uses, enforce copyrights against unlicensed users, and administer copyright royalties, the Department is most interested in comments on competitive concerns that arise from the joint licensing of music by Performance Rights Organizations and the remediation of those concerns.

In particular, the Department requests that the public comment on the following issues:

- Do the Consent Decrees continue to serve important competitive purposes today? Why or why not? Are there provisions that are no longer necessary to protect competition? Are there provisions that are ineffective in protecting competition?
- What, if any, modifications to the Consent Decrees would enhance competition and efficiency?
- Do differences between the two Consent Decrees adversely affect competition?
- How easy or difficult is it to acquire in a useful format the contents of ASCAP's or BMI's repertory? How, if at all, does the current degree of repertory transparency impact competition? Are modifications of the transparency requirements in the Consent Decrees warranted, and if so, why?
- Should the Consent Decrees be modified to allow rights holders to permit ASCAP or BMI to license their performance rights to some music users but not others? If such partial or limited grants of licensing rights to ASCAP and BMI are allowed, should there be limits on how such grants are structured?

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- Should the rate-making function currently performed by the rate court be changed to a system of mandatory arbitration? What procedures should be considered to expedite resolution of fee disputes? When should the payment of interim fees begin and how should they be set?
- Should the Consent Decrees be modified to permit rights holders to grant ASCAP and BMI rights in addition to "rights of public performance"?

All comments should be submitted by electronic mail to ASCAP-BMI-decree-review@usdoj.gov by August 6, 2014 and will be posted in their entirety for public review at this web address. Information that parties wish to keep confidential should not be included in their comments. Comments may also be sent, preferably by courier or overnight service, to

Chief, Litigation III Section
Antitrust Division
U.S. Department of Justice
450 5th Street NW, Suite 4000
Washington, DC 20001

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Notice of Electronic Filing

The following transaction was entered on 8/20/2013 at 8:37 AM EDT and filed on 8/19/2013

Case Name:	MORROW v. THE AMERICAN SOCIETY OF COMPOSERS OF AUTHORS AND PUBLISHERS et al
Case Number:	1:13-cv-04974-RMB-JS
Filer:	
Document Number:	1

Docket Text:
Complaint Received. (Attachments: # (1) Civil Cover Sheet, # (2) Cover Letter, # (3) Exhibit A-M, # (4) Application IFP, # (5) Text of Proposed Order)(bdk,)

1:13-cv-04974-RMB-JS Notice has been electronically mailed to:

1:13-cv-04974-RMB-JS Notice will not be electronically mailed to::

JAMES CURTIS MORROW
320 SOUTH HARRISON STREET
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The following document(s) are associated with this transaction:

Document description: Main Document
Original filename:n/a
Electronic document Stamp:
[STAMP dcecfStamp_ID=1046708974 [Date=8/20/2013] [FileNumber=6947848-0
] [7fd40307f82106c5a665d057b444da241c14aa8f22b966fc5f331957b9873b527be
46b4250724920c36712a3ba9aacc8c2f7b376ad42e5016cdeb8a33e15be5b]]
Document description: Civil Cover Sheet
Original filename:n/a
Electronic document Stamp:
[STAMP dcecfStamp_ID=1046708974 [Date=8/20/2013] [FileNumber=6947848-1
] [0346c25a3fbeb112653d1071663ceab8068602e653e8ffdd970883aa7433854be78
917c23fc766bb7e05945ee30ba50938245971baef52b95b0d073c0c7ef8df]]
Document description: Cover Letter
Original filename:n/a
Electronic document Stamp:

James Curtis Morrow
[redacted]

August 12, 2013

Hand Delivered
Clerk
United States District Court
District of New Jersey
M.L. King Jr. Federal Building & Court House
50 Walnut Street
Newark, NJ 07102

RECEIVED
AUG 12 2013
AT 8:30 M
WILLIAM T. WALSH, CLERK

Dear Clerk,

Please find enclosed for filing:

1. One Civil Cover Sheet

2. One original and one copy of the Complaint for the Court

3. One copy of the Complaint and two copies of the summonses for each of the eleven Defendants listed below:

American Society of Composers Authors and Publishers
One Lincoln Plaza New York, NY 10023

Samuel Mosenkis
Director Legal Affairs,
American Society of Composers Authors and Publishers
One Lincoln Plaza New York, NY 10023

Richard H. Reimer
Senior Vice President
American Society of Composers Authors and Publishers
One Lincoln Plaza New York, NY 10023

Joan McGivern
Senior Vice President, General Counsel

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

James Curtis Morrow, individually and in his capacity
as Heir and Beneficiary of the Estate of
Sandra Ann Bradshaw Morrow, deceased,
Plaintiff, pro se

Civil Action

COMPLAINT
BIVENS/NJRICO

Vs

The American Society of Composers of Authors
and Publishers, an Unincorporated Association

Richard H. Reimer, in his personal capacity
and in his capacity as Senior Vice President,
American Society of Composers Authors and Publishers

Jury Trial Demanded

Samuel Mosenkis in his personal capacity and in his
capacity as Director of Legal Affairs American Society
of Composers Authors and Publishers

Joan McGivern in her personal capacity
and in her capacity as Senior Vice President,
General Counsel American Society
of Composers Authors and Publishers

Saul and Ewing L.L.P.

Sean P. Lynch in his personal capacity, and in his capacity
as attorney for Saul and Ewing L.L.P

Michael A. Lampert in his personal capacity, and in his capacity
as attorney for Saul and Ewing L.L.P

Faith S. Hochberg in her personal capacity

John Does 1-10 in their personal capacity
are the fictitious names of Federal Court employees,
lawyers and law firms, legal
professional corporations, legal professional

partnerships, or other professional business entities or organizations, or their agents, employees, or servants, acting within the course and scope of their employment, or other individuals whose identities are not presently known, and who may have perpetrated, and/ or are responsible for, or are the alter egos of, or are otherwise responsible for the conduct or liability of those who perpetrated, aided and abetted, or acted in concert with, in furtherance of, or in conjunction with the other Defendants in the conduct, activities, acts and omissions set forth herein; and,
JOHN DOE LAWYERS 1 to 10 are the fictitious names of lawyers and law firms, legal professional corporations, legal professional partnerships, or other professional business entities or organizations, or their agents, employees, or servants, acting within the course and scope of their employment, or other individuals whose identities are not presently known, and who may have perpetrated, and/ or are responsible for, or are the alter egos of, or are otherwise responsible for the conduct or liability of those who perpetrated, aided and abetted, or acted in concert with, in furtherance of, or in conjunction with the other Bivens Defendants: in the conduct, activities, acts and omissions set forth herein; and,

Neglect to Prevent Conspiracy Defendants:

Denise L Cote in her personal capacity
in the conduct, activities, acts and omissions set forth herein.

Scott R. McIntosh in his personal capacity
in the conduct, activities, acts and omissions set forth herein.

Catherine G. O'Sullivan, in her personal capacity
in the conduct, activities, acts and omissions set forth herein.

INTRODUCTION

1. Plaintiff, pro se, James Curtis Morrow, as personal representative of the Estate of Sandra Ann Bradshaw Morrow as heir and beneficiary of the Estate, states as follows: This Complaint arises out of a conspiracy and failure to prevent the conspiracy to violate the constitutional rights of Sandra Ann Bradshaw Morrow (deceased 2010} and her husband, Plaintiff, James Curtis Morrow, who here charges that Defendants fabricated D.C.N.J. court documents. Plaintiff asserts Bivens claims for Fourth and Fifth U.S. Constitution violations, copyright infringement, fraud on the court, common law fraud, and conspiracy for violating NJRICO.

2. In 1999, Decedent provided Defendant, the American Society of Composers of Authors and Publishers ("**ASCAP**") with copy of her birth certificate and requested information regarding her father, Myron Carlton Bradshaw ("**Bradshaw**") a popular composer and performer from the1930s-1950s, who died (1958) intestate and unmarried leaving three children.
(Exhibit "A")

3. ASCAP wrote back that in 1978 it had elected Bradshaw to a posthumous membership, and that at the same time it also appointed one of Bradshaw's daughters, Jean Redd, ("**Redd**") and her son, Burgess Cashwell, ("**Cashwell**") as successors to the Bradshaw membership.

4. Subsequently, ASCAP discovered that copyright law prohibits a mother--in this instance, Redd and her son Cashwell-- sharing successor memberships.

5. ASCAP's appointment of Cashwell left it vulnerable for negligence and copyright infringement claims by Decedent, record labels and music publishers, who, for over twenty years, had been paying royalties to Cashwell based on ASCAP's ratification of his entitlement to the Bradshaw copyrights.

6. In 2003, Decedent sought a declaration to determine her interests in the Bradshaw copyrights pursuant to 17 U.S.C. § 304(a)(1)(c)(ii), *Morrow v. ASCAP,* No. 2:03-cv-03045 D.C.N.J. (FSH), ("***Morrow v ASCAP***") (Exhibit "B")

7. ASCAP, recognizing its liability chose not to defend itself fairly on the merits of why Decedent was wrong in her claim that she was entitled to a share in the Bradshaw posthumous membership.

8. Rather, ASCAP, together with the law firm of Saul and Ewing, LLP ("**Saul Ewing**") and New Jersey Federal Court Employees ("**Federal Court Employees**") devised a strategy to end *Morrow v. ASCAP*, continue reaping the Bradshaw royalties and ward off future lawsuits; simply put, Defendants fabricated the Court Opinion in support of dismissing *Morrow v. ASCAP,* which was then passed off as authentic to Decedent, Decedent's counsel and courts presiding over her copyright claims.

9. These insularly privileged Defendants took unconscionable advantage of Decedent, who as a black woman born out of wedlock, pro se, forma pauperis who was both destitute and homeless when she commenced her lawsuit, that given her class, background, descent and circumstances--and whom Defendants deemed as the "Other"--provided all the necessary elements for Defendants to rationalize their invidiously discriminatory animus.

10. The harm that these Defendants inflicted upon the Decedent, the courts and the publics' trust in an unbiased judicial system--particularly among the poor, the unimportant and the unrepresented – requires equitable relief. The scope and breadth of their conduct in directly attacking the operation of courts is unprecedented and such calls for extraordinary relief. There is no adequate remedy at law to address and redress the miscarriage of justice that Defendants' animosity, fabrication of evidence, fraud, and deceit has caused. This action therefore seeks to provide Plaintiff with a full inquiry and understanding of how Defendants were able to --without the least regard to the legal opprobrium attached to their actions-- insinuate themselves into, and take over the Court's exclusive legal writing and administrative duties, and whether Defendants' actions were an anomaly or an unwritten policy or custom in the District Court of New Jersey to accord lesser importance to members of the public, who are deemed as mere outliers.

11. The relief sought is necessarily limited because the underlying negligence, fraud and copyright claims in *Morrow v. ASCAP* will need to be assessed in light of the fraud that ASCAP, Saul Ewing, and Federal Court Employees perpetrated upon Plaintiff's Decedent and the courts. In this action, Plaintiff seeks an inquiry and thereafter a trial of the facts concerning Defendants' Conspiracy directed at Decedent, her court appointed mediation counsel, as well as the courts that relied upon the integrity of the parties to abide by Federal Rules of Civil Procedure and fundamental principles of fairness. The courts, the Decedent, and her counsel justifiably relied upon the fabricated Opinion and to their detriment were deceived and harmed. Accordingly, Plaintiff submits this Complaint.

12. Non-Conspirators, Denise L Cote, Scott R. McIntosh, and Catherine G. O'Sullivan, (the "Neglect to Prevent Defendants"), failed in their duty to enforce a consent decree as it relates to ASCAP's actions in *Morrow v. ASCAP*.

"Actions for fraud upon the court are so rare that this Court has not previously had the occasion to articulate a legal definition of the concept."
Herring v. United States, 424 F.3d 384 (3rd Cir. 2005), Id. at 386

13. Even so, Defendants, the American Society of Composers Authors Publishers, Joan McGivern, Samuel Mosenkis, Richard H. Reimer, Saul and Ewing L.L.P., Michael A. Lampert, Sean P. Lynch, Federal Court Employees, Faith S. Hochberg, and an unknown at this time court clerk, acting under color of federal law conspired to deprive Decedent of her right to a fair and just hearing.. In furtherance of their scheme, the Conspirators

agreed to:

(a) Fabricate the Court's Dismissal Opinion (Exhibit "C")
(b) Submit a false Declaration (Exhibit "D")
(c) Submit a fraudulent instrument (Exhibit "E")

All of which conduct resulted in the obstruction of justice, fraud upon courts, violation of Due Process, injury to the copyright property rights of the Decedent and her husband, James Curtis Morrow ("Plaintiff"), and which comprises the ("**Fraudulent Copyright Defense Scheme**"). (Please take Judicial Notice of adjudicative fact (Exhibit "C").

14. Decedent and her court appointed mediation counsel relied upon the fabrications and misrepresentations submitted by ASCAP, Saul Ewing, and the Federal Court Employees, and who acted to their detriment, all the while ignorant of the fact that the Opinion in *Morrow v. ASCAP* No. 2:03-cv-03045 D.C.N.J. (FSH) was a fabrication authored by an individual other than the presiding Judge, Defendant Hochberg.

15. ASCAP's objective was to avoid paying twenty-five years of back music royalties to Decedent for its conversion of Decedent's renewal copyrights, and to continue reaping for its successor and publisher members, royalties earned through ASCAP licensing the Bradshaw compositions, as well protect its publisher members against lawsuits for their unauthorized assignments of the Bradshaw copyrights to record labels.

16. The Fraudulent Copyright Defense Scheme at issue in this case was designed to conceal ASCAP's conversion and subsequent infringement of Decedent's rights to copyright renewals under 17 U.S.C. § 304(a)(1)(c)(ii), end *Morrow v. ASCAP*, continue to reap the Bradshaw royalties, and ward off future potential copyright and negligence claims against ASCAP by Decedent, non--ASCAP music publishers and defrauded record labels.

17. The targets and victims of Defendant ASCAP's fraudulent scheme are and were the courts, Decedent, Decedent's counsel, non--ASCAP music publishers, record labels and Decedent's successor, Plaintiff; James Curtis Morrow

18. As described in detail below, Decedent, and her court appointed mediation counsel and the courts presiding over *Morrow v. ASCAP* were supplied with the fabricated Opinion, the False Mosenkis Declaration, and False Cashwell ASCAP Successor Membership Agreement

19. As a direct and proximate result of the Defendants' distributing the fabricated Opinion and false statements, copyright property rights of the Decedent were lost when, in natural and reasonable reliance upon Defendants' fabricated Opinion and deceptions, made as they were in such forms including, declarations, motions, memorandums of law, court orders, opinions, briefs, appendices, letter briefs that were signed under oath.

20. Based upon the Fabricated Opinion, Decedent suffered termination of all claims

related to *Morrow v. ASCAP* in all presiding courts.

21. As a direct result of Defendants' Fraudulent Copyright Defense Scheme as more fully set out below, Decedent was purposely deceived and defrauded into believing that the Mosenkis Declaration was true, the Cashwell ASCAP Successor Membership Agreement valid and the Opinion authentic, which were submitted by the Defendants to Decedent, her counsel and presiding courts.

22. Decedent suffered the loss of her rights to public performance and record royalties under 304(a)(1)(c)(ii). Furthermore, Defendants' egregious misconduct is exacerbated by the fact that Defendants were one and all court officers, who repeatedly misrepresented to their colleagues the core fact—the authenticity of the Opinion—and who have seriously undermined and impugned the integrity and validity of the administration of justice in both state and federal courts, and who by their actions deprived Decedent of the right to a fair, honest and just judicial proceeding.

23. By October 2003, the key component of Defendants' Fraudulent Copyright Defense Scheme—the Opinion--was in place, and together with the Mosenkis Declaration and the Cashwell ASCAP Successor Membership Agreement entered in *Morrow v. ASCAP*, and at the instigation and direction of ASCAP's legal department, and attorney, Mosenkis, and with the knowing aid and assistance of ASCAP's counsel, Saul Ewing attorneys, Lampert and Lynch, and Federal Court Employee, Hochberg and John Doe.

24. The false Cashwell ASCAP Successor Membership Agreement, Fabricated Opinion and False Mosenkis Declaration entered in the *Morrow v. ASCAP* case occurred at a time and under circumstances that ASCAP's agents, ASCAP in-house and outside attorneys and Federal Court Employees knew that they would be relevant in any future copyright and negligence claims raised by Decedent and/or defrauded music publishers, and record labels. The fabrications and misrepresentations were undertaken by ASCAP in bad faith, with the intent to obstruct justice, with the intent to deceive and harm Decedent.

25. The fabricated Opinion and fraudulent misrepresentations misled the courts, Decedent, and Decedent's counsel into naturally and reasonably believing that: (a) the Mosenkis Declaration was true, (b) the Cashwell ASCAP Successor Membership Agreement was valid; (c) Decedent was an illegitimate child of Bradshaw; and, (d) the Opinion was authentic, and which deprived her public performance and record royalties, all to her substantial economic detriment.. Defendants' egregious misconduct further seriously undermined and impugned the integrity and validity of the administration of justice, thereby deprived Decedent to her Constitutional right to a fair, honest and just judicial proceeding.

26. With judicial imprimatur on their fraud, the perpetrators of ASCAP's Fraudulent Copyright Defense Scheme represented in sworn and unsworn statements during the Third Circuit Mediation, Appeal, and in the S.D.N.Y., that: (a) the Opinion was authentic; (b) that the Mosenkis Declaration was true (c) that Decedent was an illegitimate child of Bradshaw without renewal copyright interests; (d) and that the

Cashwell ASCAP Successor Membership Agreement was valid.

27. The October 31, 2003 fabricated Opinion and other elements and aspects of The Fraudulent Copyright Defense Scheme, as well as ASCAP Enterprise's existence, all of which date back to 1999, were uncovered only by chance in November, 2004 upon Decedent noticing distinctive characteristics in documents in connection with her then pending appeal *Morrow v. ASCAP*, No.041072

28. In January 2005, Decedent notified the Appeals Court *en banc* of her discovery regarding the Opinion. Decedent mailed copies of her *en banc* petition to Lawyer Perpetrator Lampert.

29. Subsequently, on or about February 15, 2005, Defendant Hochberg, upon being informed that the Decedent had uncovered the scheme, ultra-vires, "locked" the *Morrow v. ASCAP* case.

30. Even after Conspirator Hochberg learned in February 2005, that Decedent had discovered that the Opinion was a fabrication, Hochberg, and her co-conspirators, aware that Decedent, due to her circumstances was powerless, felt no urgency to have taken any step or measure to reveal their scheme, or renounce their participation in the Fraudulent Copyright Defense Scheme or to cure or mitigate the injuries and damage it caused to the Decedent, Decedent's counsel, presiding courts and the administration of justice. The fraud and the harm unleashed by the Defendants in furtherance of the Fraudulent Copyright Defense Scheme thus continues on to this date.

31. The Fraudulent Copyright Defense Scheme at issue herein was devised, implemented, managed, directed, and controlled in large and substantial part at ASCAP's headquarters in the State of New York It was executed through the means and mechanisms of a conspiracy and a corrupted association (the "**ASCAP Enterprise**") which was comprised of and operated by, at least so far as is presently known: (a) ASCAP; (b) ASCAP management, agents and in-house attorney employees; (c) the law firm and lawyers of Saul Ewing, including Lampert and Lynch; and, (d) federal court employees and/or court officers, including Hochberg,

32. The ASCAP Enterprise's Fraudulent Copyright Defense Scheme was highly successful in terminating *Morrow v. ASCAP*, depriving Decedent of her statutory right to copyright termination, renewal rights, including her right to an ASCAP successor membership and consequential royalties, continuing the distribution of the Bradshaw royalties to both ASCAP management for its operational costs and to its successor and publisher members, avoiding paying twenty- five years of back royalties to Decedent, warding off negligence lawsuits against ASCAP by non-ASCAP music publishers, and record labels, as well as enabling ASCAP to avoid being found in contempt of a Consent Decree, (the *Second Amended Final Judgment in United States v. ASCAP*, No. 41-1395 S.D.N.Y. 2001 ("the **AFJ2**"), as was Defendants' design, purpose and intent..

33. This suit accordingly seeks declaratory, equitable, punitive, statutory copyright

infringement damages, compensatory relief correcting and redressing Defendants' egregious misconduct, obstruction of justice, fraud upon the courts, U.S. Constitutional violations and the corresponding resulting injuries to the judicial process and economic and personal rights inflicted upon Decedent, including:

a. A determination and declaration of the authenticity of the Opinion

b. A declaration or decree that Decedent was a child vested with copyright interests pursuant to U.S.C. § 304(a)(1)(c)(ii),

c. A declaration or decree that Decedent's 1956 birth certificate is to be given full faith and credit.

d. Declaratory and equitable relief restoring *Morrow v. ASCAP,* No. 2:03-cv-03045 D.C.N.J. (FSH) to its position it was in prior to the commission of Defendants' obstruction of justice and fraud,

e. A determination and declaration that ASCAP, ASCAP Perpetrators, Saul Ewing, Lawyer Perpetrators, Federal Court Employees and Federal Court Employee Perpetrators were acting under color of federal law

f. A determination and declaration of ASCAP's liability for disgorgement of Bradshaw's public performance royalties, (including royalty payments by record labels paid to ASCAP publisher members) earned from the commission of the frauds upon the courts, and Decedent and/or the commission of proscribed activities described below.

g. A determination and declaration that Decedent was a member of a protected class.

h. A determination and declaration of ASCAP's statutory damages for infringement of Decedent's public performance and publishing royalties unjustly earned from the commission of the frauds upon the courts and Decedent and/or

i. A determination of Defendants' liability for punitive damages to Plaintiff relating to the fabrication of the Opinion, misrepresenting the Cashwell ASCAP Successor Membership Agreement and False Mosenkis Declaration, material to *Morrow v. ASCAP*

j. A determination and declaration that ASCAP's, Saul Ewing's and Federal Court Employees 'communications relating to the fraudulent conduct are not privileged communication under the crime fraud exception.

k. A determination and declaration that ASCAP's communications relating to the fraudulent conduct are not privileged communication pursuant to a consent decree, the Second Amended Final Judgment in *United States v. ASCAP*, No. 41-1395 S.D.N.Y. 2001under

l.. A determination and declaration that the court governing a consent decree, the Second

Amended Final Judgment in *United States v. ASCAP*, No. 41-1395 S.D.N.Y. 2001, has sole jurisdiction as it relates to the Cashwell ASCAP Successor Membership Agreement and Plaintiff's right as successor to the ASCAP Bradshaw posthumous membership. and,

m. Such other relief as may be available and just.

PARTIES

Plaintiff

34. Plaintiff, James Curtis Morrow, is disabled, a citizen of the state of New Jersey residing in the city of East Orange, the personal representative to the copyright interest of his late wife Sandra Ann Bradshaw Morrow who died on November 1, 2010. At all times relevant herein he was married to the late Sandra Ann Bradshaw Morrow.
Plaintiff Morrow brings this suit in his individual capacity, as personal representative of the Estate of Sandra Ann Bradshaw Morrow.

35. Plaintiff Morrow's decedent, Sandra Ann Bradshaw Morrow, was born out of wedlock in New York City on June 16, 1952, legitimated in N.Y. Family Court and issued a corrected birth certificate in 1956, which named Myron Carlton Bradshaw as her father. She lived in East Orange, N.J. She died on November1, 2010.

ASCAP Defendants

36. Defendant, American Society of Composers Authors and Publishers, ("**ASCAP**") is an unincorporated association, One Lincoln Plaza New York, NY 10023, ascap.com, and at all times material herein, with members domiciled in New Jersey and regularly and continuously transacted business in the State of New Jersey. ASCAP directed and/or committed the statutorily unlawful and other tortious activities and omissions alleged and complained about herein in the States of New York and New Jersey, At all times material to this matter, ASCAP also committed relevant statutorily unlawful and other tortuous conduct in, and directed towards the Decedent and Plaintiff is named as an entity in its official capacity as an unincorporated association on all counts (excluding counts IX and XIII) and is named in its personal capacity on the claims pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

37. The ASCAP, members and officers were acting in the ordinary course of business of the association and/or with the authority of his or her co-officers or members. Defendant ASCAP as an unincorporated association is liable herein for the actions of its members, officers, agents, employees, servants/interns and associate attorneys for the negligent or wrongful act of misconduct committed by persons under his or her direct supervision and control while rendering professional services.

38. At all times material herein, Defendant ASCAP acted by and through its officers, employees, servants/interns, attorneys, agents, actual, apparent and/or ostensible, any and all of whom were then and there acting within the course and scope of their authority, duties and employment, actual or apparent. ASCAP legal department and its attorneys are also subject to the prohibitions, penalties and civil remedies relating to attorney misconduct in court matters provided by N.Y. Judiciary Law §487.

39. Defendant ASCAP, acting as aforesaid, jointly conceived, orchestrated, agreed to participate in, and participated in the Fraudulent Copyright Defense Scheme alleged herein; became a co-conspirator with others participating in the Fraudulent Copyright Defense Scheme to defraud Decedent , including the "**Lawyer Perpetrators**" and "**Federal Court Employee Perpetrators**" identified herein; was a member of the ASCAP Enterprise and participated in its creation, direction and management, and participated in the execution and commission of the ASCAP Enterprise's unlawful activities.

40. Defendant Samuel Mosenkis ("**Mosenkis**"), Director Legal Affairs, American Society of Composers Authors and Publishers, One Lincoln Plaza New York, NY 10023 --smosenkis@ascap.com-- was, at times material herein, an attorney at law employed by ASCAP as an in-house counsel was a member of the ASCAP Enterprise and participated in the creation, direction and management of the Fraudulent Copyright Defense Scheme and directly participated in the execution and commission of the ASCAP Enterprise's unlawful activities. Mosenkis is named in his official capacity on all counts (excluding counts IX and XIII) and is named in his personal capacity on the claims pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics,* 403 U.S. 388 (1971)

41. Defendant, Mosenkis, as ASCAP's in-house attorney was assigned to the *Morrow v. ASCAP* and *Morrow v. Jean Redd, et.al.* No. L-3996-99 (April 7, 1999) (the "***State* case**"), and jointly participated in the creation and operation of the Fraudulent Copyright Defense Scheme alleged herein; became a co-conspirator with others participating in the Fraudulent Copyright Defense Scheme to defraud Decedent.

42. Defendant, Richard H. Reimer, ("**Reimer**"), Senior Vice President, American Society of Composers Authors and Publishers, One Lincoln Plaza New York, NY 10023, --rreimer@ascap.com-- is named in his official capacity on all counts (excluding counts IX and XIII) and is named in his personal capacity on the claims pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics,* 403 U.S. 388 (1971) was a member of the ASCAP Enterprise and participated in its, direction and management, and directly participated in the execution and commission of the ASCAP Enterprise's unlawful activities.

43. Defendant, Joan McGivern ("**McGivern**") Senior Vice President, General Counsel, American Society of Composers Authors and Publishers, One Lincoln Plaza New York, NY 10023--Jmcgivern@ascap.com-- is named in her official capacity on all counts

(excluding counts IX and XIII) and is named in her personal capacity on the claims pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics,* 403 U.S. 388 (1971) was a member of the ASCAP Enterprise and participated in its management.

44. With respect to the activities, conduct and omissions set forth herein, Defendants ASCAP, Mosenkis, Reimer and McGivern (collectively referred to as the ("**ASCAP Perpetrators**") acted recklessly, knowingly, deliberately and/or intentionally to mislead and deceive courts presiding over *Morrow v. ASCAP.*

45. The ASCAP Perpetrators, including attorney defendant Mosenkis in his representation of ASCAP, and in carrying out the functions of the Fraudulent Copyright Defense Scheme, acted in bad-faith, with ill will, and with intent to harm, deceive and defraud Decedent as described more fully below, in which the *State* and *Morrow v. ASCAP* cases were pending.

The Saul and Ewing Defendants

46. Defendant Saul and Ewing LLP (collectively "**Saul Ewing**") 750 College Road East, Suite 100 Princeton, NJ 08540-6617 is a partnership doing business in the State of New Jersey the individual partners thereof being Steven J. Picco,--spicco@saul.com-- Francis X. Riley-- friley@saul.com. At all times material herein, Saul Ewing acted by and through their shareholders, members, partners, officers, employees, servants, associate attorneys, agents, actual, apparent and/or ostensible, any and all of whom were then and there acting within the course and scope of their authority, duties and employment, actual, apparent or ostensible, and/or within the authority of his or her copartners or the partnership committed relevant statutorily unlawful and other tortuous conduct in, and directed towards the Decedent and Plaintiff is named in its official capacity as an LLP on all counts (excluding counts VI, VII, IX and XIII), and is named on the claims pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

47. Defendant Saul Ewing committed relevant statutorily unlawful and other tortious conduct in, and directed towards, Decedent. All Saul Ewing partners, members or shareholders were acting in the ordinary course of business of the partnership and/or with the authority of his or her co-partners or members. Defendant Saul Ewing is liable herein under the doctrine of respondeat superior for the actions of its partners, members, officers, agents, employees, servants and associate attorneys, partners, members or shareholders are jointly and severally liable for the negligent or wrongful act of misconduct committed by persons under his or her direct supervision and control while rendering professional services.

48. Defendant, Saul Ewing, through its members, shareholders or partners, officers, agents, employees, servants and associate attorneys, acting as aforesaid, jointly conceived, orchestrated, agreed to participate in, or participated in, and/or or recklessly permitted its members, shareholders or partners, officers, agents, employees, servants and

associate attorneys, acting as aforesaid, to orchestrate, agree to participate in and actively participate in, the Fraudulent Copyright Defense Scheme alleged herein, or was co-conspirator with, or an aider and abettor of others participating in the Fraudulent Copyright Defense Scheme, including the ASCAP Perpetrators and Federal Court Employee Perpetrators. Saul Ewing never expressly or affirmatively advised its co-conspirators or anyone outside of the conspiracy, such as the affected courts, claimant's counsel that it withdrew from the conspiracy, and consequently is liable for the harmful acts of its co-conspirators following its termination as ASCAP's Counsel in the *State* and *Morrow v. ASCAP* cases.

49. Defendant Saul Ewing, through its members, shareholders or partners, officers, agents, employees, servants and associate attorneys, acting as aforesaid, was a member of the ASCAP Enterprise and participated in its creation, direction and management, and participated in the execution and commission of the ASCAP Enterprise's unlawful activities.

50.Defendant, Michael A. Lampert ("**Lampert**") deputy general counsel for BGC Partners One Seaport Plaza 19th Floor New York, NY 10038-3550s, -- mlampert @bgcpartners.com-- is named in his official capacity on all counts (excluding counts VI, VII, IX and XIII) and is named in his personal capacity on the claims pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971) was a member of the ASCAP Enterprise and participated in its, direction and management, and directly participated in the execution and commission of the ASCAP Enterprise's unlawful activities.

51. Defendant Lampert was, at times relevant hereto, a member of the bar of the States of New Jersey and New York and was an attorney employed by and practicing with Saul Ewing. Lampert was the principal Saul and Ewing attorney entrusted with the representation of ASCAP in the *State* case and *Morrow v. ASCAP* No. 2:03-cv-03045 D.C.N.J. (FSH). Defendant Lampert jointly conceived, orchestrated and participated in the Fraudulent Copyright Defense Scheme alleged herein with others including the ASCAP Perpetrators, and Federal Court Employee Perpetrators, became a co-conspirator with others participating in the scheme to defraud Decedent; was a member of the ASCAP Enterprise and participated in its creation, direction and management; and participated in the execution and commission of the ASCAP Enterprise's unlawful activities is also subject to the prohibitions, penalties and civil remedies relating to attorney misconduct in court matters provided by N.Y. Judiciary Law §487.

52. At all times material, herein Lampert was acting in the ordinary course of business of Saul and Ewing and/or with the authority of his Saul and Ewing co-partners, co-members or co-shareholders.

53. Lampert never expressly or affirmatively advised his co-conspirators or anyone outside of the conspiracy, such as the affected courts, Decedent or Plaintiff, that he withdrew from the conspiracy, and consequently is liable for the harmful acts of its co-conspirators following his termination as ASCAP's counsel. .

54. Defendant Sean P. Lynch, ("**Lynch**"), attorney, Morgan Lewis, 502 Carnegie Center Princeton, NJ 08540-6289-- slynch@morganlewis.com--is named in his official capacity on all counts (excluding counts VI, VII, IX and XIII) and is named in his personal capacity on the claims pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics,* 403 U.S. 388 (1971) was a member of the ASCAP Enterprise and participated in its, direction and management, and directly participated in the execution and commission of the ASCAP Enterprise's unlawful activities.

55. Defendant Lynch was, at times relevant hereto, a member of the bar of the States of New Jersey and New York and an attorney employed by and practicing with Saul Ewing. Lynch was a Saul and Ewing attorney entrusted with the representation of ASCAP *in Morrow v. ASCAP*. Defendant Lynch jointly orchestrated and participated in the Fraudulent Copyright Defense Scheme alleged herein with others including the ASCAP Perpetrators, and Federal Court Employee Perpetrators, became a co-conspirator with others participating in the scheme to defraud Decedent; was a member of the ASCAP Enterprise and participated in its direction and management; and participated in the execution and commission of the ASCAP Enterprise's unlawful activities is also subject to the prohibitions, penalties and civil remedies relating to attorney misconduct in court matters provided by N.Y. Judiciary Law §487.

56.At all times material herein, Lynch was acting in the ordinary course of business of Saul and Ewing and/or with the authority of Saul and Ewing, partners, co-members or co-shareholders was a member of the ASCAP Enterprise and participated in its, direction and management, and directly participated in the execution and commission of the ASCAP Enterprise's unlawful activities

57. At all times material herein, Lynch was acting in the ordinary course of business of Saul and Ewing and/or with the authority of his Saul and Ewing co-partners, co-members or co-shareholders. Lynch never expressly or affirmatively advised his co-conspirators or anyone outside of the conspiracy, such as the affected courts, Decedent or Plaintiff , that he withdrew from the conspiracy, and consequently is liable for the harmful acts of its co-conspirators following his termination as ASCAP's counsel.

58. With respect to the activities, conduct and omissions set forth herein, Defendants Saul Ewing, Lampert and Lynch (collectively referred to as the "**Lawyer Perpetrators**") acted recklessly, knowingly, deliberately and intentionally, to mislead and deceive courts in which the *State* and/or *Morrow v. ASCAP* claims were pending.

59. The Lawyer Perpetrators in and during their and its representation of ASCAP and in carrying out the functions of the Fraudulent Copyright Defense Scheme acted in bad-faith, with ill will, and with intent to harm, deceive and defraud Decedent.

Federal Court Employees Defendants

60.Defendant Faith S. Hochberg ("**Hochberg**"), federal court employee is a federal judge, serving on the United States District Court for the District of New Jersey, Martin Luther King Building & U.S. Courthouse 50 Walnut Street Room 4015 Newark, NJ 07101, was at all material times herein was the Judge entrusted with the adjudication of *Morrow v. ASCAP* No. 2:03-cv-03045 D.C.N.J. (FSH) is named in her personal capacity on all counts (excluding counts VI, VII and XIII) and the claims pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971) was a member of the ASCAP Enterprise and participated in its, direction and management, and directly participated in the execution and commission of the ASCAP Enterprise's unlawful activities.

61. At all times material herein, Hochberg was acting in the ordinary course of business of the District Court of New Jersey, entrusted with and responsible for the adjudication of the *Morrow v. ASCAP* case. Hochberg jointly, participated in the fraudulent conduct scheme alleged herein with others including the ASCAP Perpetrators and Lawyer Perpetrators; was a co-conspirator with others participating in the scheme to defraud Decedent and Plaintiff, Morrow, and was a member of the ASCAP Enterprise and participated in and directly participated in the execution and commission of the ASCAP Enterprise's unlawful activities At all times material herein Hochberg was acting in the ordinary course and course of authority, duties and employment of business in the District Court of New Jersey, and acting within the course and scope of her authority, duties and employment, actual, apparent or ostensible

62. **John Doe**, federal court employee, is named in his personal capacity on all claims (excluding counts VI, VII and XIII) and the claims pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics,* 403 U.S. 388 (1971) was a member of the ASCAP Enterprise and participated in its, direction and management, and directly participated in the execution and commission of the ASCAP Enterprise's unlawful activities was acting in the ordinary course of business of the District Court of New Jersey and was a member of the ASCAP Enterprise and participated in its direction and management, and directly participated in the execution and commission of the ASCAP Enterprise's unlawful activities At all times material herein, John Doe was acting in the ordinary course and course of authority, duties and employment of business District Court of New Jersey, acting within the course and scope of his authority, duties and employment, actual, apparent or ostensible and/or within the authority of co-conspirator, Defendant, Hochberg.

63. With respect to the activities, conduct and omissions set forth herein, Defendants Hochberg and John Doe federal court employees,(collectively referred to as the "**Federal Court Employee Perpetrators**" acted recklessly, knowingly, deliberately and intentionally to mislead and deceive Decedent and courts in which *Morrow v. ASCAP* was pending.

64. The Federal Court Employee' Perpetrators in and during their and its adjudication of

Morrow v. ASCAP and in carrying out the functions of the Fraudulent Copyright Defense Scheme, acted in bad-faith, with ill will, and with intent to harm, deceive and defraud Decedent.

The Fictitious Defendants

65. JOHN DOE LAWYERS 1 to 10 are the fictitious names of lawyers whose identities are not presently known, and who may have perpetrated and/or are responsible for, or are the alter egos of, or are otherwise responsible for the conduct or liability of those who perpetrated, aided and abetted, or acted in concert with, in furtherance of, or in conjunction with the other Defendants in the conduct, activities, acts and omissions as set forth herein.

66. Defendants JOHN DOE 1 to 10 are the fictitious names of individuals whose identities are not presently known, who may have perpetrated, aided and abetted, conspired with, acted in concert with and/or are secondarily responsible or liable under law for the conduct or activities of those who may have acted in concert with, in furtherance of, or in conjunction with the other Defendants in the conduct, activities, acts and omissions set forth herein, including but not limited to employees, officers, agents, members and partners of named Defendants as set forth herein.

Neglect to Prevent Defendants

(Neglect to Prevent Wrongs, against Defendants, Cote, McIntosh, O'Sullivan in their personal capacities, pursuant to 42 U.S.C. § 1986)

67. Defendant Denise L Cote (**Cote**) is named in her personal capacity is a United States federal judge, serving on the United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl St., New York, NY 10007-1312 .Judge Cote, at all times material herein, Cote was acting within her duty to enforce a consent decree, (*The Second Amended Final Judgment in United States v. ASCAP*, No. 41-1395 S.D.N.Y. 2001 (The"AFJ2") as it relates to ASCAP's conduct in *Morrow v. ASCAP*

68. Defendant Scott R. McIntosh (**McIntosh**) attorney sued in his personal capacity, Appellate Staff Civil Division, Room 7226 Department of Justice 950 Pennsylvania Avenue, N.W. Washington, D.C. 20530-0001. McIntosh at all times material herein, was acting within his duty to oversee theAFJ2 as it relates to ASCAP's conduct in *Morrow v. ASCAP*

69. Defendant Catherine G. O'Sullivan, (**O'Sullivan**) attorney sued in her personal Capacity, Appellate Section Antitrust Division, Room 3224 Department of Justice 950 Pennsylvania Avenue, N.W. Washington, D.C. 20530-0001. O'Sullivan at all times material herein, was acting within her duty to oversee the AFJ2 as it relates to ASCAP's conduct in *Morrow v. ASCAP*

JURISDICTION AND VENUE

70. As a direct result of the Conspirator Defendants' conduct, Decedent suffered a violation of rights guaranteed under the United States Constitution and the laws of the state of New Jersey. This is a civil action brought under the rule of *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), that also includes statutory copyright claims and pendent state-law claims (NJRICO). It seeks declaratory and equitable relief correcting and redressing Conspirator Defendants' egregious misconduct, obstruction of justice and fraud upon the courts and the corresponding resulting injuries to the judicial process and economic and personal rights inflicted upon Decedent, including constitutional and other injuries they committed against the Decedent. Plaintiff has no other remedies for the violations of Decedent's rights.

71. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a) (copyright), and 2201 because it presents a federal question arising under United States Constitution, and, 17 U.S.C. § 101 et seq. (the "Copyright Act").

72. With respect to Plaintiff's claims based on 42 U.S.C. §§ 1985(3) and 1986, the Court also has jurisdiction pursuant to 28 U.S.C § 1343(a)(1), (a)(2). Supplemental jurisdiction over the state common law fraud claims and N.J.S.A. § 2C:41-1 et seq. which are so related to Plaintiff's federal claims of fraud that they form part of the same case is conferred by 28 U.S.C. § 1367.

73. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b)(1) and 1391(b)(2) because Defendants, as described above, reside in, are headquartered in, and/or conduct business in, this judicial district, and because a substantial part of the acts or omissions giving rise to the claims set forth herein occurred in this judicial district, or were directed and controlled from within this judicial district.

74. Declaratory Judgment Act, 28 U.S.C. § 2201

75. With respect to Plaintiff's demand for mandatory Judicial Notice under FRCP Rule 201 (b)(d)(e)(f): (With Demand for Expedited Remedy)
Mandatory Judicial Notice of the adjudicative fact under this Complaint and accompanying Exhibit "C", substantiates Plaintiffs claims are facially and factually incontrovertible.

76. With respect to Plaintiff's federal claim against The American Society of Composers Authors and Publishers, an Unincorporated Association, sued both as an entity F.R.C.P. 17(b), and as representing all the Society's members F.R.C.P. 23(a)(1)
28 USC 1391(c)(2)

(Year 1)
The Origin of the Fraudulent Copyright Defense Scheme:

77. In 1999, Decedent demanded that ASCAP appoint her as a successor to the Bradshaw posthumous membership and terminate the Cashwell membership; ASCAP refused both demands
Decedent then filed a complaint against ASCAP for copyright violations, fraud and negligence:
Sandra Ann Bradshaw Morrow v. Jean Redd, Clarence "Gene Redd, Blanche Bradshaw, Burgess Cashwell, and American Society of Composers Authors and Publishers in New Jersey Superior Court, Middlesex County, Docket No. L-3996-99 (April 7, 1999) (the "***State*** case")

78. ASCAP was represented and defended in the *State* case by Saul Ewing

79. The ASCAP Perpetrators were aware of the *State* case and participated in and/or oversaw ASCAP's defense of the case along with Saul Ewing.

80. In support of its rightful appointment of Redd and her son Cashwell, ASCAP produced through its counsel the Cashwell "Membership Agreement." (Exhibit "F")

81. ASCAP appoints successors pursuant to 17 U.S.C. § 304(a)(1)(c).

82. 304(a)(1)(c).prohibits a son (Cashwell) and his mother (Redd) sharing successor memberships.

83. The ASCAP Perpetrators and Lawyer Perpetrators were able to examine and review the Cashwell Membership Agreement as they relates to Cashwell's membership under 304(a)(1)(c)

84. The ASCAP Perpetrators and the Lawyer Perpetrator, Lampert, were aware of, participated in and/or oversaw the defense of the *State* case on behalf of ASCAP and in such capacity were aware of 304(a)(1)(c) as it relates to Cashwell's successor membership.

85. In particular, Defendant Lampert was among the Saul Ewing attorneys actively representing ASCAP in the *State* case, and in such capacity was aware of 304(a)(1)(c) as it relates to Cashwell's successor membership.

86. In particular, Defendant Mosenkis was among ASCAP's in-house attorneys involved and participating in the *State* case defense and in such capacity was aware of 304(a)(1)(c) as it relates to Cashwell's successor membership.

87. In particular, Defendant McGivern was among ASCAP's in-house attorneys involved

and participating in the *State* case and in such capacity was aware of 304(a)(1)(c) as it relates to Cashwell's successor membership.

88. Defendants, ASCAP, Mosenkis, McGivern, Saul Ewing and Lampert were able to examine and review the Cashwell Membership Agreement.

89. ASCAP Perpetrators were aware of and appreciated the negative implications on ASCAP's defense in the *State* case and ASCAP's s liability created by 304(a)(1)(c) as it relates to Cashwell's successor membership.

90. At the time of the *State* case, the ASCAP and Lawyer Perpetrators knew that ASCAP could and would in the future be sued by Decedent and record labels; the existence of such potential claims created a substantial liability problem for ASCAP.

91. ASCAP's management had knowledge of 304(a)(1)(c) in the *State* case. In addition, at or about that time ASCAP's management and in-house counsel, including Paula Katz, and Defendants, McGivern and Mosenkis were aware of the negative implications of the Cashwell membership, since Cashwell had assigned his share of the Bradshaw renewal copyrights to ASCAP music publisher members who in turn entered licensing agreements with record labels, who had for over twenty years paid royalties to Cashwell based on ASCAP's ratification of his rights to the Bradshaw copyrights. ASCAP management and ASCAP publishers wanted to avoid paying back-royalties to Decedent and continue receiving their respective percentage of the Bradshaw public performance and record royalties.

92. To defend itself, ASCAP's management and in-house attorneys including but not limited to Defendants, McGivern, Mosenkis; and Saul Ewing, including, but not limited to Lampert, devised and agreed to a strategy, plan and scheme to end the *State* case and eliminate ASCAP's future copyright claim liability. Under this plan and scheme: (a) represent that Cashwell's membership complied with copyright law (b) Cashwell would be represented as an individual vested with an interest in the Bradshaw posthumous membership (c) deprive "full faith and credit" to Decedent's birth certificate; and, (d) all courts presiding over Decedent's future claims from that time forward would be told by ASCAP and/or its attorneys that Cashwell was a rightful successor that Decedent was not a legitimate child of Bradshaw and not vested with a share of the Bradshaw copyrights. Thus began the Fraudulent Copyright Defense Scheme and the collusion and conspiracy among ASCAP, and Saul Ewing, to implement the scheme and conceal its existence and operation from all persons and institutions outside of ASCAP, and Saul Ewing.

93. On information and belief, sometime prior filing of the *State* case in 1999, ASCAP's management, in-house General Counsel's office, including but not limited to Defendants McGivern and Mosenkis, obtained ASCAP's management's consent and authorization to implement and execute the strategy, plan and scheme.

94. On information and belief, Defendant Lampert and other Saul Ewing lawyers obtained Defendant's Saul Ewing management's authorization or acquiesces in

implementing and executing the ASCAP copyright defense strategy, plan and scheme.

95. In June 1999, ASCAP, through Saul Ewing, filed a motion arguing that Decedent failed to join an indispensable party and that the state of Ohio had jurisdiction over Decedent's claims, the court granted ASCAP's request and dismissed the *State* case

96. To execute, manage and control the copyright defense plan and scheme that was foreseeably expected to continue on, an association in fact arose in 1999, which was comprised of the ASCAP Perpetrators, the Lawyer Perpetrator, Lampert, and other ASCAP and Saul Ewing related personnel over time. As mentioned, this association in fact is identified and referred to as the "ASCAP, Saul Ewing, Copyright Defense Enterprise" or "ASCAP Enterprise" for short. The ASCAP Enterprise had both legitimate and illegitimate functions and purposes in conducting ASCAP's defense

97. Misrepresenting Cashwell as an ASCAP successor member in the *State* case was part of the ASCAP and Lawyer Perpetrators' plan, scheme and agreement to mislead, deceive and defraud Decedent and the court directly, regarding the merit of her claims.

98. Misrepresenting Cashwell as a rightful owner of the renewal copyrights by submitting the Cashwell Membership Agreement in the *State* case was an overt act in furtherance of the ASCAP and Lawyer Perpetrators' agreement and conspiracy to (a) ASCAP management, publishers and successors to continue receiving their respective percentage of the Bradshaw royalties, mislead, deceive and defraud Decedent and state and federal courts regarding the merit of Decedent's claim against ASCAP based upon her being a statutory successor under section 304(a)(1)(c)(ii); (b) ward off any potential claims by record labels for paying royalties to Cashwell based on ASCAP's ratification of his renewal rights to the Bradshaw copyrights and (c) in furtherance of the agreement and conspiracy among the ASCAP and Lawyer Perpetrators to commit a pattern of unlawful predicate activities, as defined and proscribed in N.J.S.A. § 2C:41-1 et seq., in order to conduct and effectuate ASCAP's copyright and negligence claim defense and operate and manage the ASCAP Enterprise.

99. To purportedly support and corroborate the Cashwell ASCAP successor membership, and misleading representations, the Lawyer Perpetrators, with ASCAP's knowledge, authorization and/or assistance supplied, Decedent and presiding courts with the Cashwell Membership Agreement which the Defendants knew was false and misleading in the *State* case and were parts of ASCAP and Lawyer Perpetrators' plan, scheme and agreement to mislead, deceive and defraud Decedent, and the *State* court directly, regarding the merits of Decedent claim against ASCAP based upon her rights as a child of Bradshaw under 17 U.S.C. § 304(a)(1)(c)(ii).

(Year 4)
Federal Employees Join the Conspiracy:

100. In July 2003, after the *State* case was dismissed, Decedent filed a Complaint against ASCAP requesting a determination of her rights under section 304(a)(1)(c)(ii) of the

Copyright Act, *Morrow v. ASCAP* No. 2:03-cv-03045 D.C.N.J. (FSH), the (***"Morrow v. ASCAP"*** case.)

101. In addition to repeating the misrepresentation regarding Cashwell's right to a successor membership to Bradshaw posthumous membership incorporated in the 1999 *State* case, Lawyer and Federal Court Employee Perpetrators acting directly or through their co-conspirators began executing related elements of the fraudulent plan and scheme to end and ward off Decedent's claims against ASCAP, namely supply the court with:

a) the fabricated Court's Dismissal Opinion (the "**Opinion**"), (Exhibit "C")
b) the false declaration (the **"False Mosenkis Declaration**" Exhibit "D")
c) the fraudulent instrument (the "**False Cashwell ASCAP Successor Membership Agreement**" Exhibit "E")

102. Presiding over the *Morrow v ASCAP* case was Defendant Faith S. Hochberg, federal judge, serving on the United States District Court for the District of New Jersey and who was assisted by an unknown at this time federally employed clerk. (The "Federal Court Employee Perpetrators").

103. The Federal Court Employee Perpetrators were aware of both the *State* case and the *Morrow v ASCAP* case.

104. ASCAP was represented and defended in the *Morrow v ASCAP* case by Saul Ewing.

105. The ASCAP Perpetrators were aware of both the *State* case and the *Morrow v ASCAP* case and participated in and/or oversaw ASCAP's defense of the case along with Saul Ewing and Federal Court Employee Perpetrators.

The False Cashwell ASCAP Successor Membership Agreement:

106. On September 9, 2003, ASCAP produced through its counsel, Saul Ewing, the "**Cashwell ASCAP Successor Membership Agreement**" establishing Cashwell's right to the Bradshaw successor membership. (Exhibit "E")

107. ASCAP issues Successor Membership Agreements according to copyright law 17 U.S.C. § 304(a)(1)(C).

108. Section 304(a)(1)(C) prohibits a mother, and her son sharing successor memberships (In this instance, Redd and her son Cashwell sharing successor memberships to the Bradshaw posthumous membership.)

109. The ASCAP Perpetrators, Lawyer Perpetrators and Federal Court Employees were able to examine and review the "Cashwell ASCAP Successor Membership Agreement."

110. The ASCAP Perpetrators, Lawyer Perpetrators, including Lampert and Lynch, and Federal Court Employees Perpetrators, including Hochberg, were aware of, participated

in and/or oversaw the *Morrow v ASCAP* case and in such capacity were aware of the Cashwell ASCAP Successor Membership Agreement as it relates to 304(a)(1)(C).

111. In particular, Defendant Mosenkis was among ASCAP's in-house attorneys actively involved and participating in the *Morrow v ASCAP* case and in such capacity was aware of the Cashwell ASCAP Successor Membership Agreement as it relates to 304(a)(1)(C).

112. In particular, Defendant Lampert was among the Saul Ewing attorneys actively representing ASCAP in the *Morrow v ASCAP* case, and in such capacity was aware of the Cashwell ASCAP Successor Membership Agreement as it relates to 304(a)(1)(C).

113. In particular, Defendant Lynch was among the Saul Ewing attorneys actively representing ASCAP in the *Morrow v ASCAP* case, and in such capacity was aware of the Cashwell ASCAP Successor Membership Agreement as it relates to 304(a)(1)(C).

114. Defendant Mosenkis and other ASCAP Perpetrators were aware of and appreciated the negative implications on ASCAP's defense in the *Morrow v ASCAP* case created by the Cashwell ASCAP Successor Membership Agreement.

115. At the time of the *Morrow v ASCAP* case, the ASCAP and Lawyer Perpetrators knew that ASCAP could and would in the future be sued by Decedent and the record labels that were paying royalties to Cashwell based on ASCAP ratifying his ownership to the Bradshaw copyrights.

116. The existence of such potential claims created a substantial liability problem should it be discovered that Cashwell was not entitled to grant ASCAP the right to license the Bradshaw compositions to music users.

The False Mosenkis Declaration:

117. On September 9, 2003, in support of ASCAP's motion to dismiss, Perpetrator Mosenkis submitted the **Mosenkis Declaration.** (Exhibit "D")

118. In this Declaration Mosenkis states that ASCAP appoints successor members pursuant to ASCAP's Article of Association XX, Mosenkis' Declaration ¶ 7.

119. ASCAP's Article of Association Membership section XX is governed by 17 U.S.C. § 304(a)(1)

120. At the time of the Mosenkis Declaration, the ASCAP, Saul Ewing and Federal Court Employee Perpetrators' were aware of, participated in and/or oversaw the entry of the Mosenkis Declaration ¶ 7 relating to Cashwell's successor membership under 304(a)(1)..

121. Defendants ASCAP, Saul Ewing, Lampert, Lynch, John Doe and Hochberg were able to examine and review the Mosenkis Declaration ¶ 7 relating to Cashwell's successor membership under 304(a)(1)(c).

122. In particular, Defendant, Hochberg, Judge, and actively adjudicating the *Morrow v ASCAP* case, and in such capacity was aware of the Mosenkis Declaration ¶ 7 relating to Cashwell's successor membership under 304(a)(1)(c).

123. In particular, Defendant, John Doe, clerk, was active in the *Morrow v ASCAP* case, and in such capacity was aware of the Mosenkis Declaration ¶ 7 relating to Cashwell's successor membership under 304(a)(1)(c).

124. In particular, Defendant Mosenkis was among ASCAP's in-house attorneys involved and participating in the *State* case defense and in such capacity was aware of his Declaration ¶ 7 as it relates to Cashwell's successor membership under 304(a)(1)(c).

125. In particular, Defendant Lampert was among the Saul Ewing attorneys actively representing ASCAP in the *Morrow v ASCAP* case and in such capacity was aware of the Mosenkis Declaration ¶ 7 as it relates to Cashwell's successor membership under 304(a)(1)(c).

126. In particular, Defendant Lynch was among the Saul Ewing attorneys actively representing ASCAP in the *Morrow v ASCAP* case and in such capacity was aware of the Mosenkis Declaration ¶ 7 as it relates to Cashwell's successor membership under 304(a)(1)(c).

127. The ASCAP Perpetrators, Lawyer Perpetrators and Federal Court Employee Perpetrators were aware of and appreciated the negative implications on ASCAP's defense in the *Morrow v ASCAP* case, and ASCAP's future liability should it be discovered that the ASCAP appointment of Cashwell as a successor member was unlawful under 17 U.S.C. § 304 (a)(1)(c).

Lawyer Perpetrator Omits Certifying ¶ 7:

128. On September 9, 2003, Defendant Lampert was among the Saul Ewing attorneys actively representing ASCAP in the *Morrow v ASCAP* case and in such capacity produced the Memorandum of Law, "Statement of Facts." (Exhibit "G")

129. In this Statement of Facts Lampert omitted certifying the Mosenkis Declaration ¶ 7 relating to Cashwell's successor membership under 304(a)(1)(c) See ¶ 7 Lambert Statement of Facts.

130 At the time of the Lampert Declaration, the ASCAP, Lawyer and Federal Court Employee Perpetrators' were aware of, participated in and/or oversaw the entry of the Lambert Statement of Facts.

131. Defendants ASCAP, Mosenkis, Saul Ewing, Lynch, John Doe and Hochberg were able to examine and review the Lambert Statement of Facts.

132. In particular, Defendant Hochberg, Judge, and actively adjudicating the *Morrow v*

ASCAP case, and in such capacity was aware that Lampert omitted certifying the Mosenkis Declaration ¶ 7 as it relates to Cashwell's successor membership under 304(a)(1)(c).

133. In particular, Defendant, John Doe, clerk, was active in the *Morrow v ASCAP* case, and in such capacity was aware that Lampert omitted certifying the Mosenkis Declaration ¶ 7 as it relates to the Cashwell's successor membership under 304(a)(1)(c).

134. In particular, Defendant Mosenkis was among the ASCAP in-house attorneys actively representing ASCAP in the *Morrow v ASCAP* case, and in such capacity was aware that Lampert omitted certifying the Mosenkis Declaration ¶ 7 as it relates to Cashwell's successor membership under 304(a)(1)(c).

135. In particular, Defendant Lynch was among the Saul Ewing attorneys actively representing ASCAP in the *Morrow v ASCAP* case and in such capacity was aware that Lampert omitted certifying the Mosenkis Declaration ¶ 7 as it relates to Cashwell's successor membership under 304(a)(1)(c).

136. In particular, Defendant Lampert was among the Saul Ewing attorneys actively representing ASCAP in the *Morrow v ASCAP* case and in such capacity did not certify the Mosenkis Declaration ¶ 7 as it relates to Cashwell's successor membership under 304(a)(1)(c).

Decedent Notifies the Court that the Mosenkis Declaration ¶ 7 Contravenes Duration of Copyrights:

137. By Rule 11 motion filed October 24, 2003, Decedent notified the court that the Mosenkis Declaration ¶ 7 as it relates to the Cashwell's successor membership was prohibited by 17 U.S.C. § 304 subsection (C) (2) (c) ***stirpes***. (Exhibit "H")

138. At the time of the Rule 11 motion, the ASCAP, Lawyer and Federal Court Employee Perpetrators' were aware of, participated in and/or oversaw the entry of the Rule 11 motion.

139. The ASCAP Perpetrators, Lawyer Perpetrators and Federal Court Employee Perpetrators were able to examine and review the Decedent's Rule 11 motion.

140. In particular, Defendant Hochberg, Judge, actively adjudicating the *Morrow v ASCAP* case, and in such capacity was aware of the Rule 11 motion as it relates to the Cashwell's successor membership under 17 U.S.C. § 304 subsection (C) (2) (c), *stirpes*.

141. In particular, Defendant, John Doe, clerk, was active in the *Morrow v ASCAP* case, and in such capacity was aware of the Rule 11 motion as it relates to the Cashwell's successor membership under 17 U.S.C. § 304 subsection (C) (2) (c), *stirpes*.

142. In particular, Defendant Mosenkis was among the ASCAP in-house attorneys

actively representing ASCAP in the *Morrow v ASCAP* case and in such capacity was aware of the Rule 11 motion as it relates to the Cashwell's successor membership under 17 U.S.C. § 304 subsection (C) (2) (c), *stirpes.*

143. In particular, Defendant Lampert was among the Saul Ewing attorneys actively representing ASCAP in the *Morrow v ASCAP* case and in such capacity was aware of the Rule 11 motion as it relates to the Cashwell's successor membership under 17 U.S.C. § 304 subsection (C) (2) (c), *stirpes* .

144. In particular, Defendant Lynch was among the Saul Ewing attorneys actively representing ASCAP in the *Morrow v ASCAP* case and in such capacity was aware of the Rule 11 motion as it relates to the Cashwell's successor membership under 17 U.S.C. § 304 subsection (C) (2) (c), *stirpes.*

145. The ASCAP Perpetrators, Lawyer Perpetrators and Federal Court Employee Perpetrators were aware of and appreciated the negative implications on ASCAP's defense in the *Morrow v ASCAP* case, and ASCAP's future liability because ASCAP unlawfully appointed Cashwell to the Bradshaw membership in contravention of 17 U.S.C. § 304(a).

146 On December 1, 2003, without mentioning 17 U.S.C. § 304 subsection (C) (2) (c), *stirpes*, Decedent's her motion was denied.

The Fabricated Opinion:

147. On October 31, 2003, the Court entered into the record a fabricated document, the "Opinion." (Exhibit "C")

148. At the time of the *Morrow v ASCAP* case, the ASCAP, Lawyer and Federal Court Employee Perpetrators' were aware of, participated in and/or oversaw the fabrication of the October 31, 2003 Opinion. (Exhibit "C")

149. In particular, Defendant Hochberg, was actively adjudicating the *Morrow v ASCAP* case, and in such capacity had knowledge relating to the fabrication of the October 31, 2003 Opinion. (Exhibit "C")

150. In particular, Defendant, John Doe, clerk, was active in the *Morrow v ASCAP* case, and in such capacity had knowledge relating to the fabrication of the October 31, 2003 Opinion. (Exhibit "C")

151. In particular, Defendant Mosenkis was among the ASCAP in-house attorneys actively representing ASCAP in the *Morrow v ASCAP* case, and in such capacity had knowledge relating to the fabrication of the October 31, 2003 Opinion. (Exhibit "C")

152. In particular, Defendant Lynch was among the Saul Ewing attorneys actively representing ASCAP in the *Morrow v ASCAP* case, and in such capacity had knowledge

relating to the fabrication of the October 31, 2003 Opinion. (Exhibit "C")

153. The ASCAP Perpetrators, Lawyer Perpetrators and Federal Court Employee Perpetrators were aware of and appreciated the negative implications on ASCAP's defense in the *Morrow v ASCAP* case, and ASCAP's future liability should it be discovered that ASCAP employee/intern, non-parties, fabricated the October 31, 2003 Opinion. (Exhibit "C")

154. To execute, manage and control the copyright defense plan and scheme, against Decedent's claims which were foreseeably expected to continue, an association in fact (which first formed in the 1999 *State* case), that was comprised of the ASCAP Perpetrators, the Lawyer Perpetrators, and the Federal Court Employee Perpetrators, and other ASCAP, Saul Ewing and Federal Court Employees related personnel over time. This association in fact is identified and referred to as the "ASCAP, Saul Ewing, Federal Court Employee Copyright Defense Enterprise" or the "**ASCAP Enterprise.**" The ASCAP Enterprise had both legitimate and illegitimate functions and purposes in conducting ASCAP's copyright claim defense.

155. As a result of the execution of the Fraudulent Copyright Defense Scheme ASCAP, through Saul Ewing, and Federal Court Employees obtained an Opinion and Order dismissing *Morrow v ASCAP*

156. ASCAP, through Saul Ewing, and Federal Court Employees had entered into the *Morrow v ASCAP* record the Mosenkis Declaration, Cashwell ASCAP Successor Membership Agreement, and Fabricated October 31, 2003 Opinion done in furtherance of the main objectives of the conspiracy.

157. The false Mosenkis Declaration, false Cashwell ASCAP Successor Membership Agreement and fabricated October 31, 2003 Opinion were parts of the ASCAP, Lawyer and Federal Court Employee Perpetrators' plan, scheme and agreement to mislead, deceive and defraud Decedent, and subsequent courts presiding over the *Morrow v ASCAP* case.

158.Entering into the record the fabricated October 31, 2003 Opinion , false Mosenkis Declaration and false Cashwell ASCAP Successor Membership Agreement were overt acts in furtherance of the ASCAP, Lawyer and Federal Court Employee Perpetrators' agreement and conspiracy to (a) continue the wrongful taking of the Bradshaw music royalties for ACAP management's operational costs, and for its publisher members, mislead, deceive and defraud federal courts, regarding the merit of Decedent claims against ASCAP based upon her statutory rights as Bradshaw's child under 304(a)(1)(c)(ii); and (b) in furtherance of the agreement and conspiracy among the ASCAP, Lawyer and Federal Court Employee Perpetrators' to commit a pattern of unlawful predicate activities, as defined and proscribed in N.J.S.A. § 2C:41-1 et seq., in order to conduct and effectuate ASCAP's copyright and negligence claim defense and operate and manage the ASCAP Enterprise.

159. In a registered letter addressed to Defendant, Hochberg. Decedent expresses her distress at her treatment at the hands of the ASCAP, Lawyer and Federal Court Employee Perpetrators. (Exhibit "I")
The Court did not respond.

(Year 5)
The Scheme in Mediation:

160. On July 23, 2004, after the *Morrow v. ASCAP* case was dismissed and the fabricated Opinion entered into the record the ASCAP, Lawyer, and Federal Court Employee Perpetrators acting directly or through their co-conspirators, in furtherance of their fraudulent plan and scheme to end *Morrow v. ASCAP*, namely: the forwarding of the record, including the fabricated Opinion, false Mosenkis Declaration and false Cashwell ASCAP Successor Membership to Decedent, her court appointed counsel:
Warren W. Faulk of Brown & Connery 360 Haddon Avenue, P.O. Box 539 Westmont, New Jersey 08108,
and; **Joseph A. Torregrossa**, Appellate Mediation Program Room 20716 United States Courthouse, 601 Market Street, Philadelphia, Pa 19106

161. As set forth above, Federal Court Employees forwarded the record in *Morrow v. ASCAP* on appeal, which included the fabricated Opinion, false Mosenkis Declaration, false Cashwell ASCAP Membership Agreement and misrepresentation that Plaintiff's Decedent was an illegitimate child of Bradshaw.

162. In view of the foregoing, Decedent was unaware of the Fraudulent Copyright Defense Scheme alleged herein any earlier despite the exercise of reasonable diligence. Indeed, as indicated above, the existence of the Fraudulent Copyright Defense Scheme was unknown to counsel for Decedent, who did his job investigating and conducting discovery into the facts and legal reasoning as set forth in the fabricated Opinion. Including but not limited to:

a. Utilizing means of discovery authorized by the rules of Mediation Civil Procedure and requests for production of documents which sought information regarding Decedent's claims pursuant to 17 U.S.C. § 304(a)(1)(c)(ii), alleged in her Complaint, including; examining Decedent's 1956 corrected birth certificate and reviewing the relevant copyright and state law related to intestate succession,

b.Engaging in telephonic conversation with Lawyer Perpetrator Lynch seeking clarification or comment regarding information relating to jurisdiction over Decedent's claims to a statutory right under 304(a)(1)(c)(ii).

c. Analyzing the Opinion to ascertain the Court's reasoning in dismissing Decedent's suit as described above; and,

d. Discussing the facts and conclusions of law cited in the Opinion before mediator

Torregrossa (Given that Decedent in 1999 had provided ASCAP with a copy of her birth certificate, Mediator Torregrossa distilled *Morrow v ASCAP* down to a single question directed at ASCAP counsel Lynch, "why was she treated different?" ,i.e., than other ASCAP applicants. No explanation was forthcoming.)

163. At the July 23; 2004 conference, Defendant Lynch represented that the October 31 Opinion was authentic, the Cashwell ASCAP Successor Membership was valid and the Mosenkis Declaration true.

164. ASCAP's management and in-house attorneys, including Mosenkis, and Saul Ewing counsel, including Lampert and Lynch, were aware of the mediation conference.

165. The ASCAP Perpetrators and the Lawyer Perpetrators were aware of the October 31 Opinion, Cashwell ASCAP Successor Membership and Mosenkis Declaration ¶ 7 relating to the mediation conference.

166. In particular, Defendant Mosenkis was among ASCAP's in-house attorneys and in such capacity was aware of the October 31 Opinion, Cashwell ASCAP Successor Membership and Mosenkis Declaration ¶ 7 relating to the mediation conference.

167. In particular, Defendant Lynch was among the Saul Ewing attorneys actively representing ASCAP in the Mediation, and in such capacity was aware of the October 31 Opinion, Cashwell ASCAP Successor Membership and Mosenkis Declaration ¶ 7 relating to the mediation conference.

168. In particular, Defendant Lampert was among the Saul Ewing attorneys actively representing ASCAP in the Mediation, and in such capacity was aware of the October 31 Opinion, Cashwell ASCAP Successor Membership and Mosenkis Declaration ¶ 7 relating to the mediation conference.

169. Defendants Mosenkis, Lynch and Lampert were able to examine and review the October 31 Opinion, Cashwell ASCAP Successor Membership and Mosenkis Declaration relating to the mediation conference.

170. The ASCAP Perpetrators and Lawyer Perpetrators were aware and appreciated the negative implications on the mediation conference, had mediator Torregrossa and Decedent's counsel, Faulk, discovered that the October 31, 2003 Opinion was unauthentic. Had this been revealed or disclosed on July 23, .2004, Decedent's counsel would have terminated the mediation conference and filed a motion to vacate the judgment dismissing *Morrow v. ASCAP* No. 2:03-cv-03045 D.C.N.J. (FSH) based on Defendants' fraud.

171. The ASCAP Perpetrators were aware of and oversaw Lawyer Perpetrator's mediation conference of *Morrow v ASCAP*.

172. These misrepresentations occurred and were committed despite the fact that the

ASCAP Perpetrators and the Lawyer Perpetrators were aware of these facts, knew and appreciated the relevance of the October 31 Opinion to the mediation, and were under a duty to truthfully answer and not provide an unauthentic Opinion to Decedent's counsel, and the mediator.

173. The false Mosenkis Declaration ¶ 7, false Cashwell ASCAP Membership Agreement, and fabricated October 31, 2003 Opinion were parts of the ASCAP, Lawyer and Federal Court Employee Perpetrators' plan, scheme and agreement to defraud Decedent, Decedent's counsel and the mediator.

174. As a result of the execution of the Fraudulent Copyright Defense Scheme, the mediation was unsuccessful.

175. Submitting the fabricated October 31, 2003 Opinion, the false Mosenkis Declaration ¶ 7 and false Cashwell ASCAP Successor Membership Agreement to the Mediator and Decedent's counsel, were overt acts in furtherance of the ASCAP, Lawyer and Federal Court Employee Perpetrators' agreement and conspiracy to (a) mislead, deceive and defraud Decedent and federal courts regarding the viability or the merit of Decedents claim against ASCAP based upon her statutory rights as Bradshaw's daughter under17 U.S.C. 101 et seq. ; (b) and in furtherance of the agreement and conspiracy among the ASCAP, Lawyer and Federal Court Employee Perpetrators' to commit a pattern of unlawful predicate activities, as defined and proscribed in N.J.S.A. § 2C:41-1 et seq., in order to conduct and effectuate ASCAP's copyright and negligence claim defense and operate and manage the ASCAP Enterprise.

The Scheme on Appeal:

176. In furtherance of their scheme, on November 9, 2004, Lawyer Perpetrators filed and served an Appellee brief and appendix in the Appellate Court of New Jersey in which the fabricated Opinion, false Mosenkis Declaration ¶ 7 and false Cashwell ASCAP Successor Membership were appended, and as set forth more particularly hereinafter,

177. ASCAP's management and in-house attorneys, including Mosenkis, and Saul Ewing counsel, including Lampert and Lynch, and Federal Court Employees, including Hochberg were aware of the *Morrow v ASCAP* case on appeal.

178. The ASCAP Perpetrators, the Lawyer Perpetrators and the Federal Court Employee Perpetrators were aware of the October 31 Opinion, Cashwell ASCAP Successor Membership Agreement and Mosenkis Declaration ¶ 7 relating to the Appellee brief and appendix.

179. In particular, Defendant Mosenkis was among ASCAP's in-house attorneys and in such capacity was aware of the October 31 Opinion, Cashwell ASCAP Successor Membership Agreement and Mosenkis Declaration ¶ 7 relating to the Appellee brief and appendix.

180. In particular, Defendant Lynch was among the Saul Ewing attorneys actively representing ASCAP, and in such capacity was aware of the October 31 Opinion, and Cashwell ASCAP Successor Membership Agreement and Mosenkis Declaration ¶ 7 relating to the Appellee brief and appendix.

181. In particular, Defendant Lampert was among the Saul Ewing attorneys actively representing ASCAP, and in such capacity was aware of the October 31 Opinion, and Cashwell ASCAP Successor Membership Agreement and Mosenkis Declaration ¶ 7 relating to the Appellee brief and appendix.

182. Defendants Mosenkis, Lynch and Lampert were able to examine and review the October 31 Opinion, and Cashwell ASCAP Successor Membership Agreement and Mosenkis Declaration ¶ 7 relating to the Appellee brief and appendix.

183. The ASCAP Perpetrators, the Lawyer Perpetrators and the Federal Court Employee Perpetrators were aware and appreciated the negative implications on the *Morrow v ASCAP* case, should it be discovered that the Lawyer Perpetrators appended the October 31 fabricated Opinion, the false Cashwell ASCAP Successor Membership Agreement and false Mosenkis Declaration to ASCAP's Response.

Lawyer Perpetrators Incorporate the Fabricated Opinion into Their Brief:

184. The ASCAP Perpetrators were aware of participated in and/or oversaw Lawyer Perpetrator's preparation of the Appellee brief.

185. In furtherance of their scheme, Lawyer Perpetrators Lampert and Lynch incorporated by reference the fabricated Opinion into the Appellee Brief. (Exhibit "J")

186. ASCAP's management and in-house attorneys, including Mosenkis, and Saul Ewing counsel were aware that the Lawyer Perpetrators Lampert and Lynch had incorporated the fabricated Opinion into the Appellee Brief.

187. In particular, Defendant Mosenkis was among ASCAP's in-house attorneys and in such capacity was aware of the incorporation of the fabricated Opinion into the Appellee Brief.

188. Defendants ASCAP, Mosenkis and Saul Ewing were able to examine and review the Appellee Brief's incorporation of the fabricated Opinion.

189. The ASCAP Perpetrators and the Lawyer Perpetrators were aware and appreciated the negative implications on the appeal of *Morrow v ASCAP* case, should it be discovered that the October 31, 2003 Opinion was a fabrication, the Cashwell Successor Membership Agreement false, the Mosenkis Declaration ¶ 7 false, and that the Lawyer Perpetrators had incorporated the fabricated Opinion into the Appellee Brief.

190. As a result of the execution of the Fraudulent Copyright Defense Scheme, ASCAP, through Saul Ewing, and Federal Court Employees the Court of Appeals affirmed *Morrow v ASCAP*, whereupon, on January 19, 2005, Perpetrator Lynch attempts to extort "Bill of Costs" from Decedent (Exhibit "J")

191.The Lawyer Perpetrators inclusion of the fabricated October 31, 2003, false Mosenkis Declaration ¶ 7 and false Cashwell ASCAP Successor Membership Agreement in their Appendix, and incorporating by reference the fabricated Opinion into their Appellee Brief, attempted extortion, were overt acts in furtherance of the ASCAP, Lawyer and Federal Court Employee Perpetrators' agreement and conspiracy to (a) mislead, deceive and defraud Decedent and the Third Circuit panel, regarding the merit of Decedent's claims against ASCAP based upon her rights under 304(a)(1)(c) of the Copyright Act of 1976; and (b) in furtherance of the agreement and conspiracy among the ASCAP, Lawyer and Federal Court Employee Perpetrators' to commit a pattern of unlawful predicate activities, as defined and proscribed in N.J.S.A. § 2C:41-1 et seq., in order to conduct and effectuate ASCAP's copyright and negligence claim defense and operate and manage the ASCAP Enterprise.

(Year 6)
The Scheme in the U.S. Supreme Court:

192. In the spring of 2005, Decedent petitioned the U.S. Supreme Court for a Writ of Certiorari *Morrow v ASCAP,* No. 04-1077

193. ASCAP's management and in-house attorneys, including Mosenkis, and Saul Ewing counsel, including Lampert and Lynch, and in such capacity were aware of Decedent's petition.

194. ASCAP's management and in-house attorneys, including Mosenkis, and Saul Ewing counsel, including Lampert and Lynch were aware of and remained silent relating to Decedent's allegation in her Brief that ASCAP fabricated the Opinion.

195. In particular, Defendant Mosenkis was among ASCAP's in-house attorneys and in such capacity was aware and remained silent relating to Decedent's allegation that ASCAP fabricated the Opinion.

196. In particular, Defendant Lynch was among the Saul Ewing attorneys actively representing ASCAP, and in such capacity was aware and remained silent relating to Decedent's allegation that ASCAP fabricated the Opinion.

197. In particular, Defendant Lampert was among the Saul Ewing attorneys actively representing ASCAP, and in such capacity was aware and remained silent relating to Decedent's allegation that ASCAP fabricated the Opinion.

198. Defendants Mosenkis, Lynch and Lampert were able to examine and review the

Decedent's Petition as it relates to the October 31 Opinion.

199. The ASCAP and Lawyer Perpetrators were aware and appreciated the negative implications on the *Morrow v ASCAP* case should it be discovered by the Court that Perpetrator Hochberg did not author the Opinion.

200. The ASCAP Perpetrators were aware of participated in and/or oversaw Lawyer Perpetrator's response.

201. ASCAP's management and in-house attorneys, including Mosenkis, and Saul Ewing counsel, including Lampert and Lynch, were aware of the fabricated Opinion as it relates to the Decedent's Petition.

202. Defendants Mosenkis, Lynch and Lampert were able to examine and review the Decedent's Brief and Appendix as it relates to the fabricated Opinion.

203. The ASCAP and Lawyer Perpetrators were able to examine and review the Decedent's Brief and Appendix as it relates to the fabricated Opinion.

204. On October 3, 2005, the Court denied Decedent's Petition.

205. In furtherance of their scheme none of the Defendants herein have ever taken any step or measure to affirmatively reveal the existence of, or renounce their participation in, the Fraudulent Copyright Defense Scheme or to cure or mitigate the injuries and damage it caused or could cause to the Plaintiff's Decedent, Plaintiff and the administration of justice.

206. The Lawyer and ASCAP Perpetrators silence was an act in furtherance of the ASCAP, Lawyer and Federal Court Employee Perpetrators' agreement and conspiracy to (a) mislead, deceive and defraud the U.S. Supreme Court regarding the merit of Decedent's claims against ASCAP based upon her rights under 304(a)(1)(c) of the Copyright Act of 1976; and (b) in furtherance of the agreement and conspiracy among the ASCAP, Lawyer and Federal Court Employee Perpetrators' to commit a pattern of unlawful predicate activities, as defined and proscribed in N.J.S.A. § 2C:41-1 et seq., in order to conduct and effectuate ASCAP's copyright and negligence claim defense and operate and manage the ASCAP Enterprise.

(Year 8)
The Scheme in *Viacom v. Youtube*:

207. The fraud and the harm unleashed by the defendants in furtherance of the Fraudulent Copyright Defense Scheme continued when Decedent attempted to vindicate her right as successor to the Bradshaw copyright renewals by filing a motion to intervene in *Viacom International, Inc. et al v. Youtube, Inc. et al*, 1:07-cv-02103, No. 1 (S.D.N.Y. Mar. 13, 2007). (Exhibit "K")

208. In her motion brief, Decedent first identified Viacom as an ASCAP member, she then alleged that ASCAP officers intentionally misrepresented the membership section of the AFJ2 in *Morrow v ASCAP,* and that under basic contract law ASCAP's fraud was grounds to modify or terminate its AFJ2 controlled public performance license, the infringement of which, Viacom based its action against Youtube.

209. However, Judge Stanton did not appreciate Decedent's theory of vicarious liability relating to the wrongful actions of its representative agents in the *ASCAP v Morrow* case, when on June 5, 2007; he denied Decedent's motion based for the most part upon proceedings in courts also defrauded by Conspirators.

"As shown by her motion papers, she has asserted it, so far unsuccessfully, in the United States District Court for the District of New Jersey, the Court of Appeals for the Third Circuit, the Supreme Court, and the United States District Court for the Southern District of New York."

(Year 12)
The Scheme in *United States v. ASCAP*:

210. Judge Denise L. Cote, S.D.N.Y ("Cote") has absolute jurisdiction over a consent decree, The Second Amended Final Judgment (the "**AFJ2**") in *United States v. ASCAP*, No. 41-1395 S.D.N.Y. 2001.

211. On February 24, 2011, Plaintiff in his attempt to vindicate his right to an ASCAP successor membership, requested by letter/motion mailed to Judge Cote to take Judicial Notice of an adjudicative fact (the multiplication rule applied to random sampling): "*to determine whether ASCAP is in contempt of the AFJ2 for fabricating the district court's opinion.*"
(Copies sent to Defendants McIntosh, O'Sullivan, Hochberg and Reimer.)

Common Knowledge of Random Sampling:

"Where feasible, ASCAP shall conduct, or cause to have conducted, a census or a scientific, randomly selected sample..." (AFJ2 Membership section XI B2)

212 Pursuant to the AFJ2 Membership section XI B2 section, Neglect to Prevent Defendant Cote is required to have knowledge of -- random sampling-- as it relates to the authenticity of the Opinion.

213. Pursuant to the AFJ2 Membership section XI B2 section, Neglect to Prevent Defendant McIntosh is required to have knowledge of -- random sampling-- as it relates to the authenticity of the Opinion.

214. Pursuant to the AFJ2 Membership section XI B2, Neglect to Prevent Defendant O'Sullivan is required to have knowledge of -- random sampling-- as it relates to the authenticity of the Opinion.

215. The Neglect to Prevent Defendants: Cote, McIntosh and O'Sullivan, have demonstrated their knowledge of -- random sampling-- as it relates to the authenticity of the Opinion.

(a) Cote: *In the matter of Applications of RealNetworks Inc., Yahoo Inc.*, (Exhibit "L")

(b) McIntosh: *A & M RECORDS, INC. v. Napster*, Inc. 239 F. 3d 1004 - Court of Appeals, 9th Circuit, 2001, (Exhibit "L")

(c) O'Sullivan: *US v. Baker Hughes Inc.*, 908 F. 2d 981 - Court of Appeals, Dist. of Columbia Circuit 1990, (Exhibit "L")

216. Defendant ASCAP is represented and defended in the AFJ2 case by ASCAP's in house attorneys including Perpetrator Reimer.

217. Pursuant to section XI B2 of the AFJ2, Perpetrator Reimer, at all times material herein is required to have knowledge of -- random sampling-- as it relates to the authenticity of the Opinion.

218. Perpetrator Reimer has demonstrated his knowledge of -- random sampling-- as it relates to the authenticity of the Opinion in *Matter of the Applications of Salem Media of California Inc., et al. and New England Continental Media, Inc., et al.*, (Exhibit "M")

Defendant Reimer's Attempt to Deceive the AFJ2 Court:

219. In March 2011, Judge Cote ordered ASCAP to reply to Plaintiff's letter/motion

220. Enclosed in Perpetrator Reimer's March 16, 2011 reply was a copy of the fabricated Opinion.

221. The ASCAP Defendants were aware of participated in and/or oversaw Perpetrator Reimer's reply letter as it relates to the fabricated Opinion.

222. The ASCAP Perpetrators and Federal Employee Perpetrators and Neglect to Prevent Defendants were aware of Plaintiff's letter/motion, Judge Cote's order, and Perpetrator Reimer's reply as it relates to the fabricated Opinion.

223. Defendants ASCAP, and the Federal Court Employee's were able to examine and review Perpetrator Reimer's reply letter as it relates to the fabricated Opinion.

224. The ASCAP Perpetrators, and the Federal Court Employee Perpetrators and Neglect to Prevent Defendants were aware of the random sampling evidence attached to Plaintiff's letter/motion relating to the authenticity of the October 31 Opinion.

225. Defendants ASCAP, Federal Court Employee's and Neglect to Prevent Defendants

were able to examine and review the random sampling evidence as it relates to the authenticity of the October 31, 2003 Opinion.

226. ASCAP, Federal Court Employee's and Neglect to Prevent Defendants were aware of and appreciated the negative implications should Judge Cote find Defendant ASCAP in contempt of the AFJ2 based on the random sampling evidence relating to the authenticity of the October 31, 2003 Opinion.

227. In particular, Perpetrator Reimer was among the ASCAP attorneys actively representing ASCAP in the AFJ2 case, and in such capacity was aware of the random sampling evidence relating to the authenticity of the October 31, 2003 Opinion.

228. In particular, Perpetrator Hochberg was the presiding Judge in the *Morrow v. ASCAP* case, and in such capacity was aware of the random sampling evidence relating to the authenticity of the October 31, 2003 Opinion.

229. Perpetrator Hochberg has demonstrated her knowledge of random sampling as it relates to the authenticity of the Opinion. *MCCOY v. HEALTH NET, INC.*, et al : 2:03-cv-01801-FSH-PS (Exhibit " N ")

230. Perpetrators Reimer and Hochberg were able to examine and review the random sampling evidence relating to the authenticity of the October 31, 2003 Opinion.

231. The ASCAP Defendants and the Federal Court Employee Defendants were aware of and appreciated the negative implications of Plaintiff's random sampling evidence on the AFJ2 and *Morrow v. ASCAP*.

Knowledge of ASCAP Membership Agreement Requirements:

232. By letter dated March 25, 2011, Plaintiff notified Judge Cote that Defendant ASCAP used the Cashwell ASCAP Successor Membership Agreement as a fraudulent instrument in the *Morrow v ASCAP* case.
Copies mailed to Defendants, McIntosh, O'Sullivan, Reimer and Hochberg.

233. Pursuant to the Membership section XI (A) of the AFJ2, Neglect to Prevent Defendants, Cote, McIntosh and O'Sullivan, at times material herein, are required to have knowledge of 17 U.S.C. § 304(a)(1)(c) relating to the validity of the Cashwell ASCAP Successor Membership Agreement..

234. In particular, Defendant Cote who oversees the AFJ2, and in such capacity is required to have knowledgeable of 17 U.S.C. § 304(a)(1)(c) relating to the validity of the Cashwell ASCAP Successor Membership Agreement

235. In particular, Defendant McIntosh is an attorney active in representing the Plaintiff, the United States of America. in the AFJ2 , and in such capacity is required to have knowledgeable of 17 U.S.C. § 304(a)(1)(c) relating to the validity of the Cashwell

ASCAP Successor Membership Agreement..

236. In particular, Defendant O'Sullivan is an attorney active in representing the Plaintiff, the United States of America. in the AFJ2, and in such capacity is required to have knowledgeable of 17 U.S.C. § 304(a)(1)(c) relating to the validity of the Cashwell ASCAP Successor Membership Agreement..

237. Defendant, ASCAP is represented and defended in the AFJ2 case by ASCAP's in house attorneys, including Defendant Reimer. Pursuant to the Membership section XI (A) of the AFJ2, Defendant Reimer, at times material herein, is required to have knowledgeable of 17 U.S.C. § 304(a)(1)(c) relating to the validity of the Cashwell ASCAP Successor Membership Agreement.

238. ASCAP's management and in-house attorneys and Federal Court Employees, including Hochberg were aware of and able to examine Plaintiff's letter dated March 25, 2011 as it relates to the validity of the Cashwell ASCAP Successor Membership Agreement.

239. The ASCAP Perpetrators and Federal Court Employees Perpetrators were aware of and appreciated the negative implications of the Cashwell ASCAP Successor Membership Agreement as alleged in Plaintiff's March 25, 2011 letter.

240. Defendants, McIntosh, O'Sullivan, and Cote who each one had the required knowledge of 17 U.S.C. § 304(a)(1)(c) and section XI (A) of the AFJ2, to have fairly considered and concluded that that the Cashwell ASCAP Successor Membership was in violation of the AFJ2, and that ASCAP used it as a fraudulent instrument and who each possessed the administrative or ministerial power pursuant to the AFJ2, to move for an order to find ASCAP in contempt.

241. Defendants, McIntosh, O'Sullivan, and Cote who each possessed the administrative or ministerial power pursuant to the AFJ2, and each to have fairly considered and concluded that the Cashwell ASCAP Successor Membership Agreement and fabricated Opinion were the modus operandi as they relate to Plaintiff's, February 24, 2011 letter/motion to find ASCAP in contempt for fraud thereby aiding Plaintiff to vindicate his right to an ASCAP successor membership pursuant to 17 U.S.C. § 304(a)(1)(c) and as provided by section XI (A) of the AFJ2.

242. Defendants, McIntosh, O'Sullivan, and Cote who each one had the required knowledge of Random Sampling and the membership requirements of the AFJ2 each to have fairly considered and concluded that Defendant ASCAP was in contempt of the AFJ2.

243. Defendant Reimer submitting the fabricated Opinion to Judge Cote was an overt act in furtherance of the ASCAP, Lawyer and Federal Court Employee Perpetrators' agreement and conspiracy to (a) mislead, deceive and defraud Plaintiff and the S.D.N.Y. relating to Plaintiff's motion for an order to show cause; and (b) in furtherance of the

agreement and conspiracy among the ASCAP, Lawyer and Federal Court Employee Perpetrators to commit a pattern of unlawful predicate activities, as defined and proscribed in N.J.S.A. § 2C:41-1 et seq., in order to conduct and effectuate ASCAP's defense in *Morrow v. ASCAP* No. 2:03-cv-03045 D.C.N.J. (FSH) and operate and manage the ASCAP Enterprise.

244. Perpetrator Reimer's overt acts also serve as predicate to ASCAP and its New York attorneys' violation of N.Y. Judicial Law §487, which prohibits New York State attorneys from engaging in deceit or collusion towards courts and parties to litigation.

245. Judge Cote cites the fabricate October 31, 2003 Opinion as the basis for denying Plaintiff's motion

246. On August 23, 2011, Perpetrator Hochberg issued an order claiming that she is the author of the October 31, Opinion. (Emails a copy to Lawyer Perpetrator Lampert)

247. Perpetrator Hochberg's August 23, 2011 order was an overt act in furtherance of the ASCAP, Lawyer and Federal Court Employee Perpetrators' agreement and conspiracy to (a) mislead courts and defraud Plaintiff and (b) in furtherance of the agreement and conspiracy among the ASCAP, Lawyer and Federal Court Employee Perpetrators to commit a pattern of unlawful predicate activities, as defined and proscribed in N.J.S.A. § 2C:41-1 et seq., in order to conduct and effectuate ASCAP's defense in *Morrow v. ASCAP* No. 2:03-cv-03045 D.C.N.J. (FSH) and operate and manage the ASCAP Enterprise.

248. To facilitate and enable the Fraudulent Copyright Defense Scheme to successfully work over the many years it would necessarily continue, ASCAP Perpetrators, Lawyer Perpetrators and Federal Court Employee Perpetrators formed and utilized the ASCAP Enterprise, an association in fact, which they managed and controlled to conduct not only ASCAP's legitimate copyright defense activities, including among other things the retaining, instruction and direction of a local defense law firm involved or assisting in implementing ASCAP's copyright defense, but as well their illegal and illegitimate Fraudulent Copyright Defense Scheme.

249. The ASCAP Enterprise existed from June 1999, and is ongoing.

250. The ASCAP Enterprise was organized to conduct and execute the Fraudulent Copyright Defense Scheme. The parties organizing it, including Lampert and Mosenkis intended it would continue for as long as *Morrow v. ASCAP* had possibility of revival in any future legal proceedings.

251. The ASCAP Perpetrators, Lawyer Perpetrators and Federal Court Employee Perpetrators as well as others associated with the ASCAP Enterprise, had specialized roles and functions in conducting and managing the operation of the ASCAP Enterprise and in executing the Fraudulent Copyright Defense Scheme.

252. Defendant ASCAP and the ASCAP Perpetrators' particular roles, functions and activities in the ASCAP Enterprise it, acting as aforesaid performed, included:

a. Administering the Bradshaw estate, examining trust instruments, distributing estate property to Bradshaw's successors, managing and handling Decedent's *State* and *Morrow v ASCAP* complaints against ASCAP in general, including performing the tasks, functions and duties as required or needed in overseeing the administration of Decedent's complaints, including Plaintiff's claims in *United States v. ASCAP.*

b. Taking for its operational costs a percentage of music royalties earned by the licensing of the Bradshaw compositions.

c. Distributing music royalties to ASCAP successors and publisher members earned by the licensing of the Bradshaw compositions.

d. Retaining and compensating counsel;

e. Answering discovery or other information requests and verifying the truth of those responses;

f. Funding the ASCAP Enterprise's defense in the *State* case and *Morrow v ASCAP* activities, including compensating local counsel;

g. Drafting and/or obtaining the unauthentic Opinion, as described above in Exhibit "C."

h. Making false sworn representations from its employee, officers consultants as needed, including furnishing the Mosenkis' false Declaration to Decedent's counsel and presiding courts with the intention that they would be relied upon;

i. Suborning or otherwise procuring false unsworn and sworn representations from its employees, and officers as needed, including obtaining or assisting in obtaining incorrect, misleading discovery response verifications by ASCAP employees and ASCAP officers, which they knew were to be provided to Decedent's counsel and courts presiding over the *State* case and *Morrow v. ASCAP*, with the intention that they would be relied upon;

j. Authorizing, permitting, and aiding and abetting the Lawyer Perpetrators and Federal Court Employee Perpetrators in ASCAP defense matters to assert that the Opinion was authentic, make false, misleading and incorrect representations and/or material omissions to Plaintiff's decedent's counsel presiding courts and other judicial hearings ; and Concealing and covering-up the fraudulent, tortious and/or illegal aspects of the ACAP Enterprises' conduct and operations.

k. Providing evidence that the Cashwell ASCAP Successor Membership complied with copyright law,

l. Concealing and covering-up ASCAP's employee and/or intern's fabrication of the

October 31, 2003 Opinion; and,

m. Concealing and covering-up the fraudulent, tortious and/or illegal aspects of the ASCAP Enterprises' conduct and operations.

253. The Lawyer Perpetrators' particular roles, functions and activities it, acting as aforesaid, performed included:

a. Representing ASCAP in the *State* and *Morrow v. ASCAP* cases.

b. Directing Federal Court Employee Perpetrators to file court documents, including the fabricated Opinion,

c. Addressing or responding to *State* and *Morrow v. ASCAP* matters as required.

d. Preparing discovery and motions documents for use in the *State* and *Morrow v. ASCAP* cases that contained information Saul Ewing knew to be false or misleading regarding the October 31, 2003 Opinion and the Mosenkis Declaration and Cashwell ASCAP Successor Membership Agreement;

e. Falsely and incorrectly stating and representing to Decedent's counsel and presiding *Morrow v. ASCAP* courts and other tribunals in correspondence, responses to discovery and/or pleadings or motion papers that the October 31, 2003 Opinion was authentic, the Mosenkis Declaration was true, and Cashwell ASCAP Successor Membership Agreement complied with copyright law.

f. Suborning or otherwise procuring false unsworn and sworn representations and discovery response verifications by ASCAP employees, ASCAP officers, which they knew were to be provided to Decedent's' counsel and in some cases courts presiding over *Morrow v. ASCAP* with the intention that they would be relied upon;

g. Concealing and covering-up ASCAP's fabrication of the October 31, 2003 Opinion; and,

h. Concealing and covering-up the fraudulent, tortious and/or illegal aspects of the ASCAP Enterprise's conduct and operations.

254. Federal Court Employee Perpetrators 'particular roles particular roles, functions and activities in the ASCAP Enterprise it, acting as aforesaid performed, included:

a. Adjudicating *Morrow v. ASCAP.*

b. Filing and docketing Decedent's complaint against ASCAP in general, including performing the tasks, functions and duties as required or needed in overseeing the administration and adjudication of Decedent's complaint;

c. Filing and docketing papers, evidence by mail including computer disks in ASCAP's defense, and performing the tasks, functions and duties as required or needed in overseeing the administration and adjudication of Decedent's complaint;

d. Employing, instructing, guiding and managing court clerks in handling *Morrow v. ASCAP.*

e. Preparing and issuing orders and opinions

f. Signing the fabricated October 31, 2003 Opinion.

g. Obtaining incorrect, misleading, false declarations by ASCAP Perpetrators, which they knew were to be used to dismiss *Morrow v. ASCAP.*

h. Authorizing, permitting, and aiding and abetting the Lawyer and ASCAP Perpetrators incorrect representations related to the Cashwell membership, including the fabricated Opinion and false Mosenkis Declaration.

i. Forwarding the Cashwell ASCAP Membership Agreement, the fabricated Opinion and false Mosenkis Declaration to the Third Circuit Mediation, Decedent's court appointed counsel and Third Circuit Court of Appeal with the intention that they would be relied upon;

j. Concealing and covering-up the fraudulent, tortious and/or illegal aspects of the ASCAP Enterprises' conduct and operations.

Questions of Law and Fact

255 a) Whether the October 31, 2003 Opinion relating to *Morrow v ASCAP* was fabricated by non-parties?

b) Whether ASCAP, Federal Court Employee, Saul Ewing, and their respective employees or members covered up the fabrication of the Opinion relating to *Morrow v. ASCAP*?

c) Whether Defendant Hochberg, and/or some of the Federal Court Employee Perpetrators aided and abetted the fabrication of the Opinion relating to *Morrow v. ASCAP*?

d) Whether Defendants, Lampert, Lynch and/or some of the Lawyer Perpetrators aided and abetted the fabrication of the Opinion relating to *Morrow v. ASCAP*?

e) Whether ASCAP, Federal Court Employees, Saul Ewing, and their respective employees or members, wrongfully, used as a fraudulent instrument, the Cashwell

ASCAP Membership Agreement, fabricated Opinion relating to *Morrow v. ASCAP* and to ASCAP's, Federal Court Employee' and Saul Ewing's benefit and the Plaintiff's Decedent's detriment and harm?

f) Whether Defendants misrepresented to Decedent's appointed counsel that the October 31, 2003 Opinion was authentic?

g) Whether Defendants knowingly and purposely misrepresented the Cashwell ASCAP Successor Membership?

h) Whether Defendants knowingly and purposely withheld the fact that ASCAP rescinded the Cashwell successor membership prior to *Morrow v. ASCAP*?

i) Whether Defendants systematically and uniformly withheld material information and facts concerning the Cashwell ASCAP Successor Membership?

j) Whether Defendants execution of the Fraudulent Copyright Defense Scheme was a fraud upon of the court of such nature, degree and extent warranting the Court to implement curative measures restoring *Morrow v. ASCAP* and ASCAP back to the *status quo ante* the commission of the Fraudulent Copyright Defense Scheme.

k) Whether Conspirators acted in concert with other Defendants to commit the Fraudulent Copyright Defense Scheme?

l) Whether any of the Defendants effectively withdrew from the conspiracy to commit the Fraudulent Copyright Defense Scheme or any of its elements, and if so when?

m) Whether the ASCAP, Federal Court Employee, Saul Ewing Perpetrators and/or the Lawyer Perpetrators violated the United States Constitution Fourth (Due Process) and Fifth (Depriving Property) amendments in the execution of the Fraudulent Copyright Defense Scheme?

n) Whether the ASCAP, Federal Court Employee, Saul Ewing Perpetrators and/or the Lawyer Perpetrators were acting under color of federal law in the execution of the Fraudulent Copyright Defense Scheme?

o) Whether Federal Court Employee Perpetrator Hochberg was acting outside the scope of her duties when she "locked" *Morrow v. ASCAP*?

p) Whether Conspirators are liable to the Plaintiff for punitive damages and other available relief under New Jersey law for fabricating evidence and fraudulent misrepresentations or conspiring to do so?

q) Whether the Defendants utilized the ASCAP Enterprise to conduct, execute and manage ASCAP's copyright/negligence claim defense?

r)Whether the ASCAP, Federal Court Employee, Saul Ewing Perpetrators and/or the Lawyer Perpetrators infringed Decedent's copyrights in violation of 17 U.S.C. §§ 106(1), (4) and (5) (public performance) of the Copyright Act of 1976?

s) Whether the ASCAP Perpetrators converted Decedent's renewal copyrights in violation of 17 U.S.C. § 304(a)(2)(B) (copyright renewal ownership) of the Copyright Act of 1976?

t)Whether Conspirators are liable to the Plaintiff for statutory damages and other available relief under Copyright Act law for conversion and direct or contributory infringement of Decedent's copyright renewals or conspiring to do so?

u) Whether in light of the extraordinary misconduct giving rise to this case ASCAP, should be required to render an accounting of and then disgorge the music royalties it wrongfully took by its violations of 17 U.S.C. § 101 et seq.?

v) Whether Plaintiff is entitled the restitution of music royalties unlawfully distributed to ASCAP management and its publisher members, or retained by any person found to be in violation of17 U.S.C. § 101 et seq.?

w) Whether the ASCAP, Federal Court Employee, Saul Ewing Perpetrators and/or the Lawyer Perpetrators obstructed justice in violation of 18 U.S.C. § 1503 (Obstruction of Justice), committed Mail Fraud in violation of 18 U.S.C. § 1341, or committed Wire Fraud in violation of 18 U.S.C. § 1343 in the execution of the Fraudulent Copyright Defense Scheme?

x) Whether the ASCAP, Federal Court Employee, Saul Ewing Perpetrators and/or the Lawyer Perpetrators conducted or participated, directly or indirectly, in the conduct of the ASCAP Enterprise through a pattern of unlawful activity, as defined under N.J.S.A. § 2C:41-1 et seq.?

y) Whether Federal Court Employee Perpetrators were acting outside the scope of their employment when they "locked" *Morrow v ASCAP* while on appeal, and whether the ASCAP, Federal Court Employee, Saul Ewing Perpetrators and/or the Lawyer Perpetrators violated N.J.S.A. § 2C:41-1 et seq.?

z) Whether in light of the extraordinary misconduct giving rise to this case Plaintiff is entitled to equitable relief correcting the harms caused by the ASCAP and/or Lawyer Perpetrators violations of N.J.S.A. §2C:41-1 et seq.?

aa) Whether in light of the extraordinary misconduct giving rise to this case ASCAP, should be required to render an accounting of and then disgorge the music royalties that it wrongfully took by its violations of N.J.S.A. § 2C:41-1 et seq.?

bb) Whether Plaintiff is entitled to equitable relief based upon Defendants committing common law fraud, conspiring to commit common law fraud, or aiding and abetting other

Defendants' commission of common law fraud?

cc) Whether Defendants committed obstructions of justice or a fraud upon the court by its commission of the Fraudulent Copyright Defense Scheme?

dd)Whether Plaintiff is entitled to declaratory of equitable relief that alleviates and cures any impairment, detriment or harm inflicted upon him by the fabricated Opinion relating to *Morrow v ASCAP* underlying copyright and negligence claims?

ee) Whether Plaintiff is entitled to equitable relief that alleviates and cures any impairment, detriment or harm inflicted upon him by the Defendants' fraudulent and deceitful misrepresentations, acts and omissions in furtherance of the Fraudulent Copyright Defense Scheme, including any harm attributable to the passage of time.

ff) Whether Plaintiff is entitled the restitution of music royalties unlawfully distributed to ASCAP management and ASCAP publisher members, or retained by any person found to be in violation of N.J.S.A. § 2C:41-1 et seq.?

gg) Whether assessment of punitive damages against the Defendants is warranted and just under the circumstances?

hh) Whether the fabrication of the Opinion relating to *Morrow v ASCAP* underlying copyright and negligence claims was unknown and unknowable to Plaintiff's decedent and Plaintiff due to Defendants' Fraudulent Copyright Defense Scheme?

ii) Whether in light of the extraordinary misconduct giving rise to this case, a notice to Plaintiff's Decedent's counsel and presiding courts in *Morrow v ASCAP ?*

jj) Whether Plaintiff is entitled to a declaration that ASCAP's, Saul Ewing's and the Federal Court Employees' communications relating to the fraudulent conduct are not privileged communication under the crime fraud exception and/or the AFJ2 Section XII. "Plaintiff's Access" of the AFJ2 ?

kk) Whether Plaintiff is entitled to a declaration that the AFJ2 court has jurisdiction to determine his right to an ASCAP Successor Membership?

ll) Whether Plaintiff is entitled to a declaration that Decedent, a daughter of Bradshaw, was vested with an interest in an ASCAP successor membership pursuant to 17 § 304(a)(1)(C) and entitled to royalties generated from ASCAP's licensing of Bradshaw's copyrights?

mm) Whether the ASCAP, Federal Court Employee, Saul Ewing Perpetrators and/or the Lawyer Perpetrators conduct give rise to a cause of action under 42 U.S.C. §§ 1985(3) ?

nn) Whether the ASCAP, Federal Court Employee, Saul Ewing Perpetrators and/or the Lawyer Perpetrators were acting under the color of Federal law?

oo) Whether in light of the extraordinary misconduct giving rise to this case Plaintiff is entitled to equitable relief correcting the harms caused by the ASCAP, Federal Court Employee, Saul Ewing and/or Lawyer Perpetrators violations?

pp) Whether Plaintiff is entitled to equitable relief based upon Defendants violating Due Process and Equal Protection as guaranteed by the U.S. Constitution?

qq) Whether Neglect to Prevent Defendants had the knowledge to conclude that there was an ongoing Fraudulent Copyright Defense Scheme as describes above?

rr) Whether Neglect to Prevent Defendants' failure to aid Plaintiff gives rise to a cause of action under 42 U.S.C. §§ 1986?

ss) Whether Neglect to Prevent Defendants' and ASCAP held the adjudicative fact –the product rule applied to random sampling--to a different standard than the methodology that they customarily use?

tt) Whether there is a policy/custom in the D.C.N.J. to discriminate against members of the same class as Decedent by depriving them of a meaningful hearing.

COUNT I

VIOLATION OF N.J.S.A. § 2C:41-2c

(Against ASCAP Perpetrators, Lawyer Perpetrators, and the Federal Court Employee Perpetrators)

256. Plaintiff incorporates and re-alleges the preceding paragraphs as if fully repeated herein.

257. Each of the Defendants comprising the ASCAP Perpetrators (ASCAP, Mosenkis McGivern, and Reimer, the Lawyer Perpetrators (Saul Ewing LLP, Lampert, Lynch) and the Federal Court Employee Perpetrators (Hochberg, John Doe) is a "person" within the meaning of N.J.S.A. § 2C:41-1b.

258. The ASCAP Enterprise is an association-in-fact within the meaning of N.J.S.A. § 2C:41-1, consisting of:

a. The ASCAP Perpetrators, as well as from time to time, other ASCAP employees/interns and agents who may or may not have been aware or knowledgeable of the Fraudulent Copyright Defense Scheme; and,

b. The Lawyer Perpetrators, as well as from time to time, other Saul Ewing partners, shareholders, members, associates and employees who may or may not have been aware or knowledgeable of the Fraudulent Copyright Defense Scheme

c. The Federal Court Employee Perpetrators, who, since 1999, as well as from time to time, other Federal Court employees who may or may not have been aware or knowledgeable of the Fraudulent Copyright Defense Scheme

259. The ASCAP Perpetrators, Lawyer Perpetrators and the Federal Court Employee Perpetrators are "persons" as defined N.J.S.A. § 2C:41-1 who are distinct from the ASCAP Enterprise.

260. The ASCAP Perpetrators, the Lawyer Perpetrators and the Federal Court Employee Perpetrators created and maintained the ASCAP Enterprise to manage and conduct ASCAP's defense in *Morrow v. ASCAP*. It was, however, corrupted by the ASCAP Perpetrators, the Lawyer Perpetrators and the Federal Court Employee Perpetrators through their operation of it through a continuous pattern of activities and conduct constituting predicate acts or violations under N.J.S.A. § 2C:41-1 et seq. which they devised and executed in order to continue collecting and distributing the Bradshaw music royalties to ASCAP management, Bradshaw successors, ASCAP publisher members, end Plaintiff's Decedent's lawsuit, *Morrow v. ASCAP*, and ward off future negligence claims against ASCAP by Decedent, non--ASCAP Music Publishers, and record labels who had distributed royalties and entered contracts based on ASCAP's ratification of the copyright ownership rights of ASCAP member, Cashwell.

261. The ASCAP Enterprise is an ongoing organization that has been functioning for fourteen years – 1999 to 2013.

262. The ASCAP Perpetrators, Lawyer Perpetrators and the Federal Court Employee Perpetrators used the ASCAP Enterprise for two purposes:1) to lawfully defend against *Morrow v. ASCAP*; to lawfully administer and adjudicate *Morrow v. ASCAP,* and to unlawfully conduct its operations through the fabricated Opinion, false Cashwell ASCAP Successor Membership, false Mosenkis Declarations, relating to *Morrow v. ASCAP*, which were conveyed or transmitted through means of telephone and the U.S. Mail, email, the internet and/or private or commercial interstate carriers such as Federal Express; all as set forth above. Any and all of these actions or material omissions were committed to obstruct justice or as a part of an endeavor to obstruct justice.

263. Each of the Defendants comprising the ASCAP Perpetrators, Lawyer Perpetrators and the Federal Court Employee Perpetrators, acting as set forth above, thereby conducted the affairs of the ASCAP Enterprise through a pattern of activity or conduct proscribed under N.J.S.A. § 2C:41-1, et seq., and thereby violated N.J.S.A. § 2C:41-2c.

264. The ASCAP Enterprise enabled and facilitated the ASCAP Perpetrators, Lawyer Perpetrators and the Federal Court Employee Perpetrators successful execution of the Fraudulent Opinion Scheme continuously for over fourteen (14) years.

265. The ASCAP Enterprise had a chain of command structure with the participants or actors with specific roles, functions and duties. Saul Ewing, served as counsel, and in

such capacity managed and oversaw the defense in the *State* and *Morrow v. ASCAP* cases involving ASCAP. In this capacity, Saul Ewing shared responsibility with the ASCAP Perpetrators and Federal Court Employee Perpetrators for devising defense strategy and tactics. Saul Ewing was then responsible for uniformly executing that strategy throughout which task and role included electronically submitting the fabricated Opinion to the Federal Court Employee Perpetrators whose task and role included entering and subsequently forwarding the fabricated Opinion to the Third Circuit Mediation, Decedent's counsel, Third Circuit Court of Appeals. The ASCAP Perpetrators also controlled the ASCAP Enterprise via its funding of its operations directly by its ability to retain or discharge Saul Ewing.

266. Each of the participants in the ASCAP Enterprise received economic benefit from the ASCAP Enterprise. Each member of the ASCAP Enterprise also benefited from the existence of the other parts or participants in the enterprise. Saul and Ewing earned professional fees for numerous years for its activities associated with the ASCAP Enterprise, including activities that constituted a pattern of activities and conduct that are proscribed and constitute predicate acts or violations under N.J.S.A. § 2C:41-1, et seq. Saul Ewing attorneys also benefited from being able to claim when marketing the firm or themselves that ASCAP was a client for which it (or he/she) had successfully handled intellectual property litigation., and, ASCAP -- including member Cashwell-- and its music publisher members have regularly received a percentage of Bradshaw's performance and record royalties. ASCAP was also able to avoid paying twenty-five years of back royalties to Plaintiff's Decedent, and enable Federal Court Employees, Hochberg, who adjudicated claims in *Morrow v ASCAP* to conserve judicial resources by delegating her duties to ASCAP Perpetrators, and, John Doe, clerk, to receive favorable employment reviews and future lucrative employment based on his handling and participation in *Morrow v ASCAP*.
All participants in the management of the ASCAP Enterprise gained and were benefited by the ASCAP Enterprise's operations facilitating and maintaining both the continuity and the invisibility of the Fraudulent Copyright Defense Scheme due to the grave professional economic, and criminal consequences that were possible if the scheme became known to U.S. Attorney for N.J

267. The ASCAP Enterprise engaged in and affected New Jersey and New York court proceedings. It handled and managed the administration and defense of *Morrow v. ASCAP* No. 2:03-cv-03045 in the D.C.N.J. during the Third Circuit Mediation, on Appeal in the Third Circuit on Petition to The United States Supreme Court, and before Judge Cote overseeing a consent decree in the S.D.N.Y. It regularly utilized interstate communication systems, including the U.S. Mail, interstate telephone, email, internet and private or commercial interstate carriers, such as Federal Express, to conduct its operations as set forth above.

268. The ASCAP Perpetrators, Lawyer Perpetrators and Federal Court Employee Perpetrators exerted control over the ASCAP Enterprise during their tenure and association with it.

269.The ASCAP Perpetrators, Lawyer Perpetrators and Federal Court Employee Perpetrators have conducted and managed the ASCAP Enterprise's affairs through a pattern of acts and activities that are indictable under 18 U.S.C. § 1503 (Obstruction of Justice, fabricating court documents), 18 U.S.C. § 1341 (mail fraud) transmitting the Opinion through the mail and 18 U.S.C. § 1343 (wire fraud), Electronically transmitting the fraudulent Opinion all of which are defined and proscribed unlawful acts, activities or conduct under N.J.S.A. § 2C:41-1a(2) and which serve as predicate acts in violation of N.J.S.A. § 2C:41-2c ("predicate acts").

270. The ASCAP Perpetrators, Lawyer Perpetrators and Federal Court Employee Perpetrators acts of obstruction of justice include fabrication of material evidence and federal court documents filed with courts as described above,

271. The ASCAP Perpetrators, Lawyer Perpetrators and Federal Court Employee Perpetrators use of the mails, wires and/or private or commercial interstate carriers to perpetrate their Fraudulent Copyright Defense Scheme through the ASCAP Enterprise which communications constitute predicate acts and unlawful activities under N.J.S.A. § 2C:41-1a(2), including, but not limited to those mailings, interstate carrier mailings and wire communications which directly or indirectly:.

a. Served and/or filed motions asserting false, deceitful and fraudulent representations and statements that the October 31, 2003 was authentic.

b. Submitted false and misleading sworn statements in the form of the Mosenkis declaration to courts that that the Cashwell ASCAP Successor Membership Agreement was valid

c. Served and/or filed motions asserting that the Opinion was authentic.

d. Transmitted and received back orders fraudulently obtained from courts presiding over *Morrow v. ASCAP.*

e. Transmitted or received professional fees and cost reimbursements relating to the Fraudulent Copyright Defense Scheme.

f. Transmitted court fees to the D.C.N.J. and Third Circuit courts relating to *Morrow v. ASCAP.*

g. Collected and distributed royalties by misrepresenting to music users the Cashwell ASCAP Successor Membership Agreement embodied in its "blanket license."

272. In addition, in furtherance of ASCAP's Enterprise's fraudulent and unlawful conduct ASCAP personnel in New York communicated by United States mail, private or commercial interstate carriers, telephone, email and facsimile with Saul Ewing and the Federal Court Employees in New Jersey,

273. The ASCAP Perpetrators', Lawyer Perpetrators' and Federal Court Employee Perpetrators' activities and conduct that related to the ASCAP Enterprise amounted to a longstanding common course and pattern of conduct intended to deceive and harm Plaintiff, and Plaintiff's Decedent that are proscribed predicate acts under N.J.S.A. § 2C:41-1. Each such activity was related, had similar purposes, involved the same or similar participants and methods of commission, and had similar results affecting Plaintiff's Decedent.

274. The ASCAP Perpetrators' unlawful activities and predicate acts violating N.J.S.A. § 2C:41-2(c) still remain a part of ASCAP's ongoing business affairs and constitute a continuing threat to the Plaintiff's copyright interests. In view of ASCAP's use of the fabricated Opinion relating to the underlying negligence and copyright claims in *Morrow v. ASCAP* and ASCAP's subsequent longstanding course of misrepresentations concerning the authenticity of the Opinion ASCAP's pattern and practice of misrepresenting the Opinion continues. As described above, ASCAP misrepresented the Opinion as authentic in the AFJ2 case even after the fabrication and the fraudulent misrepresentations were uncovered.

275. Defendants' predicate acts of sending by email, U.S. Mail or private/commercial interstate carrier and/or by transmitting via wire instrumentalities the misleading material representations and omissions of fact in furtherance of the Fraudulent Copyright Defense Scheme constitutes a pattern of unlawful conduct and predicate acts under N.J.S.A. § 2C:41-1d, which in turn violates N.J.S.A. § 2C:41-2c, based upon both the relationship between the acts and the continuity over the period of time of the acts. The relationship was related because the predicate acts were connected to each other in furtherance of the Fraudulent Copyright Defense Scheme. Continuity was reflected by both the long and repeated nature of the mailed, faxed, court electronically, fabricated Opinion, False Mosenkis Declaration, False ASCAP Membership Agreement, and material omissions of Decedent's birth certificate during and in furtherance of the Fraudulent Copyright Defense Scheme and the threat of similar acts against Plaintiff occurring in the future. The threat was related by the lengthy continuing and ongoing nature of the predicate acts.

276. Defendants' unlawful and predicate acts were related, because they: (a) reflected the same purpose or goal ,obstructing, impeding, impairing, disrupting and/or otherwise defeating the rights of Decedent the Constitutional right to copyright ownership, Due Process in the *State* and *Morrow v. ASCAP* cases , continuing the distribution to ASCAP management, Bradshaw successors and ASCAP music publisher members royalties generated by the Bradshaw membership, and deterring and warding off the filing of negligence and copyright claims against ASCAP ; (b) obtained the same results, termination of the *State* and *Morrow v. ASCAP* cases, the warding off negligence and copyright suits by Decedent and non-ASCAP music publishers and record labels, (c) involved the same participants (the ASCAP Perpetrators', Lawyer Perpetrators', Federal Court Employee Perpetrators'; (d) targeted the same victims, Decedent, her court appointed mediation counsel, Third Circuit Mediation, Third Circuit Appeal, United States Supreme Court, the S.D.N.Y. and Plaintiff, James Curtis Morrow and, (e) employed the same methods and means (modus operandi) of commission (the Fraudulent

Opinion Scheme and other acts described in this Complaint). The predicate acts were interrelated and not isolated events since they were carried out for the same purposes in a continuous manner and in secret over a substantial period.

277. Plaintiff and Plaintiff's Decedent were injured in their business and property by reason of the violations of N.J.S.A. § 2C:41-2c in that Plaintiff's Decedent suffered dismissal of the *State* and *Morrow v. ASCAP* cases, loss of benefits provided by 17 U.S.C. § 101 et seq. (the "Copyright Act") including public performance and royalties,. due to ASCAP Perpetrators', Lawyer Perpetrators', and Federal Court Employee Perpetrators' patterns of unlawful activity.

278. As a direct and proximate result of Defendants' acts, omissions and activities regarding the fabricated Opinion, including ASCAP Perpetrators, Lawyer Perpetrators' and the Federal Court Employee Perpetrators pattern of unlawful activities that violate N.J.S.A. § 2C: 41-1 et seq. and ASCAP's in house attorneys, Decedent sustained the loss of her statutory right to ownership of the Bradshaw copyrights including her right to an ASCAP successor membership and subsequent public performance and record royalties, and deprivation of her Constitutional right to a fair, honest and just judicial proceeding in *Morrow v. ASCAP* No. 2:03-cv-03045 D.C.N.J. (FSH) to which she was entitled

279. Plaintiff and Plaintiff's Decedent has/had been irreparably harmed by the Defendants' wrongful taking of their music royalties and infringement of copyrights here at issue through conducting the affairs of the ASCAP Enterprise in violation of N.J.S.A. § 2C:41-2c for which there is no adequate remedy at law given the extraordinary misconduct of the Defendants and the circumstances they created thereby. Equitable relief is appropriate in the nature of, *inter alia,* (a) declaratory and injunctive relief restoring *Morrow v. ASCAP* for the commission of the Fraudulent Copyright Defense Scheme so Plaintiff can make an informed decision regarding any further pursuit of his damage claims against ASCAP and any of the Defendants.

COUNT II

VIOLATION OF N.J.S.A. § 2C:41-2D BY
CONSPIRING TO VIOLATE N.J.S.A. § 2C:41-2C
(Against ASCAP Perpetrators, Lawyer Perpetrators and the Federal Court Employee Perpetrators)

280. Plaintiff incorporates and re-alleges the preceding paragraphs as if fully repeated herein.

281. Section N.J.S.A. § 2C:41-2d provides that it "shall be unlawful for any person to conspire as defined by N.J.S. 2C:5-2 to violate any of the provisions of this section." N.J.S.A. § 2C:41-2c is one such provision.

282. The ASCAP Perpetrators, Lawyer Perpetrators and Federal Court Employee

Perpetrators have violated N.J.S.A. §2C:41-2d by agreeing to and thereby conspiring to violate N.J.S.A. § 2C:41-2c.

283. The object of the conspiracy has been, and remains to this date, to (a) conduct or participate in, directly or indirectly, the conduct of the affairs of the ASCAP Enterprise through a pattern of unlawful activity as described above; and (b) take or perform all actions and measures as are necessary to conceal the fraudulent acts, misrepresentations, wrongful taking of music royalties and fabrication of evidence that had been committed or were being committed in furtherance of the Fraudulent Copyright Defense Scheme so that the scheme remained unknown by the public, the judiciary, and law enforcement officials.

284. The co-conspirators, the ASCAP Perpetrators, Lawyer Perpetrators, Saul Ewing Perpetrators and the Federal Court Employee Perpetrators have engaged in, or have aided and abetted the commission of numerous overt and fraudulent predicate acts in furtherance of the conspiracy, including material misrepresentations and omissions designed to defraud Plaintiff, and Plaintiff's Decedent of copyright claims as described above.

285. The nature of the above-described co-conspirators' acts, fabrications of evidence, material misrepresentations, and omissions in furtherance of the conspiracy gives rise to an inference that the ASCAP Perpetrators, Lawyer Perpetrators and Federal Court Employee Perpetrators not only agreed to the objective of an N.J.S.A. § 2C:41-2d violation by conspiring to violate N.J.S.A. § 2C:41-2c, but they were aware that their ongoing unlawful and fraudulent acts have been and are wrongful taking of music royalties, fabrications of evidence, misrepresentations, and omissions in furtherance of the conspiracy gives rise to an inference that the ASCAP Perpetrators Lawyer Perpetrators and the Federal Court Employee Perpetrators have not only agreed to the objective of an N.J.S.A. § 2C:41-2d violation by conspiring to violate N.J.S.A. § 2C:41-2c, but they were aware that their ongoing unlawful and fraudulent acts have been and are part of an overall pattern of activity that was and is unlawful.

286. Plaintiff's Decedent was irreparably harmed by the Defendants' wrongful taking of her copyright interests, conversion and infringement of copyright ownership at issue through the overt acts and the predicate acts in furtherance of violating N.J.S.A. § 2C:41-2d by conspiring to violate N.J.S.A. § 2C:41-2c for which there is no adequate remedy at law given the extraordinary misconduct of the defendants and the circumstances they created thereby. Equitable relief is appropriate in the nature of, inter alia, (a) declaratory and injunctive relief restoring *Morrow v. ASCAP* back to the status quo ante the commission of the Fraudulent Copyright Defense Scheme so that Plaintiff can make an informed decision regarding the further pursuit of his legal remedies and, should Plaintiff then elect to proceed with a damages claim against ASCAP and any of the Defendants, ; (2) a decree and injunction imposing a constructive trust upon ASCAP' property pending their rendering accountings to the Court of the benefits it illegally reaped as a result of their fraud.

COUNT III

FRAUD AND DECEIT

(Against The ASCAP Perpetrators, Lawyer Perpetrators and the Federal Court Employee Perpetrators).

287. Plaintiff incorporates and re-alleges the preceding paragraphs as if fully repeated herein.

288. As set forth above, beginning on or about June 1999 , the ASCAP Perpetrators, Lawyer Perpetrators and the Federal Court Employee Perpetrator (who entered the conspiracy in October 2003) have together with and all or some of the Fictitious Defendants, engaged in a continuous, uniform and persistent pattern and practice of falsely misrepresenting to Plaintiff's decedent, her counsel, and presiding courts, that:

a. The Opinion in support of dismissing *Morrow v. ASCAP* was authentic
b. that the Mosenkis Declaration was true.
c. that the membership agreement between Cashwell and ASCAP was valid.
d. that Decedent was not a legitimated child of Bradshaw.

289. Each such representation was false and misleading at the time it was made.

290. Defendants, acting as aforesaid, knew each representation was false and misleading or made the representation in reckless disregard as to its truth or falsity.

291. Each representation was deliberately made with the purpose and design of obstructing, impeding, impairing, terminating and/or otherwise disrupting Decedent's and Plaintiff's litigation in which ASCAP was a party, deterring and warding off the filing of negligence claims against by non--ASCAP music publishers, record labels and the wrongful taking of Decedent's copyright interests music and, since November 1 , 2010, infringement of Plaintiff's copyrights

292. In addition to the above misrepresentations, the ASCAP Perpetrators, Lawyer Perpetrators and the Federal Court Employee Perpetrators have together with all or some of the Fictitious Defendants, engaged in a continuous, uniform and persistent pattern and practice of directly or indirectly making material omissions of fact, or, alternatively, omitting and withholding facts that they were under a duty not to be misleading, regarding: (a) the authenticity of the Opinion; and, (b) the indisputable probability analysis that the Opinion was unauthentic.

293. Defendants, acting as aforesaid, knew each represented, omitted or withheld fact and/or their non disclosures, were false and misleading to those they were made or directed to, including Decedent, and her counsel, and where and when applicable, presiding courts.

294. As set forth above the ASCAP Perpetrators, Lawyer Perpetrators and the Federal

Court Employee Perpetrators agreed or conspired with each other, and/or with all or some of the Fictitious Defendants identified above, to commit the Fraudulent Copyright Defense Scheme, in which the fraudulent misrepresentations: fabricated Opinion, false Mosenkis Declaration, false Cashwell ASCAP Membership Agreement, and depriving full faith and credit to Decedents birth certificate, conversion of copyright interests, infringement of copyrights, and material misrepresentations were an integral part as well as constituting an overt act in furtherance of this conspiracy.

295. Each misrepresentation and omission of material fact was deliberate and committed with the intent, purpose and design of obstructing, impeding, impairing, terminating and/or otherwise disrupting the *State* and *Morrow v. ASCAP* cases, maintaining the flow of the Bradshaw royalties to ASCAP successor and publisher members and deterring and warding off the future filing of copyright infringement and negligence claims against ASCAP, as well as to cover up Defendants' wrong doing and conspiracy.

296. Plaintiff's Decedent as did her counsel, naturally, reasonably and detrimentally relied upon the above fabrications, misrepresentations and omissions causing Plaintiff's decedent to suffer dismissal of her lawsuit because the evidence that she produced (Rule 11 motion brief) contradicting ASCAP's assertions and averments, was controlled and suppressed by the conspirators.

297. Plaintiff has been irreparably harmed by the Defendants' fraudulent misrepresentations and omissions for which there is no adequate remedy at law given the extraordinary misconduct of the defendants and the circumstances they created thereby. Equitable relief, is appropriate in the nature of, inter alia, (a) declaratory and injunctive relief restoring Plaintiff back to the status quo ante *Morrow v. ASCAP* the commission of the Fraudulent Copyright Defense Scheme so Plaintiff can make an informed decision regarding any further pursuit of his legal remedies and, should Plaintiff then elect to proceed with a damages claim against ASCAP and any of the Defendants a declaratory decree imposing a constructive trust upon ASCAP's property pending their rendering accountings to the Court of the benefits they illegally reaped as a result of their fabrication of the Opinion.

COUNT IV

FRAUD UPON THE COURT

(Against The ASCAP Perpetrators, Lawyer Perpetrators and the Federal Court Employee Perpetrators).

298. Plaintiff incorporates and re-alleges the preceding paragraphs as if fully repeated herein.

299. Defendants' commission of the Fraudulent Copyright Defense Scheme on behalf of ASCAP as set forth above not only inflicted harm and grave injustice upon Decedent and her successor, Plaintiff Morrow, but also was a gross and egregious fraud and assault

upon the presiding courts in which *Morrow v. ASCAP* was pending.

300. ASCAP by and through officers of the court, its in-house attorneys (including Defendants Reimer, McGovern and Mosenkis) and its outside attorneys, Lampert and Lynch (including Saul Ewing), D.C.N.J officers of the court (including Hochberg and John Doe), as set forth above, fabricated the court's Dismissal Opinion and other documents, then flagrantly and repeatedly had ASCAP, acting through its litigation attorneys, falsely represent in both sworn and sworn unsworn documents and statements to Plaintiff's Decedent's counsel and, directly and indirectly through parties, to the Third Circuit Mediation and Appeal courts that the Opinion was authentic when in fact, as they knew — since they had fabricated it— that the Opinion was unauthentic.

301. The ASCAP Perpetrators, Lawyer Perpetrators and the Federal Court Employee Perpetrators deliberate and systematic misconduct set forth above strikes at the very heart of the judicial administration process — the foundational principles of candor and good faith and compliance with the rules of court. These core principles of the justice system require parties and their counsel to be honest and truthful and which disallow the fabrication of court documents.

302. Under these circumstances the Court in all equity and good conscious should exercise its inherent power to relieve Plaintiff of the injustice of fraud upon the court and not let ASCAP continue to enjoy the benefits it obtained and received thorough both its attorneys' fraud, and the D.C.N.J .federal court officers fraud upon the court on its behalf.

303. Plaintiff has been irreparably harmed by the Defendants' fraud upon the court for which there is no adequate remedy at law given the extraordinary misconduct of the defendants and the circumstances they created thereby. Equitable relief is appropriate in the nature of, inter alia, (a) declaratory and injunctive relief restoring Plaintiff back to *Morrow v. ASCAP*, the status quo ante the commission of the Fraudulent Copyright Defense Scheme so Plaintiff can make an informed decision regarding any further pursuit of his legal remedies,

COUNT V

Civil conspiracy

(Against The ASCAP Perpetrators, Lawyer Perpetrators and the Federal Court Employee Perpetrators).

304. Plaintiff incorporates and re-alleges the preceding paragraphs as if fully repeated herein.

305. In July 1999 ASCAP Perpetrators, Lawyer Perpetrators entered into a conspiracy by agreeing with each other each to wrongfully and tortiously implement and carry out what is the Fraudulent Copyright Defense Scheme described above

306. In the autumn of 2003, Federal Court Employee Perpetrators entered into the

conspiracy by agreeing with ASCAP Perpetrators, Lawyer Perpetrators and each other to each wrongfully and tortiously implement and carry out what is the Fraudulent Copyright Defense Scheme described above

307. The ASCAP Perpetrators, Lawyer Perpetrators and Federal Court Employee Perpetrators, as well as all or some of the fictitious John Doe Defendants agreeing to participate, understood the general objectives of the Fraudulent Copyright Defense Scheme, as described above, accepted them, and agreed to do their part to further them as well as to conceal the Fraudulent Copyright Defense Scheme and each member's of the conspiracy part and role in same.

308. The conspirators, the ASCAP Perpetrators', Lawyer Perpetrators' and Federal Court Employee Perpetrators, together with all or some of the fictitious John Doe Defendants, have engaged in, or have aided and abetted the commission of overt and fraudulent predicate acts in furtherance of the conspiracy, including (a)Fabricating the Court's Opinion (b)Submitting the false Mosenkis Declaration (c) Submitting the false Cashwell ASCAP Successor Membership Agreement (d)Misrepresenting that Decedent was not a legitimated child, which were designed to terminate *Morrow v. ASCAP* and defraud Decedent of benefits provided by 17 U.S.C. § 101 et seq. (the "Copyright Act"), including her right to an ASCAP successor membership and subsequent royalties as described above.

309. The nature of the above-described co-conspirators' acts, fabrications, material misrepresentations, and material omissions in furtherance of the conspiracy gives rise to an inference that the ASCAP Perpetrators', Lawyer Perpetrators' and Federal Court Employee Perpetrators and John Does Defendants involved and part of the conspiracy not only agreed to the objective of the Fraudulent Copyright Defense Scheme, but were aware that their ongoing unlawful and fraudulent acts have been and are part of an overall pattern of activity that was and is unlawful.

310. As a direct and proximate result of the ASCAP Perpetrators', Lawyer Perpetrators' and Federal Court Employee Perpetrators overt acts and predicate acts in furtherance of the conspiracy, Decedent suffered the dismissal of *Morrow v. ASCAP* , the loss of her copyright termination and renewal interests, including her right to public performance and record royalties, and her Constitutional rights to property and a fair, honest and just judicial proceeding which thereby significantly damaged and injured her.

311. Plaintiff has been irreparably harmed by the Defendants' conspiracy to implement and conduct the Fraudulent Copyright Defense Scheme for which there is no adequate remedy at law given the extraordinary misconduct of the Defendants and the circumstances they created thereby. Equitable relief, is appropriate in the nature of, inter alia, (a) declaratory and injunctive relief restoring Plaintiff back to the status quo ante the commission of the Fraudulent Copyright Defense Scheme so he can make an informed decision regarding any further pursuit of his legal remedies, (b) a decree and injunction imposing a constructive trust upon Defendant ASCAP's property pending its rendering accountings to the Court of the music royalties they reaped as a result of its fraud; and (c)

a decree ordering disgorgement of such benefits revealed in the accounting which, in all equity and conscious of the Court, Defendant should not retain under the circumstances.

COUNT VI

Against Defendant ASCAP for Copyright Conversion
17 U.S.C. § 304(a)(2)(B)

312. Plaintiff incorporates and re-alleges the preceding paragraphs as if fully repeated herein

313. If the author is deceased at the time of renewal but is survived by a spouse and/or children, the renewal copyright vests in the surviving spouse and/or children, 17 U.S.C. § 304(a)(2)(B);.

314. Defendant's intentional and unlawful control over Decedent's copyright interests to the complete exclusion of the Decedent and in contravention of 17 U.S.C. § 304(a)(2)(B);

315. As a direct and proximate result of Defendant's wrongful taking of Plaintiff's termination and renewal copyright interests, Decedent lost the benefits provided to the children of dead authors under the Copyright Act. 17 U.S.C. § 304(a)(2)(B);

316. Defendant's acts of conversion have been unlawful, willful, intentional, and purposeful, in disregard of and indifferent to the rights of Decedent.

317. As a direct and proximate result of Defendant's conversion of Decedent's copyright interests Plaintiff is entitled to the maximum statutory damages pursuant to 17 U.S.C. § 504(c). Alternatively, at Plaintiffs' election, pursuant to 17 U.S.C. § 504(b), Plaintiffs shall be entitled to their actual damages plus Defendants' profits from its conversion, as will be proven at trial.

318. Plaintiff is entitled to his costs, including reasonable attorneys' fees, pursuant to 17 U.S.C. § 505.

COUNT VII

(Against Defendant ASCAP for Copyright Infringement)
17 U.S.C. §§ 106(1), (4) and (5).

319. Plaintiff incorporates and re-alleges the preceding paragraphs as if fully repeated herein.

320. Defendant without the permission or consent of Plaintiff and without authority is licensing Plaintiffs' exclusive rights to public performance upon licensing to music users an ASCAP "blanket license"

321. Defendant's acts of infringement have been willful, intentional, and purposeful, in disregard of and indifferent to the rights of Plaintiff.

322. As a direct and proximate result of Defendant's directly infringing Plaintiffs' exclusive rights of reproduction and public performance, under 17 U.S.C. §§ 106(1), (4) and (5), Plaintiff has been damaged by Defendant's unauthorized taking of his share of music royalties.

323. As a direct and proximate result of Defendants' infringement of Plaintiffs' copyrights and exclusive rights under copyright, Plaintiff is entitled to damages. Plaintiff is entitled to the maximum statutory damages pursuant to 17 U.S.C. § 504(c). Alternatively, at Plaintiffs' election, pursuant to 17 U.S.C. § 504(b), Plaintiffs shall be entitled to their actual damages plus Defendants' profits from infringement, as will be proven at trial.

COUNT VIII

Contributory Copyright Infringement
(Against Lawyer Perpetrators and the Federal Court Employee Perpetrators)

324. Plaintiff incorporates and re-alleges the preceding paragraphs as if fully repeated

325. ASCAP has infringed and is directly infringing Plaintiff's exclusive rights of reproduction, public performance, and public display under 17 U.S.C. §§ 106(1), (4) and (5). to the Bradshaw compositions by, *inter alia*, entering licensing agreements with music users.

326. Defendants are liable as contributory copyright infringers for the infringing acts of ASCAP. Defendants enable, induce, facilitate, and materially contribute to each act of infringement by ASCAP

327. Defendants have actual and constructive knowledge that ASCAP collects and distributes royalties by licensing the Bradshaw public performances.

328. Acting with this actual and constructive knowledge, Defendants enable, facilitate, and materially contribute to ASCAP's copyright infringement, which could not occur without Defendants' enablement.

329. Defendants' acts of infringement have been unlawful, willful, intentional, and purposeful, in disregard of and indifferent to the rights of Plaintiff.

330. As a direct and proximate result of Defendants' infringement of Decedent's copyrights and exclusive rights under copyright, Plaintiffs are entitled to the maximum statutory damages pursuant to 17 U.S.C. § 504(c). Alternatively, at Plaintiff's election, pursuant to 17 U.S.C. § 504(b), Plaintiff shall be entitled to their actual damages plus Defendants' profits from infringement, as will be proven at trial.

331. Plaintiffs are entitled to their costs, including reasonable attorneys' fees, pursuant to 17 U.S.C. § 505.

COUNT IX

Violation of Fifth Amendment Right to Equal Protection of the Laws
(Defendant Hochberg Individually)

332. Plaintiff incorporates and re-alleges the preceding paragraphs as if fully repeated herein

333. The Defendant Hochberg's actions described herein violated the Equal Protection Component of the Fifth Amendment to the United States Constitution, which prohibits federal actors from intentionally subjecting any individual to treatment that is different from that accorded to others similarly situated and is without legitimate basis.

334. Acting under color of federal law Defendant Hochberg discriminated against Decedent based on her status as a black woman born out of wedlock, pro se, forma pauperis who was both destitute and homeless when she commenced her lawsuit, and that given her background, descent and circumstances, that Decedent would be unworthy of the Court expending its limited judicial resources on such a litigant. While at the same time, Defendant Hochberg had a policy to provide those resources to those litigants who were not in the same class as Decedent.

335. The Defendant's invidiously motivated orders, approvals, and omissions were in violation of the Fifth Amendment's Equal Protection Component, acting under color of federal law within the meaning of 42 U.S.C. § 1985(3) and give rises to a cause of action under the rule of Bivens.

COUNT X

Violation of Fifth Amendment Right to Equal Protection of the Laws
(Defendant Federal Actors, Mosenkis, McGivern, Reimer Lynch, Lampert, Individually

336. Plaintiff incorporates and re-alleges the preceding paragraphs as if fully repeated herein.

337. The Defendants', Mosenkis, McGivern, Reimer, Lynch, and Lampert, actions described herein violated the Equal Protection Component of the Fifth Amendment to the United States Constitution, which prohibits federal actors from intentionally subjecting any individual to treatment that is different from that accorded to others similarly situated and is without legitimate basis.

338. In addition, the Defendants' actions in subjecting the Decedent to differential treatment was motivated by a vindictive and illegitimate animus, thereby violating the Equal Protection Component of the Fifth Amendment to the United States Constitution.

339. The actions of the individuals were so egregious that they were outside the course and scope of their employment. Their actions were part of a conspiracy so that the individual Defendants could not have been making a legal judgment in their decision to deny Decedent the fundamental right to a fair hearing, but rather based on her status as an unrepresented black woman and with no rational basis to do so, while having a policy to follow Court Rules and Rules of Professional Conduct when dealing with litigants who were not in the same class as Decedent.

340. The Defendants' actions were in violation of the Fifth Amendment's Equal Protection Component, acting under color of federal law within the meaning of 42 U.S.C. § 1985(3) and give rises to a cause of action under the rule of Bivens

COUNT XI

Violation of the Fifth Amendment Deprivation of Property without Substantive Due Process
(Defendant Federal Actors, Mosenkis, McGivern, Reimer Lynch, Lampert, Hochberg, John Doe, Individually)

341. Plaintiff incorporates and re-alleges the preceding paragraphs as if fully repeated herein.

342. The Defendants' actions described herein violate the Due Process Clause of the Fifth Amendment to the Constitution, which prohibits government officials from depriving any individual of a property interest such as copyright ownership including the taking of public performance royalties without due process.

343. In their conduct set forth in this Complaint, each of the Defendants acted under color of federal law.

344. The Defendants' actions were in violation of the Fifth Amendment's, Right to Property, acting under color of federal law within the meaning of 42 U.S.C. § 1985(3) and give rises to a cause of action under the rule of Bivens

COUNT XII

Violation of Fifth Amendment without Substantive Due Process
(Defendant Federal Actors, Mosenkis, McGivern, Reimer Lynch, Lampert, Hochberg, Individually)

345. Plaintiff incorporates and re-alleges the preceding paragraphs as if fully repeated herein.

346. Due Process component of the Fifth Amendment requires that legal proceedings be conducted in a fair manner. The Defendants' actions were in violation of the Fifth Amendment's Due Process component, acting under color of federal law within the meaning of 42 U.S.C. § 1985(3) and give rises to a cause of action under the rule of Bivens

COUNT XIII

Violation of 42 U.S.C. § 1986
Neglect to Prevent Conspiracy
(Defendants, McIntosh, O'Sullivan, and Cote)

347. Plaintiff incorporates and re-alleges the preceding paragraphs as if fully repeated herein.

348. 42 U.S.C. § 1986 provides that every person who has knowledge that a wrongful act is about to be committed and having the power to prevent the commission of such wrong neglects or refuses so to do, is liable to the party injured for all damages caused by the wrongful act

349. The Defendants actions, orders, approvals, and omissions while acting under color of federal law failed to prevent the Fraudulent Copyright Defense Scheme herein described, and give rises to a cause of action under 42 U.S.C. § 1986.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff in his own right and on behalf of Plaintiff's Decedent, demands judgment against Neglect to Prevent Defendants, Cote, McIntosh, and O'Sullivan for a determination and declaration relating to Defendants' liability for failure to aid Plaintiff.

and;

against Defendants ASCAP, Saul Ewing jointly and the Federal Court Employees, severally and in the alternative Defendants, Mosenkis, McGivern, Reimer Lynch, Lampert, Hochberg, for the following relief:

including but not limited;

a. Declaratory and equitable relief restoring *Morrow v. ASCAP* to its position prior to the commission of Defendants' obstruction of justice and fraud, including but not limited to, should the Court find it equitable and just, a declaration or injunction:

b. A permanent injunction enjoining the Defendants from further misrepresenting the

c. A permanent injunction enjoining the Defendants from further depriving full faith and credit to Decedent's birth certificate

d. A determination and declaration that the court governing a consent decree, the *Second Amended Final Judgment in United States v. ASCAP*, No. 41-1395 S.D.N.Y. 2001, has sole jurisdiction as it relates to the Cashwell ASCAP Successor Membership Agreement and Plaintiff's right as successor to the ASCAP posthumous membership of Bradshaw;

e. A determination and declaration that ASCAP's, Saul Ewing's Federal Court Employees 'communications relating to the their fraudulent conduct and/or the fabrication of the court Opinion are not privileged attorney-client communication under the crime fraud exception and/or the terms of the AFJ2 an injunction barring and prohibiting either from asserting same are privileged in any proceeding involving *Morrow v. ASCAP*

f. Defendants' ASCAP's and Saul Ewing's liability for an accounting of Defendants' violations of N.J.S.A. § 2C:41-1 et seq.

g. declaratory and injunctive relief restoring *Morrow v. ASCAP* back to the status quo ante the commission of the Fraudulent Copyright Defense Scheme

h. a decree and injunction imposing a constructive trust upon ASCAP' property pending its rendering accountings to the Court of royalties reaped as a result of its fraud

i. Attorney's fees and costs; and

j. Entry of an order or orders by the Court determining and declaring Defendants' liability for compensatory damages for violation of the United States Constitution and laws of the state of New Jersey.

k. Entry of an order or orders by the Court determining and declaring Defendants' liability for an accounting and thereafter disgorgement of any and all revenues, profits or money received that derived from or are traceable to, as is applicable, Defendants' violations of N.J.S.A. § 2C:41-1 *et seq.*

l. Entry of an order or orders by the Court determining and declaring Defendants' liability for an accounting and thereafter disgorgement of any and all revenues, profits or money received that derived from or are traceable to, as is applicable, to Defendants', ASCAP's and Saul Ewing's violations of 17 U.S.C. § 304(a)(2)(B).

m. Expedited remedy of the adjudicative fact under FRCP Rule 201 (b)(d)(e)(f).

n. Such other relief as may be available and just.

JURY DEMAND

Plaintiffs hereby demand trial by Jury on all issues so triable.

(Year 14)

Dated: August , 2013
Respectfully Submitted,
James Curtis Morrow

____/s/ James Curtis Morrow ____

jamescurti[redacted]
Plaintiff pro se

CERTIFICATION OF SERVICE

I, James Curtis Morrow, pro se, hereby certify that on August 2013, this Complaint was filed with the Court's Pro Se Clerk, and will be served on all counsel of record.

/s/ James Curtis Morrow

Exhibit A

Ms. Sandra Ann Bradshaw-Morrow
93 Fox Road #1-B
Edison, N.J. 08817
January 21st.,1999
(732) 393-1485

Ms. Paula Katz
c/o: A.S.C.A.P.
Estates & Claims
1 Lincoln Plaza
New York, 10023 N.Y.C.

Re: First Time Claim.

Dear Ms. Katz,

I Sandra Ann Bradshaw- Morrow hereby certify that I am the legal daughter of Myron Carlton Bradshaw known as "Tiny" Bradshaw, Orchestra leader.

I have enclosed a copy of my birth certificate, drivers license, College I.D. with SS#(as well as a copy of my father's death certificate.

I am inquiring about the estate of my father and my entitlement to any Royalties, Personal Properties, Benefits ect.; in accordance with A.S.C.A.P.'s regulations.
Any information that you can provide for me would be greatly appreciated.
Thank you for your consideration in this matter.

Sincerely,
Sandra A. Bradshaw-Morrow

Sandra A Bradshaw-Morrow

RM/CM:

AUG 17 1977

Certificate of Birth

Certificate No. [redacted]

l name of child (PRINT) Sandra (First name) Ann (Middle name) Bradshaw (Last name)

Female

3. Number of children born of this pregnancy 1

4. If more than one, number of this child in order of birth

5. Date of child's birth (Month) (Day) (Year) [redacted]

5a. Hour [redacted] A.M. P.M.

ACE OF BIRTH

NEW YORK CITY: (b) Borough [redacted]

Name of Hospital or Institution [redacted]

If not in hospital, street address No. Ave. St.

7. USUAL RESIDENCE OF MOTHER: (a) State [redacted]

(b) Co. [redacted] (c) Post Office and Zone [redacted]

(d) No. [redacted] Ave. St.

FATHER

il ne Myron Bradshaw

or race [redacted]

10. Age at time of this birth [redacted] (years)

rthplace ty or place and te, or country) [redacted]

ual cupation [redacted]

nd of business industry in ich work was done

MOTHER

13. Full maiden name [redacted]

14. Color or race [redacted]

15. Age at time of this birth [redacted] (years)

16. Birthplace (city or place and State, or country) [redacted]

17a. Total number of children BORN ALIVE PREVIOUS to this pregnancy 0

17b. Number of children born PREVIOUS to this pregnancy and NOW LIVING 0

hereby certify that this child was born alive at the hour and on the date stated above, and that all the facts stated in this certificate and birth are true to the best of my knowledge, information and belief.

cted Certificate [redacted]

wed for Filing

(Signature)

nal Report Filed [redacted]

(Signed) Carolyn Silberman

Deputy Med Supt

Address Vulcan's General

AU OF RECORDS AND STATISTICS DEPARTMENT OF HEALTH CITY OF NEW YORK

This is to certify that the foregoing is a true copy of a record in my custody.

Irwin J. Mellon

CITY REGISTRAR

The Department of Health does not certify to the truth of the statements made thereon, as no inquiry as to the facts has been provided by law.

DO NOT ACCEPT THIS TRANSCRIPT UNLESS THE RAISED SEAL OF THE DEPARTMENT OF HEALTH IS AFFIXED THEREON. REPRODUCTION OR ALTERATIONS ARE PROHIBITED BY LAW.

Exhibit B

Plaintiff: Sandra Bradshaw Morrow

Dated June 23, 2003

[redacted]

Case No.
03CV3045

UNITED STATES THIRD DISTRICT COURT

DISTRICT OF NEW JERSEY

SANDRA ANN BRADSHAW LUCAS MORROW,

Plaintiff,

Vs

DEMAND FOR A JURY TRIAL

AMERICAN SOCIETY OF COMPOSERS

AUTHORS AND PUBLISHERS (A.S.C.A.P.),

COMPLAINT FOR:

DECALRATORY RELIEF, ACCOUNTING DAMAGES, IMPOSITION OF CONSTRUCTIVE TRUST, FRAUD, CONVERSION, NEGLIGENCE, AND INFLICTION OF EMOTIONAL DISTRESS

Dated: June 24, 2003 SANDRA ANN BRADSHAW LUCAS MORROW

Sandra Ann Bradshaw Lucas Morrow

INTRODUCTION

1. Plaintiff is the natural child born out of marriage of Myron Carlton Bradshaw the deceased Orchestra leader and composer professionally known as "Tiny Bradshaw"
2. During his lifetime, "Tiny" acknowledge in judicial proceedings and to close friends that the Plaintiff was his daughter, and provided for plaintiff's support until his death.
3. As the natural child of Tiny Bradshaw, plaintiff, under section 304 of the Copyright Act of 1976, 17 U.S.C. 101 et seq., as amended (the "1976 Act") is accorded an ownership interest in the copyrights to certain of the musical compositions authored, in whole or in part, by my father, including, but not limited to performance royalties which are collected by A.S.C.AP., and sound recordings which embody his recorded performances, and, in those circumstances, I am entitled in whole or in part to share in the financial benefits derived from the commercial exploitation of such works.
4. Defendants will not recognize plaintiff as Tiny's child in the absence of a judicial determination to the effect and, as a result, plaintiff has been deprived by the defendants who wrongfully misappropriated, certain rights and financial benefits to which the plaintiff is entitled under the 1976 Act.
5. My father died intestate in November 1958 in the state of Ohio.

Exhibit C

STEPS Independent Events

Two events are independent if the occurrence of one of the events gives us no information about whether or not the other event will occur; that is, the events have no influence on each other.

In probability theory we say that two events, A and B, are independent if the probability that they both occur is equal to the product of the probabilities of the two individual events, i.e.

$$P(A \cap B) = P(A).P(B)$$

The idea of independence can be extended to more than two events. For example, A, B and C are independent if:

a. A and B are independent; A and C are independent and B and C are independent (pairwise independence);
b. $P(A \cap B \cap C) = P(A).P(B).P(C)$

If two events are independent then they cannot be mutually exclusive (disjoint) and vice versa.

Example

Suppose that a man and a woman each have a pack of 52 playing cards. Each draws a card from his/her pack. Find the probability that they each draw the ace of clubs.

We define the events:

A = probability that man draws ace of clubs = 1/52

B = probability that woman draws ace of clubs = 1/52

Clearly events A and B are independent so:

$$P(A \cap B) = P(A).P(B) = 1/52 \,.\, 1/52 = 0.00037$$

That is, there is a very small chance that the man and the woman will both draw the ace of clubs

In determining that an individual other than Perpetrator Hochberg authored the Opinion, please take Judicial Notice of the adjudicative fact—the multiplication rule for independent events--as applied to random sampling.

Methodology:

1. Evidentiary document "A" independently authored by Perpetrator ASCAP and of indisputable authorship.

2. Evidentiary document "B" independently authored by Perpetrator Lampert and of disputed authorship.

3. Evidentiary document "C" independently authored by Perpetrator Hochberg and of disputed authorship.

4. Note that documents "A", "B" and "C" contain the proper noun phrase **"Burgess Cashwell."** in the correct order and in an incorrect order **"Cashwell Burgess"** (inversion)

5. To compute the likelihood that ASCAP, Lawyer and Federal Court Employee Perpetrators would each make and then mail an inversion to Decedent, Plaintiff took random samples from each author's documents --legal memos, motions, amici briefs, letters, orders, and judicial opinions. (Which he obtained from the internet, personal files and Pacer.)

6. Plaintiff, with the aid of a random number generator, assigned the order that each page of each author's document was to be examined.

7. Plaintiff then counted the number proper noun phrases from each randomly selected page. (He stopped the count at four hundred (400) -- the sample size.)

8. The results:
ASCAP Author-- zero inversions
Lawyer Author --zero inversions
Federal Court Employee Author --zero inversions

10. The probability of an inversion occurring in ASCAP, Lawyer and Federal Court Employee documents is computed by applying the multiplication rule that is:

Probability = (A) x (B) x (C).

11. Which is a probability of less than one in 640, 000.

12. The conclusion: that an individual other than Defendant Hochberg was the author of the Opinion (confidence level greater than 99%).

13. That ASCAP, Lawyer and Federal Court Employee authors also inverted the identical proper noun phrase would make this event even more improbable. Additionally, it is to no avail, nor would it be reasonable to answer that the inversion was merely a "typing error" due to the authors' unfamiliarity with the name, "Burgess Cashwell", given the fact that all three authors correctly spelled it more than once in their respective documents.

(A fourth document signed by Lawyer Perpetrators, Lynch and Lampert also contains the inversion (attached to Complaint as Exhibit "E"). However, the document was pretextual, for the sole purpose of ascertaining whether Decedent was yet aware of the inversion and its implication concerning the authenticity of the Opinion. Therefore, it is not included in Plaintiff's probability analysis.)

Additional Facts Concerning the Name Burgess Cashwell:

14. Cashwell as a first name matches 7 of the 90,828,382 death records in the Social Security Death Index (SSDI).

15. Cashwell as a first name from the 1990 Census, No matches. (Source: U.S. Census Bureau, Population Division)

16. The given name Cashwell is sufficiently obscure and not within the knowledge of the Conspirators, and the idea that four authors, McGivern, Lampert, Lynch and Hochberg made the identical error is simply not plausible

ASCAP

PAULA KATZ
Director of Legal Affairs
Counsel, Estates and Claims

February 17, 1999

[redacted]

Re: Estate of Myron Carlton Bradshaw

Dear Ms. Bradshaw:

I write in response to your letter faxed to my office on February 10, 1999, concerning the ASCAP membership of the late Myron Carlton Bradshaw. Below, I address each of the issues you have raised in the order set forth in your letter, as follows:

1. Our members financial information is deemed highly confidential. Accordingly, I am unable to produce to you royalty information concerning the membership of Myron Carlton Bradshaw without the approval of the named successors or a subpoena.

2. According to the information contained in our files, Jean Redd is the daughter of Myron Carlton Bradshaw and Cashwell Burgess is her son (grandson of Myron Carlton Bradshaw). Our file contains no information about Myron Carlton Bradshaw, Jr.

3, 4 and 5. At this time, we are not prepared to terminate the successor memberships of Jean Redd and Burgess Cashwell or to name you sole successor to the membership. ASCAP named successors to the Bradshaw membership and paid royalties on the basis of information that was sworn to be accurate. Having been advised by you that the information may not have been correct, we have placed a hold on the royalties to afford you the opportunity to resolve all issues of entitlement. Upon resolution of those issues, either by a court order or by settlement among the parties, ASCAP will adjust its records and pay future royalties in accordance with the new entitlements. With respect to royalties for prior periods, you must look to Ms. Redd and Mr. Cashwell for any redress.

AMERICAN SOCIETY OF COMPOSERS, AUTHORS & PUBLISHERS
ASCAP Building One Lincoln Plaza New York New York 10023
212.621.6280 Fax: 212.621.6481

Exhibit "A"

LAW OFFICES OF

SAUL, EWING, REMICK & SAUL LLP
A DELAWARE LLP

PHILADELPHIA, PENNSYLVANIA
BALTIMORE, MARYLAND
BERWYN, PENNSYLVANIA

MICHAEL A. LAMPERT
Direct Dial: (609) 452-3123
Direct Fax: (609) 452-3125

214 CARNEGIE CENTER, SUITE 202
PRINCETON, NJ 08540

(609) 452-3100

Fax: (609) 452- 3122
World Wide Web: http://www.saul.com

PAMELA S. GOODWIN
NEW JERSEY MANAGING PARTNER

HARRISBURG, PENNSYLVANIA
NEW YORK, NEW YORK
WILMINGTON, DELAWARE

INTERNET EMAIL
Firm: princeton@saul.com
Direct: mlampert@saul.com

May 27, 1999

VIA UPS NEXT DAY
Clerk, Superior Court of New Jersey
Middlesex County Courthouse
1 JFK Square
P.O. Box 964
New Brunswick, New Jersey 08903-0964

Re: Bradshaw-Morrow v. Jean Redd a/k/a Jean Bradshaw, et als.
Docket No. MID-L-3996-99

Dear Sir/Madam:

On behalf of defendant the American Society of Composers, Authors and Publishers ("ASCAP"), enclosed is an original and two copies of an Answer, Crossclaim and Counterclaim in the above matter. I have also enclosed our firm's check in the amount of $175.00 to cover the filing fee. Kindly return a copy stamped "FILED" to the undersigned in the envelope provided herein.

Sincerely,

Michael A. Lampert

MAL:djs
Encls.
cc: Sandra Ann Bradshaw-Morrow
Jean Redd
Burgess Cashwell

833886.1 5/27/99

Exhibit B

(2) ASCAP 008 – 018.
Available domestic and Foreign Royalty and Performance Records for Mr. Bradshaw.

(3) ASCAP 019 – 022.
A printout of Mr. Bradshaw's works that appeared in ASCAP's survey of works performed in the United States.

(4) ASCAP 023 – 035.
Application for ASCAP writer membership, Questionnaire for Posthumous Election to ASCAP membership, and ASCAP Membership Agreements submitted on behalf of Mr. Bradshaw.

(5) ASCAP 036
Status page of Jean Redd's Membership Successor Information

(6) ASCAP 037-044
Status page of Cashwell Burgess' Membership Successor Information and additional royalty distribution history.

Saul, Ewing, Remick & Saul LLP
A Delaware LLP
Attorneys for the American Society of Composers, Authors and Publishers

By: _____
Michael A. Lampert

Dated:

833876.1 5/27/99

Exhibit B

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

SANDRA ANN BRADSHAW LUCAS-MORROW, Plaintiff, v. AMERICAN SOCIETY OF COMPOSERS, AUTHORS, & PUBLISHERS, Defendant.	Civil Docket No. 03-3045 Hon. Faith S. Hochberg, U.S.D.J. **OPINION** Dated: October 31, 2003

HOCHBERG, District Judge:

Introduction:

This matter comes before the Court upon Defendant American Society of Composers, Authors, and Publisher's ("ASCAP") Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(1) (lack of subject matter jurisdiction), 12(b)(7) (failure to join a party under Fed. R. Civ. P. 19) and on the grounds that Plaintiff's complaint is time-barred. The Court has considered the written submissions by the parties pursuant to Fed. R. Civ. P. 78.

Factual and Procedural History:

Plaintiff contends that she is the daughter of composer-musician Myron C. Bradshaw ("Bradshaw"). Bradshaw died intestate in Ohio in 1958. Bradshaw's daughter, Jean L. Redd Bradshaw ("Redd") was named the adminstratrix of Bradshaw's estate.

ASCAP is an unincorporated association with over 150,000 songwriter, composer,

Exhibit "C"

lyricist and music publisher members, some of whom reside in New Jersey.[1] ASCAP collects license fees and distributes them as royalties to its members. ASCAP extends successor membership to any person who has acquired by will or under any state law, the right, title, and interest of a deceased composer or author in any musical works. ASCAP permits heirs, legatees, or other persons who have acquired by will or under any law, the right, title, and interest of the composer or author, to apply for posthumous membership for the author or composer.

In 1977, Redd filed a membership application with ASCAP for Bradshaw, her deceased father. In accordance with ASCAP's rules, Redd also applied for appointment of herself and Bradshaw's grandson, Burgess Cashwell ("Cashwell") as successors. Based on the application and the testamentary proof provided, ASCAP appointed Redd and Cashwell successors on October 28, 1977. In early 1999, Plaintiff notified ASCAP that she was Bradshaw's illegitimate daughter and requested information regarding royalties. ASCAP then notified Redd and Cashwell of Plaintiff's claim and placed a hold on the Bradshaw royalties. In such cases, ASCAP does not determine whether to add the claimant as a successor. Rather, ASCAP requires a settlement among the appointed successors and the claimant, or a court order, evidencing an estate law right to share in the decedent's estate, before it will make such an adjustment.

On March 29, 1999, Plaintiff filed a complaint in the Federal District Court for the District of New Jersey against, among others, Redd, Cashwell, and ASCAP, alleging wrongdoing and demanding royalties from Bradshaw's membership. On April 15, 1999, Hon. Katherine S. Hayden, U.S.D.J., dismissed Plaintiff's complaint *sua sponte* for lack of subject matter jurisdiction because diversity did not exist, and Plaintiff had alleged no federal question.

[1]Consequently, no diversity jurisdiction exists; the case is analyzed to determine if federal question jurisdiction exists.

On April 27, 1999, Plaintiff filed the same Complaint against the same defendants in the Superior Court of New Jersey. The action was dismissed against Redd for lack of personal jurisdiction. On ASCAP's motion, the Complaint was then dismissed entirely because Redd and Cashwell were deemed indispensable parties to the dispute over the division of shares in the Bradshaw estate and the royalties stemming therefrom.

On June 28, 2003, the Plaintiff filed the instant Complaint *pro se*, this time naming only ASCAP. Although Plaintiff's Complaint refers to the Copyright Act, the essence of her Complaint is a request for a declaration that she is entitled to an interest in the proceeds from the licensing of Bradshaw's works. The establishment of such a state law right would be necessary before she could assert claims, if any, for copyright infringement, renewal, and termination that belong to the estate of Bradshaw.

Discussion:

Subject Matter Jurisdiction:

Because no diversity exists in this case, the only possible ground for subject matter jurisdiction is federal question jurisdiction. Federal question subject matter jurisdiction exists under the Copyright Statute, 17 U.S.C. § 101 et. seq., only if the action "arises under" the statute. An action arises under the Copyright Statute "if and only if the complaint is for a remedy expressly granted by the Act, e.g., a suit for infringement or for the statutory royalties for record reproduction. . .or asserts a claim requiring construction of the Act. . .or, at the very least, and perhaps more doubtfully, presents a case where a distinctive policy of the Act requires that federal principles control the disposition of the claim." T.B. Harms Co. v. Eliscu, 339 F.2d 823, 828 (2d Cir. 1964).

Plaintiff's Complaint requests a declaration as to her entitlement to an interest in the decedent's copyrights. Claims to establish title to copyright arise under state law and not under the Copyright Statute. Muse v. Mellin, 212 F. Supp. 315, 318 (S.D.N.Y. 1962)(holding that an action for declaratory judgment as to ownership of a copyright does not arise under the Copyright Statute); Keith v. Scruggs, 507 F.Supp. 968, 970-971 (S.D.N.Y. 1981) (holding that actions to establish title do not arise under the copyright laws); Lennon v. McClory, 3 F.Supp.2d 1461, 1463-1464 (D.C.C. 1998)(holding that plaintiff's request for declaratory judgment concerning ownership of a copyright does not provide federal subject matter jurisdiction). This is true whether the Plaintiff contends that title flows from a contract, a will, or a right of intestate succession.

A determination of whether Plaintiff is entitled to an interest in the decedent's copyrights depends on state intestacy laws. While Plaintiff attempted to sue in state court in New Jersey, it is the state laws of the state in the decedent's last domicile, which in this case appears to be Ohio, that govern the Plaintiff's claim that she is entitled to share in the royalties flowing from the licensing of the decedent's copyrights. Under 17 U.S.C. § 201(d)(1), ownership of a copyright may "... be bequeathed by will or pass as personal property by the applicable laws of intestate succession." The phrase "applicable laws of intestate succession" refers to state law. 3-10 Nimmer On Copyright § 10.06 (2003)(explaining that the intestate succession law of the decedent's domicile will determine the disposition of statutory copyright); Rodrigue v. Rodrigue, 218 F.3d 432, 441 (5th Cir. 2000)(explaining that state intestacy laws govern transfer of copyright upon death of an owner intestate); Republic Pictures Corp. v. Security -First Nat'l Bank, 197 F.2d 767, 769 (9th Cir. 1952)(explaining that the section of the 1909 copyright statute

allowing the copyright to be bequeathed by will does not give federal courts jurisdiction to decree the validity and construction of a will).[2]

Conclusion:

For the reasons stated above, this Court concludes that it does not have subject matter jurisdiction over Plaintiff's cause of action. Plaintiff may very well have a valid claim, and the Court can understand her frustration in attempting to navigate through the complex legal waters *pro se*. For that reason, the Court has considered every possible way to flexibly consider Plaintiff's papers, which are very intelligently written.

Plaintiff may wish to pursue her claims in a state in which the courts have personal

---

[2] Plaintiff does mention renewal and termination rights in her Complaint. Renewal and termination rights that have not yet vested at the time of decedent's death may pass according to the statutory succession set forth in 17 U.S.C. § 304. It is not alleged in the Complaint that renewal and termination rights even apply to the interest that Bradshaw's successors hold in his copyrights because there is no averral of occurrences that create such rights. Even if they were somehow applicable, the core of Plaintiff's Complaint (in both the prior actions in federal and New Jersey state courts and in the instant claim) is for a determination of her entitlement to an interest in the Bradshaw copyrights. Any possible claim of infringement that might be inferred (and the Complaint sets forth no facts for such an inference) is unequivocally incidental to the primary dispute over copyright ownership that is governed by state law. Peay v. Morton, 571 F.Supp 108, 112-113 (M.D.Tenn. 1983)(holding that an infringement claim that is incidental to a primary dispute over copyright ownership under state law will not invoke federal jurisdiction); RX Data Corp. v. Dept. of Social Services, 684 F.2d 192, 196 (2d Cir. 1982)(explaining that when an infringement claim is incidental to a dispute over copyright ownership under state law, federal subject matter jurisdiction does not exist).

Moreover, even if Plaintiff was given leave to amend to include a claim for infringement of renewal and/or termination rights, her recourse lies not against ASCAP but against Jean Redd and Cashwell Burgess, the individuals currently recognized by Ohio estate law as successors. ASCAP is merely a stakeholder, willing to pay shares of licensing fees to those recognized by state law as having rights as Bradshaw's heirs. Redd cannot be joined in this suit for lack of personal jurisdiction as the New Jersey Superior Court has held she resides in Ohio. It is unclear where Cashwell resides. He did not enter an appearance in the prior New Jersey State Court action, and it was dismissed for lack of personal jurisdiction over Redd, an indispensable party. Thus, such an amended Complaint would likewise be dismissed for failure to join indispensable parties under Fed. R. Civ. P. 19. While Plaintiff argues that Redd and Cashwell are named as defendants in that they are members of ASCAP, this argument fails. Redd and Cashwell have not been individually named, nor have they been served.

jurisdiction over Redd and Cashwell. Ohio appears to be the proper forum as it appears from both the Plaintiff's and the Defendant's submissions that personal jurisdiction exists there, at least as to Redd. The Court, however, cannot give Plaintiff legal advice.

Although the Plaintiff certainly has the absolute right to proceed *pro se*, this Court encourages the Plaintiff to consult with an attorney to determine the proper forum in which to proceed. This Court suggests that the Plaintiff consult with counsel to determine the state(s) in which personal jurisdiction over Redd and Cashwell exists. If Plaintiff can establish her claim of entitlement to royalties under the intestacy laws of the state of the decedent's last domicile, she can then provide the documentation to ASCAP and receive her share of royalties.

An appropriate order will issue.

Faith S. Hochberg, U.S.D.J.

...REMICK & SAUL LLP
A DELAWARE LLP

PHILADELPHIA, PENNSYLVANIA
BALTIMORE, MARYLAND
BERWYN, PENNSYLVANIA

MICHAEL A. LAMPERT
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PAMELA S. GOODWIN
NEW JERSEY MANAGING PARTNER

HARRISBURG, PENNSYLVANIA
NEW YORK, NEW YORK
WILMINGTON, DELAWARE

INTERNET EMAIL
Firm: princeton@saul.com
Direct: mlampert@saul.com

May 27, 1999

VIA UPS NEXT DAY
Clerk, Superior Court of New Jersey
Middlesex County Courthouse
1 JFK Square
P.O. Box 964
New Brunswick, New Jersey 08903-0964

Re: Bradshaw-Morrow v. Jean Redd a/k/a Jean Bradshaw, et als.
Docket No. MID-L-3996-99

Dear Sir/Madam:

On behalf of defendant the American Society of Composers, Authors and Publishers ("ASCAP"), enclosed is an original and two copies of an Answer, Crossclaim and Counterclaim in the above matter. I have also enclosed our firm's check in the amount of $175.00 to cover the filing fee. Kindly return a copy stamped "FILED" to the undersigned in the envelope provided herein.

Sincerely,

Michael A. Lampert

MAL:djs
Encls.
cc: Sandra Ann Bradshaw-Morrow
Jean Redd
Burgess Cashwell

833886.1 5/27/99

Exhibit B

(2) ASCAP 008 – 018.
Available domestic and Foreign Royalty and Performance Records for Mr. Bradshaw.

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A printout of Mr. Bradshaw's works that appeared in ASCAP's survey of works performed in the United States.

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Application for ASCAP writer membership, Questionnaire for Posthumous Election to ASCAP membership, and ASCAP Membership Agreements submitted on behalf of Mr. Bradshaw.

(5) ASCAP 036
Status page of Jean Redd's Membership Successor Information

(6) ASCAP 037-044
Status page of Cashwell Burgess' Membership Successor Information and additional royalty distribution history.

Saul, Ewing, Remick & Saul LLP
A Delaware LLP
Attorneys for the American Society of Composers, Authors and Publishers

By: _____
Michael A. Lampert

Dated:

Exhibit

Exhibit D

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SANDRA ANN BRADSHAW LUCAS-MORROW, Plaintiff, v. AMERICAN SOCIETY OF COMPOSERS, AUTHORS & PUBLISHERS, Defendant.	**CASE NO: 2:03cv3045** **CIVIL ACTION** **DECLARATION OF SAMUEL MOSENKIS**

SAMUEL MOSENKIS, declares pursuant to 28 U.S.C. §1746:

1. I am currently the Director of Legal Affairs for the American Society of Composers, Authors and Publishers ("ASCAP"). I have held this position since 1999.

2. As Director of Legal Affairs, my duties include handling matters before the U.S. Copyright Office; regulatory and legislative matters; ASCAP corporate and contractual matters; and commercial ASCAP litigation matters.

Background

3. ASCAP, the largest U.S. performing rights society, is an unincorporated membership association with over 150,000 songwriter, composer, lyricist and music publisher members. ASCAP's members reside throughout the United States, including New Jersey, and outside of the United States (without residence in the United States).

4. On behalf of its members, ASCAP licenses the non-dramatic public performance rights of copyrighted musical works in the United States. ASCAP's

and radio stations, hotels and restaurants, stadiums, theme parks and Internet sites.

5. ASCAP collects license fees and distributes them as royalties to its members pursuant to ASCAP's Articles of Association, rules and regulations adopted by the membership and its Board of Directors. ASCAP, as a membership organization, has a Board of Directors comprised of writer and publisher members elected by the membership.

Membership Basis

6. The basis of ASCAP membership is governed by ASCAP's Articles of Association (the "Articles"). The Articles, which are publicly available on ASCAP's website (www.ascap.com), provide in Article II(A)(ii) that membership may be extended to "any composer or author of musical works who shall have had at least one work regularly published." Article II(A)(iii) permits successor membership to be extended to "any person who has acquired, by will or under any state law, the right, title and interest of a deceased composer or author in any musical works, including the right of public performance thereof

7. Under ASCAP's rules, a deceased composer or author of published musical works may be elected to membership "posthumously" and thereafter, successor members may be elected and receive royalties in accordance with the share of in the membership to which they succeeded. The right of successor members to be elected to membership and receive royalties is set forth in Article XX, Section 2:

> On the death of any member, his or her rights in the Society, except as hereinafter provided, shall be vested in his or her heirs, legatees or other persons who have acquired, by will or under any law, the right, title and interest of the member in any of his or her

musical works, including the right of public performance thereof. Such heirs, legatees or other persons shall receive a share in royalty distributions in accordance with the provisions of these Articles of Association and the applicable rules governing distribution.

8. These provisions permit membership in two ways. First, a living composer or author who meets membership eligibility (i.e., has had a copyrighted work published) may apply to become an ASCAP member. Upon that member's death, any person who has acquired by will or by any law, the right, title and interest of the member in that member's works, may apply for appointment as a successor member. As a successor, that person will receive a share of the member's royalties equal to his or her share in the deceased member membership.

9. Second, if a composer or author who meets membership eligibility dies prior to his or her application and election to membership, the heirs, legatees or other persons who have acquired by will or under any law, the right, title and interest of the composer or author in his or her musical works may apply both for posthumous membership for the composer or author and successor appointment. Upon appointment as a successor, that person will receive a share in the posthumous member's royalties equal to his or her share in the member's works.

10. In both of these two scenarios, the person applying for successor appointment must present adequate proof of his or her acquisition of rights, title and interest of the member in the members' musical works.

11. This proof may consist of a valid will, testamentary letters, other valid testamentary proof or court order or such other proof as is satisfactory to establish a right,

months of March or April, and, in the discretion of the Board of Directors, additional General Membership Meetings. The General Meetings shall be held in locations to be determined by the Board of Directors. Special Meetings may be called at any time by the Board of Directors.

SECTION 2. BUSINESS TRANSACTED AT GENERAL MEETINGS. The Board of Directors and management shall report to the membership at each General Meeting on the status of the Society, and shall transact such other business as may be directed by the Board of Directors.

ARTICLE XIX

NOTICES

Whenever notice is required to be given to any member, such notice shall be given in a manner authorized by the Board of Directors, in accordance with applicable law.

ARTICLE XX

MEMBERSHIP RIGHTS

SECTION 1. MEMBERSHIP RIGHTS IN CERTAIN CASES. Any member who is expelled by the Board of Directors, or who is dropped for the nonpayment of dues, fines or assessments, shall thereupon lose and forfeit any and all interest, right or claim in, to or under the Society, the property thereof, and the dues and assessments paid thereto. Upon expulsion, bankruptcy, insolvency or other severance of membership in, or connection with, the Society, all rights and interests of whatsoever character, sort or kind, to, of, in or concerning the Society by virtue of such membership, shall instantly cease and be of no further force and effect. Expulsion shall not relieve any member from that member's obligations to the Society up to the date of such expulsion.

SECTION 2. POSTHUMOUS MEMBERSHIP. On the death of any member, his or her rights in the Society, except as hereinafter provided, shall be vested in his or her heirs, legatees or other persons who have acquired, by will or under any law, the right, title and interest of the member in any of his or her musical works, including the right of public performance thereof. Such heirs, legatees or other persons shall receive a share in royalty distributions in accordance with the provisions of these Articles of Association and the applicable rules governing distribution.

In cases where the person(s) entitled to such share in royalty distributions is the deceased member's surviving spouse, child(ren), grandchild(ren) (on a per stirpes basis), parent(s), brother(s) or sister(s), as the case may be, such person(s) shall have the same voting power as "composer-author" members to the extent of such surviving spouse's, child(ren)'s, grandchild(ren)'s (on a per stirpes basis), parent(s)', brother(s)' or sister(s)', participation in the Society's distribution of domestic royalties during the previous calendar year, but shall not be eligible to hold office in the Society. No other successor of a deceased composer-author shall be entitled to vote or hold office in the Society.

Exhibit E

6-1985

No.

Rec'd Nov. 1, 1977

Agreement Between

JEAN L. (BRADSHAW) REDD and BURGESS CASHWELL, successors to MYRON C. BRADSHAW, a deceased composer and author

AND

American Society
OF
Composers, Authors & Publishers
1 LINCOLN PLAZA
NEW YORK, N. Y. 10023

Dated: Oct. 28, 1977

Exhibit F

X1

Membership Number: 2378650-02 W

June 10, 1985

American Society of Composers,
Authors and Publishers
ASCAP Building
One Lincoln Plaza
New York, New York 10023

RE: BRADSHAW MYRON C, DECEASED

Gentlemen:

With respect to the membership agreement entered into between us for the period January 1, 1976 through December 31, 1985, you and the undersigned hereby agree to extend the agreement and all the terms, conditions and provisions thereof for all purposes for a further period of ten (10) years, so that it shall expire on the 31st day of December, 1995, instead of on the 31st day of December, 1985.

The signature of the Society's President under the word "ACCEPTED" together with the signature of the undersigned, will make this a valid, binding and enforceable agreement between us.

Sincerely yours,

Burgess C. Cashwell

BURGESS CASHWELL

ACCEPTED:

AMERICAN SOCIETY OF COMPOSERS,
AUTHORS AND PUBLISHERS

By: _____
President

ASCAP 033

Exhibit G

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

SANDRA ANN BRADSHAW LUCAS-MORROW, Plaintiff, v. AMERICAN SOCIETY OF COMPOSERS, AUTHORS & PUBLISHERS, Defendant.	**CASE NO: 2:03cv3045** **CIVIL ACTION**

MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT

SAUL EWING LLP
A Delaware LLP
214 Carnegie Center, Suite 202
Princeton, New Jersey 08540
609-452-3100
Attorneys for Defendant

Of Counsel:
Michael A. Lampert

On the Brief:
Sean P. Lynch

The American Society of Composers, Authors & Publishers (ASCAP)

ASCAP is an unincorporated membership association with over 150,000 songwriter, composer, lyricist and music publisher members. See Declaration of Samuel Mosenkis ("Mosenkis Declaration") ¶ 3. ASCAP's members reside throughout the United States, including New Jersey, and outside of the United States (without residence in the United States). Id. On behalf of its members, ASCAP licenses the non-dramatic public performance rights of copyrighted musical works in the United States. Id. at ¶ 4. ASCAP's licensees include, but are not limited to, television and radio stations, hotels, restaurants, stadiums, theme parks and internet sites. Id.

ASCAP collects license fees and distributes them as royalties to its members pursuant to ASCAP's governing rules including ASCAP's Articles of Association. Id. at ¶ 5. ASCAP's Articles of Association provide that membership may be extended to "any composer or author of musical works who shall have had at least one work regularly published." Id. at ¶ 6. Article II(A)(iii) permits successor membership to be extended to "any person who has acquired, by will or under any state law, the right, title and interest of a deceased composer or author in any musical works, including the right of public performance thereof." Id. at ¶ 6.

Under ASCAP's rules, a deceased composer or author of published musical works may be elected to membership "posthumously" and thereafter, successor members may be elected and receive royalties in accordance with the share of the membership to which they succeeded. Successor membership may be achieved in two ways. Id. at ¶ 8. First, upon a member's death, any person who has acquired by will or by law, the right, title and interest in that member's works, may apply for appointment as a successor member. Id. The successor member will

Exhibit H

Post Office Box 1405
Edison, New jersey 08818
973-672-8962

October 24, 2003

Hand Delivered
Clerk
United States District Court
District of New Jersey
M.L. King Jr. Federal Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07102

Re: Sandra Ann Bradshaw Lucas-Morrow V. American Society of Composers, Authors & Publishers
Civil action No. 2:03CV3045

Dear Sir/Madam:

Enclosed for filing are two copies of Plaintiff's Notice of Motion for Sanction against Defendant American Society of Composers, Authors and Publishers, Declaration of Sandra Ann Bradshaw Lucas-Morrow, Affidavit of Service and Proposed Order in the above referenced matter. I do not require a return copy.

Sincerely,
Sandra Ann Bradshaw Morrow
SandraAnnBradshaw~~Morrow~~-LucasMorrow

cc: The Honorable Faith S. Hochberg (via Priority Mail w/enclosures)
Sean P. Lynch, Esq. (via Fax w/enclosures)

Sir:

PLEASE TAKE NOTICE that on November_____, 2003 at 10:00 o'clock in the forenoon or soon as soon thereafter as counsel may be heard, the undersigned Pro se Plaintiff, shall move before the Honorable Faith S. Hochberg, U.S.D.J., at the United States District Court for the District of New Jersey, United States Courthouse, M.L. King, Jr. Federal Building and U.S. Courthouse, 50 Walnut Street,Newark, New Jersey, pursuant to Federal Rules of Civil Procedure 11(b) and 11(c) for an Order of Sanction upon the Defendant.

PLEASE TAKE FURTHER NOTICE that in support of this motion, the undersigned shall rely upon the attached Declaration of Plaintiff and all other papers previously submitted to the Court.

Sandra Ann Bradshaw Lucas-Morrow

Sandra Ann Bradshaw Lucas-Morrow
Pro se Plaintiff

Dated: October 24, 2003

13

Sandra Ann Bradshaw Lucas-Morrow
Post Office Box 1405
Edison, New Jersey 08818
973-672-8962

FILED
OCT 24 2003
AT 8:30 M 2:19 P.M.
WILLIAM T. WALSH
CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
NEWARK DIVISION

SANDRA ANN BRADSHAW LUCAS-MORROW, Plaintiff, v. AMERICAN SOCIETY OF COMPOSERS, AUTHORS & PUBLISHERS, Defendant.	HONORABLE FAITH S. HOCHBERG Civil Action No. 2:03cv3045 NOTICE OF MOTION

To: SAUL EWING LLP
A Delaware LLP
214 Carnegie Center
Princeton. New Jersey 08540
609-452-3100
Attorneys for Defendant American Society of Composers, Authors and Publishers
Sean P Lynch Esq.,

DECLARATION OF
SANDRA ANN BRADSHAW LUCAS-MORROW

1. Defendant's attorney's reply to my opposition ignores my allegation that Cashwell is an imposter, and is not supported by the evidence –testamentary letters- is grounded upon a fraud; is illustrative of their bullying tactics used against me, and his hubris in dealing with this Court by arguing a legal theory not supported by law.
2. The Law: U.S.C.17>304(c)(2)(A)&(B), which reads in part:

"the author's surviving children, and the surviving children of any **dead child** of the author, own the author's entire termination interest…"at subsection (B).

Under the above statute, it is not possible that the mother (Redd) and son (Cashwell) share A.S.C.A.P. successor membership or copyright entitlements. However, the legal position taken by Sam Mosenkis Esq., Director of Legal Affairs for A.S.C.A.P. in his ~~Declaration of September 8Th, 2003, is that the 1976 Copyright Act some how does not~~ apply to Redd and Cashwell.

Defendant's "evidentiary letters": September 11th 2003 A.S.C.A.P.'s attorney asserts on page 4 paragraph 1, of his statement of facts that"only testamentary letters were left" I pointed out to Defendant's attorney in my opposition, that his law firm admitted in 1999 that A.S.C.A.P. did not possess administration letters in 1977 at the time of Redd and ~~Cahwell's appointment.~~

In view that there was no evidentiary support in identifying Cashwell because in 1977 A.S.C.A.P. did not possess "evidentiary letters", I expected that the Defendant would withdraw its motion; be forthright and provide me with information of the true identities

and familial relationship of Redd and Cashwell; see the implausibility of their argument, recognizing that under the Copyright Act, Title 17> Chapter 3> Sec. 304(4) (2)(B) only upon the death of his mother (Jean) would Cashwell be entitled to an interest in my father's copyrights. The contention by A.S.C.A.P. attorney that Cashwell (while his mother still lives) is entitled to the royalties paid to him by A.S.C.A.P. is unwarranted, in light of U.S.C. 17> 304(4)(2)(B). A.S.C.A.P. attorney insists on maintaining his implausible position that Cashwell is Redd's son and not an imposter.

Harassment: I am left with the cold realization that Defendant is taking full advantage of my pro se status and has put forth a Dismissal Motion meant to stress and harass me; indicative of A.S.C.A.P.'s bullying is a letter from Defendant attorney Sam Mosenkis threatening me that unless I change the caption of my Complaint that he would refuse to sign the Summons. (See Exhibit "A").

In addition, the Defendant's attorney's arguments for dismissal rely either on poor legal ~~research, bad faith or both. (See Plaintiff's Memorandum of Law Objecting to~~ Defendants Motion for Dismissal).

I certify that my Declaration is true; I am aware that perjury is punishable.

Sandra Ann Bradshaw Lucas-Morrow

~~Sandra Ann Bradshaw Lucas-Morrow~~

Dated: October 24, 2003

Exhibit I

November 14, 2003

Preliminary Statement

To the honorable Faith Hochberg,

In reading your opinion of my complaint, which was picked up by my husband Mr. James C. Morrow, from the copy clerk's office at the federal courthouse building on November 12, 2003; I was taken aback at what appears to be a non accounting to detail. In other words it appears that you, your honor, had not even read my complaint at all. I know that I am pro se, as you referenced, yet this fact should not prevent the entire reviewing of my work.

1. Firstly, no attorney will take on this case. Secondly, no working class person would voluntarily choose to be pro se unless circumstances dictate so. My finances preclude me from the luxury of professional help.
2. Your Honor's use of the term illegitimate in the eyes of the world's opinion and in my opinion (which describes and refers to me and countless others born of unwed parents), is outdated, derogatory uncalled for, and most unbecoming of your Honor's court.
3. I came to your Honor's court to get a remedy and relief as to my pursuits of my legitimate rights to my father's copyrighted works under the N.J Parentage Act; I did not come to your court to get further humiliation dumped on me because you, your Honor, either did not read or misinterpreted the legal aspects of my complaint concerning A.S.C.A.P. and their egregious acts against me in this matter.
4. That the inference of your opinion seems like the total influence of A.S.C.A.P. is unsettling; echoing A.S.C.A.P.'s self serving position of "mere stakeholder", while I'm referred to as an illegitimate child, letting the impostors Redd and Cashwell rule over my father's estate; is a travesty and in my opinion a miscarriage of justice and fairness to me in this matter.
5. Ms. Hochberg I am a beautiful 51 year old black woman; who marched on Washington at age 12, I believe in my country and the rights of my people as I'm sure you believe in yours and I do not expect nor do I accept the blatant disregard for the truth of my words. "We the people" still stands for something in this country and I am exercising my rights as one of those people.

6. I want you to read my words in my complaint, I want you to understand that I am not lying, nor am I an impostor and that the law does not require me to go any place else for any court order proving who I am (i.e. Ohio) because I have a legitimate stamped birth certificate proving who I am; it is a corrected birth certificate. I have no need for any court order to prove this paternity. A.S.C.A.P.'s request for an order of my paternity is ridiculous and shows that they are covering up for their liability to me and that's just too bad! But responsibility lies with the courts of N.J. only, nowhere else. I want justice here, nowhere else. This is my right as an American Citizen and as a citizen of New Jersey.
7. Finally; your Honor's lack of reviewing or your opinion, concerning Mr. Cashwell's threat upon me, concerned me most of all. That Cashwell, a member of A.S.C.A.P. and the seriousness of his offense against me go unaddressed; gave me pause; and furtner convinced me that your Honor must not have read my complaint and its exhibits therein.

Wherefore a motion for reconsideration of this matter is being made and the hope for remedy and relief is anticipated.

Thank You

Sincerely,
Sandra Ann Bradshaw Lucas- Morrow
Sandra Ann Bradshaw Lucas-Morrow

[redacted]

The Honorable Faith S. Hochberg U.S.D.J.
United States District Court
District of New Jersey
United States Post office and Courthouse
Federal Square
Newark, New Jersey 07102-0999

Re: Sandra Ann Bradshaw Lucas-Morrow v. U.S. Ca. P.
Civil Action No: 2:03CV3045

Dear Your honor Hochberg,

Enclosed herein, is an e-mail copy of the Opinion and order from the court; sent to Mr. Sean P. Lynch, defendants attorney, dated 1/20/04; with cover page. At the bottom of the cover page a checked box, indicates that the original will be sent by regular mail: This order is unsigned by Your Honor.

Judge Hochberg I have read your opinion and apparently there has been either a misinterpretation or oversight by your honor; namely concerning the crucciality of this matter which has not been noted concerning my information submitted to you previously in several letters: Which leads me to now question: Whether you are reading my mail or is my mail being culled.

[redacted]

Accordingly, your honor has many cases, I can understand this: However, I have requested and am requesting that your honor please respond to me the plaintiff in this case, concerning the referenced issue.

Enclosed also is a self addressed stamped envelope. Thank you for your cooperation in this matter.

Sincerely,
Sandra Ann Badshaw Lucas Morrow
Pro Se former pauperis

cc: to Sean Lynch 1/21/04 regular mail
Sent to your honor Judge Hochberg 1/21/04 registered mail.

Exhibit J

10

04-1072

United States Court of Appeals
for the
Third Circuit

SANDRA ANN BRADSHAW LUCAS-MORROW,
Plaintiff/Appellant,

v.

AMERICAN SOCIETY OF COMPOSERS,
AUTHORS AND PUBLISHERS,
Defendant/Appellee.

Appeal from Final Judgment of Dismissal of the United States District Court
for the District of New Jersey in Civil Action No. 03-CV-3045

BRIEF ON BEHALF OF APPELLEE
AMERICAN SOCIETY OF COMPOSERS,
AUTHORS AND PUBLISHERS

Michael A. Lampert, Esquire
Sean P. Lynch, Esquire
Saul Ewing LLP
750 College Road East, Suite 100
Princeton, New Jersey 08540
(609) 452-3100

Attorney for Appellee
American Society of Composers,
Authors and Publisher

establish a right, title or interest under the law of the state applicable to the deceased member's assets and estate. App. I, 31-32.

In a situation where a person claims successor entitlement and seeks successor appointment after others have already been appointed as successors, the claimant, in order to receive successor membership appointment, must present a valid settlement agreement with the current successors or a court order acknowledging the claimants' valid interest in and to the membership. App. I, 33. Upon making a claim, the already appointed successor(s) are then notified by ASCAP that a claim has been made to the membership and a hold will be placed on royalties payable to that membership pending resolution of the claim. App. I, 32. When claims are so presented, ASCAP stands as a neutral stakeholder and will distribute royalties in accordance with the resolution of the claim.

The Membership of Myron C. Bradshaw

Myron C. Bradshaw ("Bradshaw") was elected as a posthumous member in 1977. The membership application was filed by Mr. Bradshaw's daughter, Jean L. Redd ("Redd"). App. I, 32. At the same time, both Redd and Bradshaw's grandson, Burgess Cashwell ("Cashwell"), applied for appointment as successors. App. I, 32. Plaintiff/Appellant was not listed as a child of Mr. Bradshaw on the application. App. I, 32. Based on the application and the testamentary proof in the

for failure to join an indispensable party pursuant to Rule 12(b)(7) because neither of the current royalty recipients, Redd or Cashwell, were joined in the action below.

Judge Hochberg noted in footnote 2 of her opinion,

> [Plaintiff/Appellant's] recourse lies not against ASCAP but against Jean Redd and Cashwell Burgess, the individuals currently recognized by Ohio estate laws as successors. ASCAP is merely a stakeholder willing to pay shares of licensing fees to those recognized by state law as having rights as Bradshaw's heirs. App. I, 16.

It is indisputable that Jean Redd is a necessary party with a significant interest in the action, as she is both the representative of Myron Bradshaw's estate and a beneficiary who has been receiving royalties from ASCAP. Continuing the action despite the inability to join her also would leave the remaining parties subject to the risk of multiple or inconsistent obligations. Indeed, continuing the action in Redd's absence could result in inconsistent judgments significantly prejudicing ASCAP. ASCAP stands as a mere stakeholder in this case, and will pay royalties only to that person who the court determines is entitled. If this matter were to proceed in Redd's absence, there is a risk that ASCAP could be ordered to pay part of the royalties to Plaintiff/Appellant by this Court and ordered by an Ohio Court to only pay Redd. The possibility that ASCAP may be faced with inconsistent obligations compels a finding that Redd is a necessary party who must be joined in the same action as all other parties.

Allegheny County Court of Common Pleas, 75 F.3d 834, 840 (3d Cir.1996)). The doctrine applies to the decisions of lower state courts as equally as it does to higher state courts, Whiteford, 155 F.3d at 674.

The Rooker-Feldman doctrine applies here to bar review of Judge Wolfson's determination that Redd is not subject to personal jurisdiction in New Jersey. It also acts to bar federal review of the determination that she is an indispensable party to the litigation below – a fact that is fatal to Plaintiff/Appellant's most recent Complaint because they were not named as Defendants in action below. See Posner, 178 F.3d at 1221 (11th Cir. 1999); Kasap, 166 F.3d 1243.

CONCLUSION

Based on the foregoing, this Court should affirm the District Court's dismissal of Plaintiff/Appellant's Complaint.

Respectfully submitted,

SAUL EWING LLP
Attorneys for Appellee
American Society of Composers
Authors and Publishers

By: _____
Michael A. Lampert (ML 1064)
Sean P. Lynch (SL 9968)

Date: October 5, 2004

Exhibit K

04-1072

IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

SANDRA ANN BRADSHAW LUCAS-MORROW Appellant, v. AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS Appellee.	**STATEMENT REGARDING BILL OF COSTS**

SEAN P. LYNCH, declares pursuant to 28 U.S.C. § 1746:

1. I am an associate with the law firm of Saul Ewing, LLP, attorneys for Defendant American Society of Composers, Authors, and Publishers ("ASCAP"). As such, I am fully familiar with the facts set forth herein.

2. Attached hereto as Exhibit A is a true and correct itemized statement showing the actual cost per page of reproduction of Appellee's brief and the appendix in this matter.

~~I declare under penalty of perjury that the foregoing is true and correct.~~

Sean P. Lynch

Dated: January 19, 2005
Princeton, New Jersey

EXHIBIT A

Bradshaw v. ASCAP – Copying charges

Appellee's Brief:

30 pages x 12 copies = 360 pages
360 pages x $0.25 per page = $90.00

Appendix:

66 pages x 5 copies = 330 pages
330 pages x $0.25 per page = $82.50

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

BILL OF COSTS

RECEIVED
JAN 19 2005
U.S.C.A. 3rd. CIR

versus

No. 04-1072

The Clerk is requested to tax the following costs against:

SANDRA ANN BRADSHAW LUCAS-MORROW

COURT COSTS TAXABLE UNDER RULE 39 FRAP and 3rd Cir. LAR 39.3

Item*	Reproduction Method (Mark One)		Amount Requested	For Court Use Only Amount Disallowed
	Photocopying	Offset or Typographical		
Appellant's Brief				
Appendix	✓		$82.50	49.50
Appellee's Brief	✓		$90.00	54.00
Reply Brief				
Sales Tax:				
Docketing Fee - Does not include the $5.00 filing fee				

TOTAL $ 172.50 $103.50

An itemized statement showing the actual cost per page for reproduction, the cost of all other taxable services and the number of copies for which costs are to be taxed must accompany this bill. If the briefs were produced in-house, a statement from counsel providing this information must accompany the bill.

I, Sean Lynch verify under penalty of perjury that the foregoing is true and correct and that the costs were actually and necessarily incurred in this action. A copy was mailed on January 19, 2005 to opposing counsel.

(Signature) 1/19/05 (Date)

Attorney for American Society of Composers, Authors, and Publishers

After any deductions or deletions made above, costs will be taxed in the amount of $ 66.00.

Marcia M. Waldron
Clerk

BY: Marcia M. Waldron
Deputy Clerk

Date: JAN 20 [redacted]

Rev. 8-00

(See Reverse Side)

cc: SABLM
MAL
SPL

Exhibit L

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ELECTRONICALLY FILED
DOC #:
DATE FILED: 6/5/07

VIACOM INTERNATIONAL, INC., et al.,

Plaintiff,

- against -

YOUTUBE, INC., YOUTUBE, LLC and GOOGLE, INC.

Defendants.

07 Civ. 2103 (LLS)

Order Permitting Filing of, and Denying, Motion to Intervene

Ms. Sandra Ann Bradshaw Lucas-Morrow's May 22, 2007 motion to intervene shall be accepted for filing and docketed by the clerk.

The motion is denied. The right Ms. Lucas-Morrow seeks to vindicate by her intervention is her claim that, as a child of the author of one of the musical compositions listed in the complaint, she is entitled by the "principle of [per] stirpes" to a share of the composition's earnings, which have not been paid her by ASCAP, of which plaintiff Viacom is a member. That claim involves a matter of state inheritance law. As shown by her motion papers, she has asserted it, so far unsuccessfully, in the United States District Court for the District of New Jersey, the Court of Appeals for the Third Circuit, the Supreme Court, and the United States District Court for the Southern District of New York. The personal relationships and state

Dockets.Justia.com

inheritance-law issues involved in that claim are no proper part of this litigation. They are not copyright claims. They do not arise under the Copyright Act, but are governed by state law.

Nor does the claim she asserts "have a question of law or fact in common" with this action, the subject of which is whether YouTube and Google infringed Viacom's rights under the Copyright Act, 17 U.S.C. § 101, et seq. None of the proper purposes of intervention would be served by allowing Ms. Lucas-Morrow's claim that ASCAP should be paying her royalties to interfere with the process of adjudicating the infringement issues in this litigation. Fed. R. Civ. P. 24(b). To the extent she has an interest in asserting that the copyright has been infringed by the defendants, that interest is adequately represented by existing parties. Fed. R. Civ. P. 24(a). She may fear that ASCAP will dissipate any funds Viacom recovers in this litigation, by payments to the author's daughter and grandson instead of to her. But her claim to such proceeds has nothing in common with this litigation, and as held by Hon. Kimba Wood, this Court has no jurisdiction over it. Sandra Ann Bradshaw Lucas-Morrow v. ASCAP and United States, No. 07 Civ. 2070 (KMW) (S.D.N.Y. Mar. 12, 2007).

Ms. Lucas-Morrow's motion to intervene is accepted for filing, and is denied.

So ordered.

Dated: New York, NY
June 4, 2007

Louis L. Stanton
U.S.D.J.

Exhibit M

Defendant Cote's Experience with Sampling

In The Matter Of:
IN RE: APPLICATION OF THE CAPSTAR
November 23, 2010
TRIAL
SOUTHERN DISTRICT REPORTERS
500 PEARL STREET
NEW YORK., NY 10007
212-805-0300

TRANSCRIPT

Page 851

THE COURT: Well, I appreciate that. I do think it is
[6] notable. However, this litigation is expensive, and we
[7] couldn't have had a stream of 850 witnesses here. So it's fair

[8] to take some sample and make some points

VOLKSWAGEN AKTIENGESELLSCHAFT; AUDI AKTIENGESELLSCHAFT; and VOLKSWAGEN OF AMERICA, INC., Plaintiffs, -v- UPTOWN MOTORS, Defendant.
91 CIV. 3447 (DLC)
UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK
1995 U.S. Dist. LEXIS 13869

"It is inconceivable to this court that defendant's expert would get participation from a large enough
random sample to constitute a valid survey."
See, e.g., Volkswagen Astiengesellschaft v. Uptown Motors, No.91 Civ. 3447 (DLC), 1995 WL 605605 (S.D.N.Y. May 11, 1995) page 10

Defendant McIntosh's Experience with Sampling

A & M RECORDS, INC. v. Napster, Inc., 239 F. 3d 1004 - Court of Appeals, 9th Circuit 2001, 239 F.3d 1004 (2001)

Page 1016

In a separate memorandum and order regarding the parties' objections to the expert reports, the district court examined each report, finding some more appropriate and probative than others. *A & M Records, Inc. v. Napster, Inc.*, Nos. 99-5183 & 00-0074, 2000 WL 1170106 (N.D.Cal. August 10, 2000). Notably, plaintiffs' expert, Dr. E. Deborah Jay, conducted a survey (the "Jay Report") using a random sample of college and university students to track their reasons for using Napster and the impact Napster had on their music purchases. *Id.* at *2. The court recognized that the Jay Report focused on just one segment of the Napster user population and found "evidence of lost sales attributable to college use to be probative of irreparable harm for purposes of the preliminary injunction motion." *Id.* at *3.

Defendant O'Sullivan's Experience with Sampling

BRIEF FOR RESPONDENTS

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

NO. 10-1184

VERMONT PUBLIC SERVICE BOARD AND MAINE PUBLIC UTILITIES COMMISSION
PETITIONERS,
v.
FEDERAL COMMUNICATIONS COMMISSION
AND THE UNITED STATES OF AMERICA
RESPONDENTS.

ON PETITION FOR REVIEW OF AN ORDER OF THE
FEDERAL COMMUNICATIONS COMMISSION

Page 9

4 Standard deviation analysis, a commonly used method of statistical analysis, measures the difference between input values in a range and the mean or average. In a normal distribution, data points within two standard deviations of the mean will comprise approximately 95 percent of all data points. *Order* n.144 (JA 26). The FCC's standard deviation analysis resulted in a rate benchmark of $32.28. *2003 Remand Order,* 18 FCC Rcd at 22584-85 (41) (JA 92-93)

Defendant Reimer's Experience with Sampling

981 F.Supp. 199 (1997)

UNITED STATES of America, Plaintiff,
v.
AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS, et al.,
Defendants.
In the Matter of the APPLICATIONS OF SALEM MEDIA OF CALIFORNIA

a. Applicants' Levels of Music Use

Page 205

At trial, ASCAP relied heavily upon the testimony of its Chief Economist, Dr. Peter Boyle. Using data compiled as part of ASCAP's distribution **survey**, Dr. Boyle compared the music use of applicants with that of licensees under the WGN and Group W Licenses.[7] For each station surveyed, Dr. 205*205 Boyle determined the average number of ASCAP songs played per hour during the period surveyed. Dr. Boyle further determined that "for each range of feature plays per hour by the NECM and Salem Applicants, there was a similar range among the Industry and the RMLC stations." (Exh. 668, at 4.) For example, Dr. Boyle testified that for ASCAP **Survey** Year 1995, the **survey** captured twenty-five applicant stations that operated on interim blanket licenses and played fewer than three ASCAP feature performances of music per hour. (Tr. 231-32; Exh. 669A.) The **survey** also captured 241 Group W blanket licensees in the same range. (Tr. 231-32.) Extrapolating from these **samples**, Dr. Boyle estimated that those twenty-five applicants represented a total of approximately 150 to 175 applicants and that the 241 Group W licensees represented about 900 Group W licensed stations. (Tr. 232.) Dr. Boyle also concluded that there were similarities in music use between applicants and licensed stations for **Survey** Years 1990 and 1991. (Exh. 668, at 4; Exh. 669K-N.)

Defendant Hochberg's Experience with Sampling

U.S. District Court
District of New Jersey

MCCOY v. HEALTH NET, INC., et al
CIVIL DOCKET FOR CASE #: 2:03-cv-01801-FSH-PS

01/12/2006 376 LETTER ORDER directing special master to produce certain documents to chambers for in camera review. Parties shall propose method of culling random sample by 1/18/2006, etc. Signed by Judge Faith S. Hochberg on 1/12/2006. (lm,) (Entered: 01/12/2006)

Defendant Hochberg's Experience with Sampling

Faith S Hochberg, Assistant U.S. Attorney on Sampling

"Contrasted with the random sampling of individuals in 88 cases, in this case, no attempt was made to establish a scientific basis for the selection of individuals interviewed. Indeed, Wren, himself, admitted that his "survey" did not comport with accepted survey techniques." Nos. 84-5333, 84-5334, United States Court of Appeals, Third Circuit *United States v. LOCAL 560 OF INTERN. BROTH., ETC.*, 780 F. 2d 267 (1985) Opinion of Judge Garth
pg.277