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7
8
9 UNITED STATES DISTRICT COURT
DISTRICT OF OREGON AT PORTLAND

10 TANYA ANDERSEN, Individually and as
11 Representative of Others Similarly Situated

12
13 Plaintiff

14 v.

15 ATLANTIC RECORDING
CORPORATION, a Delaware corporation;
16 PRIORITY RECORDS, LLC, a California
limited liability company; CAPITOL
17 RECORDS, INC., a Delaware corporation;
UMG RECORDINGS, INC., a Delaware
18 corporation; and BMG MUSIC, a New
York general partnership; RECORDING
19 INDUSTRY ASSOCIATION OF
AMERICA; SAFENET, INC., f/k/a
20 MEDIA SENTRY, INC., a Delaware
corporation; SETTLEMENT SUPPORT
21 CENTER, LLC, a Washington limited
liability company

22 Defendants.
23
24
25
26

No. CV 07-934 BR

**NATIONWIDE CLASS ACTION
ALLEGATION**

**PLAINTIFF'S FIRST AMENDED
COMPLAINT**

**DEMAND
FOR JURY TRIAL**

RELATED CASE NOTICE

Plaintiff seeks certification to pursue this action as representative of a nationwide class
and includes below specific CLASS ACTION ALLEGATIONS.

1 **I. RELATED ACTION**

2 **A. LR 42 Related Case Notice**

3 **1. Identity of Related Case**

4 1.1 Pursuant to Local Rule 42.2 this action is related to Atlantic Recording Corp., et
5 al v. Andersen, No. CV 05-933 AS (D. Or) pending before the Honorable Donald C.
6 Ashmanskas in the United States District Court, District of Oregon.

7 **2. Nature of Related Case**

8 1.2 On August 26, 2005, while Tanya Andersen ("Ms. Anderson" or "Plaintiff") and
9 her 8 year-old daughter were sitting down to dinner, a legal process server knocked on her door.
10 When she answered the door, she was served with a lawsuit filed by RIAA-controlled music
11 distribution companies in a federal court. Ms. Andersen was shocked, afraid, and very
12 distressed. The lawsuit falsely claimed that she owed hundreds of thousands of dollars to these
13 companies as penalties for copyright infringement. Ms. Andersen knew that she was
14 completely innocent of the charges against her. She answered the false claims and asserted
15 counterclaims seeking damages. During discovery, Ms. Andersen learned that the lawsuit filed
16 against her was based solely upon an illegal, flawed and negligent investigation. Almost two
17 years later, on the eve of summary judgment, the lawsuit was dismissed with prejudice. Ms.
18 Andersen's counterclaims continue in that case. Those counterclaims are restated here as direct
19 claims. New claims are also set forth here against the former plaintiffs in that action and
20 against new additional parties.

21 **3. LR 42.4 Notice/Consolidation**

22 1.3 It is anticipated that on Ms. Andersen's motion her counterclaims in Atlantic
23 Recording Corp. v. Andersen will be dismissed, concluding that action with the exception of

1 her pending motion for attorney's fees. If the remaining counterclaims in that action are not
2 dismissed, Ms. Andersen will request that these counterclaims be joined in a single action by
3 consolidation of the related action with this case.

4 **II. NATURE OF THE CASE**

5
6 2.1 This is a class action lawsuit seeking money damages and equitable relief
7 pursuant to FEDERAL RULE OF CIVIL PROCEDURE 23. Plaintiff files this lawsuit for the purpose of
8 certifying a nationwide class of Plaintiffs pursuant to F.R.C.P. 23. This lawsuit seeks to recover
9 on behalf of Plaintiff, and all others similarly situated as class members, compensation for the
10 significant damages caused by the Defendants. In addition, this lawsuit seeks to recover punitive
11 damages, statutory penalties, litigation fees and expenses, and equitable relief.
12

13 **III. PARTIES**

14 **A. Tanya Andersen**

15 3.1 Plaintiff Tanya Andersen is the single mother of a 10 year-old girl, Kylee. She
16 and Kylee reside in Beaverton, Oregon.

17 **B. Defendants**

18 3.2 **Defendant Record Companies.** Defendants Atlantic Recording Corporation, a
19 Delaware corporation; Priority Records, LLC, a California limited liability company; Capitol
20 Records, Inc., a Delaware corporation; UMG Recordings, Inc., a Delaware corporation; and
21 BMG Music, a New York general partnership (hereinafter collectively "Defendant Record
22 Companies") are companies in the business of manufacturing and distributing recorded music.
23 Each of these companies is also a member of the Recording Industry Association of America.
24 The defendant Record Companies filed an action against Ms. Andersen, Atlantic Recording
25 Corp., et al v. Andersen, No. CV 05-933 AS (D. Or.), which remains pending in this court.
26

1 **3.3 Defendant RIAA.** Defendant Recording Industry Association of America
2 (hereinafter "RIAA") claims to be a New York not-for-profit corporation. Its headquarters are
3 located in Washington D.C. It holds itself out as a trade group that directs and controls its
4 member companies in the filing of thousands of lawsuits against individuals in federal courts
5 across the country. These RIAA controlled member companies are subsidiaries of 4 major
6 companies that monopolize and control the sale of over 90% of all the music that is
7 commercially distributed in the United States. For several years the RIAA has engaged in a
8 coordinated enterprise to pursue a scheme of threatening and intimidating litigation in an
9 attempt to maintain its music distribution monopoly.
10

11 **3.4 Defendant MediaSentry.** Defendant SafeNet, Inc. f/k/a MediaSentry, Inc.
12 (hereinafter "MediaSentry"), is believed to be a Delaware corporation which maintains its
13 principal place of business in Maryland. It assists the RIAA and its controlled member
14 companies in their coordinated enterprise to pursue a scheme of threatening and intimidating
15 litigation against tens of thousands of private U.S. citizens. It also conducts illegal, flawed and
16 negligent investigations for the RIAA and its controlled member companies.
17

18 **3.5 Defendant Settlement Support Center.** Defendant Settlement Support Center,
19 LLC was a Washington limited liability company that operated as the debt collection arm of
20 Defendants' coordinated enterprise to pursue a scheme of threatening and intimidating
21 litigation.
22

23 **IV. JURISDICTION AND VENUE**

24 **4.1** The court has jurisdiction over the subject matter of this action under 28 U.S.C.
25 §§ 1331 and 1332.
26

1 4.2 This action asserts claims under the Computer Fraud and Abuse Act, 18 U.S.C.
2 § 1030, et seq., and the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. § 1961,
3 et seq., in addition to the other causes of action set forth below.

4 4.3 The parties are citizens of different states. The amount in controversy exceeds
5 \$75,000.

6
7 4.4 Venue is proper under 28 U.S.C. §1391.

8 **V. CLASS ACTION ALLEGATIONS**

9 5.1 Ms. Andersen as the representative plaintiff brings this class action on behalf of
10 herself and all other individuals similarly situated as members of a proposed class pursuant to
11 Rule 23 of the FEDERAL RULES OF CIVIL PROCEDURE. This action satisfies the numerosity,
12 commonality, typicality, adequacy, predominance and superiority requirements of those
13 provisions.
14

15 5.2 This class action is brought against Defendants for perpetuating a “campaign of
16 threat and intimidation,” as described in detail in this Complaint, against Plaintiff and all the
17 many others who are similarly situated. Specifically, Defendants are liable for damages to the
18 following class of plaintiffs:

19 Those who were sued or were threatened with suit by Defendants for file-
20 sharing, downloading or other similar activities, who have not actually engaged
21 in actual copyright infringement.

22 5.3. The class is comprised of many thousands of individuals, making joinder
23 impracticable. The disposition of the claims of these class members in a single class action will
24 provide substantial benefits to all parties and the Court. There is a well-defined community of
25 interest among members of the class. Plaintiff, like all class members, was a target of the
26 above-referenced “campaign of threat and intimidation”.

1 5.4 Ms. Andersen as the representative Plaintiff, like all class members, has suffered
2 actual damages as a result of Defendants' misconduct, and will be required to incur court costs
3 and reasonable and necessary attorneys' fees in order to recover all sums due as a result of that
4 misconduct.

5
6 5.5. There are questions of law and fact common to Plaintiff and the proposed class
7 and those questions predominate over any questions that may affect the individual class
8 members. Those questions include, but are not limited to, the following:

- 9 a. whether Defendants were negligent in their pursuit of the
10 class members;
- 11 b. whether Defendants defrauded and/or made negligent
12 misrepresentations to the class members (or conspired to
do so);
- 13 c. whether Defendants violated and/or conspired to violate
14 the Federal Racketeering and Influence Act ("RICO");
- 15 d. whether Defendants abused and/or conspired to abuse the
16 legal process;
- 17 e. whether Defendants have maliciously prosecuted and/or
18 conspired to maliciously prosecute class members;
- 19 f. whether Defendants violated and/or conspired to violate
the Computer Fraud and Abuse Act;
- 20 g. whether Defendants committed or conspired to commit
21 trespass to chattels against the class members;
- 22 h. whether Defendants committed or conspired to commit
23 invasion of privacy against the class members;
- 24 i. whether Defendants misused or conspired to misuse the
copyright laws;
- 25 j. whether Plaintiff and the class members are entitled to
26 injunctive relief;

1 k. whether Plaintiff and the class members are entitled to
2 punitive damages.

3 5.6. The interests of the class will be fairly and adequately protected. Plaintiff has
4 retained counsel with experience in prosecuting class actions involving wrongful conduct.
5 Furthermore, Plaintiff and the undersigned counsel are committed to vigorously prosecuting
6 this action on behalf of the class and have the financial resources to do so. Neither Plaintiff nor
7 her counsel has any interests adverse to the interests of the class.
8

9 5.7. Plaintiff and members of the class have suffered and will continue to suffer harm
10 and damages as a result of the unlawful and wrongful conduct of Defendants. A class action is
11 superior to other available methods for the fair and efficient adjudication of this controversy.
12 Absent a class action, most of the members of the class would find the cost of litigating their
13 claims prohibitive and will have no effective remedy at law.

14 5.8. Absent a class action, class members will continue to incur damages and the
15 misconduct of Defendants will continue without remedy. The class treatment of common
16 questions of law and fact is superior to multiple individual actions or piecemeal litigation
17 because it affords the most efficient avenue for full redress of grievances, while simultaneously
18 conserving the resources of the courts and the litigants, and promoting consistency and
19 efficiency of adjudication.
20

21 **VI. FACTUAL BACKGROUND**

22 **A. The National Threat and Litigation Enterprise**

23 6.1 Defendant RIAA is composed of 4 major multinational member companies each
24 having many subsidiary member companies. The RIAA publicly claims to exercise an actual
25 monopoly and control over 90% of the sound recordings sold in the United States.
26

1 6.2 Defendant MediaSentry is in the business of conducting personally invasive
2 private investigations of private citizens in many states in the U.S. for the RIAA and its
3 controlled member companies. MediaSentry advertises that its services include "investigation"
4 and "litigation support".
5

6 6.3 Pursuant to a secret agreement, the RIAA, its controlled member companies and
7 MediaSentry conspired to develop a massive threat and litigation enterprise targeting private
8 citizens across the United States. The RIAA and its controlled member companies have for
9 years aggressively acted to prevent disclosure of the secret agreement and their conspiratorial
10 enterprise. Recently it has been discovered that as a part of this secret enterprise MediaSentry
11 has for years conducted illegal, flawed and negligent investigations of many thousands of
12 private United States citizens. These illegal investigations were and are used as the sole basis
13 for the pursuit of tens of thousands of threatened and actual lawsuits throughout the U.S.
14

15 6.4 MediaSentry claims to conduct private investigations of private U.S. citizens
16 without authorization and under the false pretext of being a peer user. It claims to employ secret
17 methods to enter individual computers to surreptitiously and illegally gather information on
18 private citizens. In reality and at best, MediaSentry is only capable of identifying an internet
19 protocol (IP) address which it then provides to the RIAA. The RIAA and its controlled member
20 companies then use this illegally obtained information in its public threat and litigation
21 enterprise.
22

23 6.5 MediaSentry and the RIAA know that their investigations are illegal and flawed.
24 MediaSentry is not licensed or registered to conduct private investigation of private U.S.
25 citizens. Moreover, in a March 2004 sworn deposition MediaSentry's then president admitted
26 to various serious flaws in the investigative scheme which all Defendants know result in

1 misidentification of individuals. Despite this knowledge, Defendants have falsely represented
2 to many tens of thousands of people that they have been definitively and personally identified
3 as copyright infringers.

4 6.6 MediaSentry's former president also admitted that MediaSentry cannot actually
5 determine from lists of files or "screen shots" whether listed files are copyrighted recordings,
6 bogus or inoperative files, or decoys.

7 6.7 The flaws in MediaSentry's investigations have been well known to Defendants
8 for years. In Brein et al v. UPC Nederland B.V. et al., No. 194741/KGZA-05-462/BL/EV at
9 4.30-31 (2005), a Dutch court ruled that that MediaSentry's investigation protocol was
10 insufficient to state a claim for copyright infringement because it was unable to identify an
11 actual individual allegedly engaged in copyright infringement.
12

13 6.8 In BMG Canada, Inc. v. John Doe, 2005 FCA 193, (2005), the Canadian Federal
14 Court ruled that the investigation protocol used by MediaSentry is so deficient that the
15 "evidence" gathered fails to establish even a prima facie case of infringement.
16

17 6.9 RIAA-controlled member companies have filed and dismissed meritless cases
18 across the country after being forced to admit that they had sued the wrong people. See, e.g.,
19 Atlantic v. Zuleta, Case No. 06-CV-1221 (N.D. Ga.); BMG Music v. Thao, Case No. 07-CV-
20 143 (E.D. Wis.); Capitol Records, Inc., et al v. Foster, Case No. Civ. 04-1569-W (W.D. Okla.);
21 Interscope Records v. Leadbetter, Case No. C05-1149-RSL-MJP (W.D. Wash.); Priority
22 Records, LLC v. Chan, Case No. 04-CV-73645-DT (E.D. Mich.); Virgin Records America, Inc.
23 v. Marson, Case No. 05-CV-03201 RGK (C.D. Cal.).
24

25 6.10 The illegality of the private investigations is also known to Defendants. Most
26 states require licensing or registration of private investigators. Like virtually all states, Oregon

1 subjects unlicensed investigators to civil and criminal penalties. These licensing laws are well
2 known to reputable investigators. On information and belief, MediaSentry and its investigators
3 are not and have not been licensed to conduct private investigations of private citizens in
4 Oregon or any other state. Their investigations are illegal.

5
6 6.11 For years, the RIAA and its member companies have been using flawed and
7 illegal private investigation information as part of their coordinated scheme and common
8 enterprise to threaten, intimidate and coerce payment from private citizens across the United
9 States. As such they have clogged and abused the federal courts for many years with factually
10 baseless and fraudulent lawsuits.

11
12 6.12 As part of this enterprise, the RIAA causes its controlled member companies to
13 file information farming suits against anonymous "John Doe" parties to obtain private
14 information about certain IP addresses from internet service providers (ISPs). Since only John
15 Doe defendants are "named", the targeted individuals are often deprived of due process and
16 receive little or no information about the RIAA's conspiracy to harvest their personal and
17 private information.

18
19 6.13 After an individual's personal and private information is harvested, the
20 anonymous "John Doe" suits are typically immediately dismissed; often before the individuals
21 who have been secretly "sued" have any meaningful opportunity to appear or to otherwise
22 protect their privacy.

23
24 6.14 When the anonymous suits are filed, Defendants know that the subpoenaed
25 private information is often flawed and mistaken and that it will be later misused. Some ISPs
26 who have been subjected to RIAA subpoenas have informed their customers of the potential for
errors. After learning that these ISPs were disclosing flaws in its investigations, the RIAA

1 demanded that the ISPs stop giving advice to their own customers and that ISPs direct all
2 customers to contact only the RIAA.

3 6.15 After the RIAA has extracted the ISP customers' private information, RIAA
4 controlled law firms send threatening and misleading letters containing false allegations and
5 material omissions to individuals whose names and addresses were disclosed.
6

7 6.16 These law firm letters are intended to intimidate, confuse, and mislead by
8 claiming that the recipient has "already been sued". At the same time the letters state that the
9 recipients "have not yet been named as a defendant", in a lawsuit.

10 6.17 These letters also falsely allege that "[t]he evidence necessary for the record
11 companies to prevail in this action [against an individual] has already been secured."
12

13 6.18 These letters typically demand that the recipient contact the RIAA's unnamed
14 "representatives" and threaten that if the recipient does not make contact within 10 days of the
15 letter, a federal lawsuit will be filed against them personally.

16 6.19 The short 10 day time period is intended to deny the recipient any meaningful
17 opportunity to investigate the false assertions contained in the letter.

18 6.20 These letters never advise the recipient that he or she was the subject of an
19 illegal private investigation. Further, these letters never disclose the known possibility of error
20 or mistaken identity. The letters also never disclose that the investigations provide no proof
21 that a specific individual engaged in any of the alleged acts of copyright infringement. Instead,
22 these letters falsely claim that the RIAA has actual proof necessary to prevail on direct
23 copyright infringement claims against the recipient.
24

25 6.21 These letters instruct the recipients to contact Defendants' agent, Settlement
26 Support Center. The nature of the Settlement Support Center's association with the RIAA and

1 other defendants in their common enterprise is never specifically disclosed.

2 6.22 Settlement Support Center was named and retained by the RIAA and its
3 controlled member companies for the purpose of coercing payments from individuals identified
4 by MediaSentry's illegal, flawed and negligent private investigations. Settlement Support
5 Center's role in the Defendants' common enterprise was primarily to engage in debt collection
6 activities across the country. Settlement Support Center employed personnel specially trained
7 to project an authoritative and intimidating presence in communications with targeted
8 individuals.
9

10 6.23 In their communications, Settlement Support Center representatives never
11 disclosed the fact of the illegal investigation or acknowledged the possibility of mistaken
12 identity due to the known flaws inherent in MediaSentry's private investigation protocol.
13 Moreover, they never disclosed that no proof actually existed of infringement by any specific
14 individual.
15

16 6.24 Defendants are aware that Settlement Support Center did not disclose the illegal
17 private investigation, the possibility of misidentification or the inability of the investigation to
18 identify specific individuals.
19

20 6.25 Each Defendant acted in concert with the others in a joint enterprise to retain
21 monopolistic control over U.S. and worldwide distribution of music recordings. This
22 monopoly harms the artists (including songwriters and musicians), the music-consuming
23 public, and the many individuals like Tanya Andersen subjected to litigation abuse.
24 Defendants' illegal enterprise also unfairly clogs and abuses this nation's federal judicial
25 system to the detriment of all U.S. taxpayers.
26

1 **B. The Campaign Against Tanya Andersen and Others Similarly Situated**

2 6.26 In February 2005, Tanya Andersen received a letter from the Los Angeles,
3 California law firm *Mitchell Silverberg & Knupp, LLP* on behalf of certain undisclosed “record
4 companies”. The letter falsely claimed that Ms. Andersen had illegally downloaded music,
5 infringed undisclosed copyrights and that “[t]he evidence necessary for the record companies to
6 prevail in this action has already been secured.”
7

8 6.27 After receiving this letter, Ms. Andersen immediately contacted Defendants and
9 their agent, Settlement Support Center. She explained that their claims were in error and that
10 she had never downloaded or shared music or used any file-sharing program. She told them
11 that she did not even know how to use such a program. According to the Defendants’ scheme,
12 Settlement Support Center repeated Defendants’ joint threat that unless she immediately paid
13 Settlement Support Center \$4,000-5,000 Defendants would ruin her financially. Defendants
14 then knew or should have known that Ms. Andersen was innocent.
15

16 6.28 An employee of Settlement Support Center actually admitted to Ms. Andersen
17 that he believed that she had not infringed any copyrights. He explained, however, that
18 Defendants would not quit their attempts to force payment from her because to do so would
19 encourage other people to defend themselves. He stated that Ms. Andersen could pay
20 thousands of dollars to defend herself against a federal lawsuit or take the less expensive option
21 of “settling” with Defendants.
22

23 6.29 Ms. Andersen wrote to Settlement Support Center again explaining her
24 innocence. She even invited an inspection of her computer to prove that the claims made
25 against her were false or in error.
26

1 6.30 Instead of inspecting her computer, the RAA and its controlled member
2 companies filed suit against Ms. Andersen on June 24, 2005.

3 6.31 The Defendant Record Companies later claimed that MediaSentry had caught
4 her sharing files online at 4:20 A.M. PST, on May 20, 2004, and identified her as
5 “gotenkito@kazaa.”
6

7 6.32 Ms. Andersen explained that she did not know “gotenkito” or anyone else who
8 used that name. Ms. Andersen also explained that she was not awake at 4:20 AM on May 20,
9 2004. She again explained that her computer was never used to share files online.

10 6.33 Defendants knew that Ms. Andersen was not engaged in copyright infringement.
11 In fact, a simple 2-minute search for “gotenkito” on the Google search engine confirms that a
12 young man in Everett, Washington had been using the internet name gotenkito. This man’s
13 MySpace webpage, “Chad’s Wacky Life Stories”, describes his interest in computers and music
14 and even admits downloading copyrighted materials.
15

16 6.34 In an attempt to end Defendants’ persecution of her, Ms. Andersen provided
17 gotenkito’s name, location, and phone number to the Defendant Record Companies. Along
18 with everything else she had done, she hoped this would result in their admitting that she had
19 been misidentified and falsely accused and that the claims against her would be dismissed.
20

21 6.35 Instead of dismissing their false claims, the Defendant Record Companies
22 persisted in their malicious prosecution of Ms. Andersen. They publicly libeled her with
23 demeaning and repulsive accusations. They repeatedly and publicly claimed that Ms. Andersen
24 stole and possessed songs with titles such as “shake that ass bitch”, “dope nose”, “die
25 motherfucker die”, “bullet in the head”, “fuck y’all hoes”, “nigger fucker”, and “i stab people”.
26 In other widely publicized statements, Defendants portrayed those accused of copyright

1 infringement as “pirates” and “thieves”.

2 6.36 Ms. Andersen remains understandably offended and outraged by Defendants
3 conduct. She was the mother of a then 7 year-old girl. She has no interest in the violent,
4 profane, misogynistic, and racist music that the RIAA and its controlled member companies
5 monopolize. Defendants knew that Ms. Andersen listens to only country music and soft rock.
6 For years she had avidly purchased music from RIAA member companies’ mail order CD
7 clubs.
8

9 6.37 Defendants were also aware that their false claims and the federal lawsuit were
10 significantly damaging to Ms. Andersen and to others similarly situated. In May 2004, for
11 health reasons Ms. Andersen had been forced to leave her position as a case manager at the
12 Department of Justice. At the time she was targeted by Defendants, she was surviving on
13 disability benefits for painful physical illness, emotional and psychological problems.
14

15 6.38 Before the lawsuit, she had hoped to return to work, but her psychological and
16 physical symptoms seriously worsened due to Defendants’ malicious and outrageous conduct.
17 Rather than completing a return to work program she had to seek additional medical and
18 psychiatric care.
19

20 6.39 Still Defendants refused to undertake a reasonable investigation into the
21 propriety of their claims against Ms. Andersen. They repeatedly refused to even inspect her
22 computer hard drive. After a court order required it and the inspection was finally done, the
23 RIAA’s own expert determined that Ms. Andersen’s computer had not been used to infringe
24 copyrights. No files or remnants of any files allegedly containing copies of the Defendant
25 Record Companies’ copyrighted recordings were ever found on her computer.
26

1 6.40 Even then and despite their own experts' determination and all the other proof of
2 her innocence, the RIAA and its member controlled companies refused Ms. Andersen's pleas
3 that the litigation and persecution of her stop.

4 6.41 Rather than ending their abuse of her, RIAA-controlled lawyers renewed their
5 threats: They would not dismiss their false claims unless Ms. Andersen paid them some
6 undisclosed amount of money. They wanted it to appear publicly that they had prevailed.

7 6.42 When Ms. Andersen declined to pay them, Defendants stepped up their
8 intimidation. They demanded the deposition of Ms. Andersen's 10 year-old daughter Kylee.
9 Ms. Andersen remained outraged. The RIAA and its agents knew that Ms. Andersen was very
10 concerned about her daughter and the threat of taking her deposition was causing Ms. Andersen
11 a great deal of distress.
12

13 6.43 Knowing of her distress, the RIAA and its agents even attempted to directly
14 contact Kylee. They called Ms. Andersen's apartment building looking for Kylee. During this
15 time, phone calls were also made to Kylee's former elementary school under false pretenses.
16 The voice of the woman on the phone claimed to be Kylee's grandma inquiring as to her
17 attendance. Ms. Andersen learned of these tactics and was even more frightened and distressed.
18

19 6.44 Later, and not until nearly two years after their reckless suit was filed, RIAA
20 lawyers offered to voluntarily dismiss the claims against Ms. Andersen, but only if she
21 abandoned her legal counterclaims against them. They also emphasized that if she did not
22 abandon her legal rights, they would continue to persecute her and her young daughter, and
23 again demanded to interrogate and confront her little girl at the offices of RIAA lawyers.
24 Despite her distress, Ms. Andersen failed to give in. The court even was compelled to enter an
25 order protecting Kylee and Ms. Andersen from the aggressive confrontation threatened by the
26

1 RIAA and its agents.

2 6.45 Ms. Andersen was ultimately able to file a motion for summary judgment. This
3 motion required the Defendant Record Companies to submit proof of their claims. The Record
4 Companies repeatedly delayed the time to submit proof they knew never existed. They made
5 one last demand that Ms. Andersen dismiss her counterclaims. When she again refused, the
6 Record Companies' had no option and were forced to finally dismiss their case with prejudice
7 on June 1, 2007. Like many others, Ms Andersen had been subjected to the Defendants' abuse
8 for over two years.

10 6.46 Defendants' actions toward Ms. Anderson are typical of their actions toward the
11 other members of the class.

12 **VII. CLAIMS FOR RELIEF**

13 **Count 1: Negligence**

14 7.1 Plaintiff realleges and incorporates herein by reference each of the allegations set
15 forth above.

17 7.2 The RIAA publicly claims to have special expertise in conducting investigations,
18 influencing politicians, and suing thousands of private citizens. In fact, the RIAA's president,
19 Cary Sherman, is a 1971 graduate of Harvard Law School. He was senior partner in one of this
20 country's best known law firms. The RIAA publicly proclaims that he is "one of the top
21 copyright attorneys in the country." The RIAA knows what is legal and what is malicious.

23 7.3 With its legal expertise, the RIAA has a heightened duty to act reasonably,
24 responsibly, and legally to avoid foreseeable harm to Plaintiff and other members of the class.

25 7.4 Despite its specialized knowledge, the RIAA acted negligently when it conspired
26 and coordinated with MediaSentry to devise a scheme and common enterprise to conduct

1 private investigations of Plaintiff and other class members' that it knew or should have known
2 was flawed in that it was prone to erroneously identify innocent private citizens.

3 7.5 Despite its specialized knowledge, the RIAA acted negligently when it retained
4 MediaSentry to conduct private investigation of Plaintiff and other class members' personal
5 information when it knew or should have known that MediaSentry was not licensed to conduct
6 private investigations.
7

8 7.6 Despite its specialized knowledge, the RIAA acted negligently when it conspired
9 and coordinated with MediaSentry to devise a scheme and common enterprise to conduct
10 private investigations of Plaintiff and other class members' that it knew or should have known
11 were flawed in that they could not identify the individuals who actually engaged in alleged
12 copyright infringement.
13

14 7.7 Despite its specialized knowledge, the RIAA acted negligently when it
15 continued to use the illegal and flawed investigations in its enterprise of threatening and
16 intimidating litigation against Plaintiff and other members of the class even after repeated
17 reports of its illegality and flaws arose in its member companies' cases across the country.

18 7.8 Defendant MediaSentry held itself out as an expert in conducting secret internet-
19 based private investigations of private citizens' personal information. MediaSentry acted
20 negligently when it failed to comply with private investigation licensing laws in Oregon and
21 many other states.
22

23 7.9 MediaSentry acted negligently when it designed a private investigation scheme
24 that it knew or should have known was flawed and illegal.

25 7.10 MediaSentry acted negligently when it conspired and coordinated with the RIAA
26 to operate an illegal and flawed private investigation scheme against Plaintiff and other

1 members of the class.

2 7.11 The defendant Record Companies acted negligently when they relied on
3 information collected and provided by Defendants RIAA and MediaSentry to file and pursue
4 lawsuits against Plaintiff and other members of the class.

5 7.13 Defendant Settlement Support Center negligently relied upon the MediaSentry
6 private investigation in its coercive communications to Plaintiff and other class members
7 demanding payment, when it knew or should have known that this investigation was illegal and
8 flawed.

9 7.14. Communications from the RIAA, the Defendant Record Companies, and
10 Settlement Support Center negligently failed to disclose to Plaintiff and other class members
11 the illegality of the investigation, the possibility of misidentification, and the true nature of
12 “evidence” against them which had “already been secured”.
13

14 7.15 Defendants negligently failed to properly investigate the true identity of
15 “gotenkito”, both before first demanding payment from Plaintiff, and after his true identity was
16 supplied to Defendants by her and was otherwise known to defendants.
17

18 7.16 Defendants’ negligent conduct described above proximately caused direct
19 damages to Plaintiff and all others similarly situated in an amount to be proven at trial.
20

21 **Count 2: Fraud and Negligent Misrepresentation**

22 8.1 Plaintiff realleges and incorporates herein by reference each of the allegations set
23 forth above.

24 8.2 Defendants knowingly made materially false representations and omissions of
25 material facts to Plaintiff and other members of the class in an attempt to extort money.
26

1 8.3 As an example of Defendants' activities against the class, on February 2, 2005,
2 Defendants' lawyers wrote a letter demanding that Ms. Andersen contact Settlement Support
3 Center. In an attempt to threaten, intimidate and coerce Ms. Andersen into paying thousands of
4 dollars, the letter made the affirmative false statement that "[t]he evidence necessary for the
5 record companies to prevail in this action has already been secured." Defendants knew that this
6 statement was false because they knew that their investigation could not identify any individual
7 who had committed any of the alleged acts of infringement; they knew that that there was no
8 evidence that the files allegedly detected were actual copies of sound recordings for which they
9 allegedly had copyrights; and they knew that that the investigation protocol they employed had
10 resulted in multiple mistaken identifications in the past.
11

12 8.4 Between February and March 2005, Defendant Settlement Support Center
13 falsely claimed that Defendants had proof that Ms. Andersen had been "viewed" downloading
14 and distributing over 1,288 audio files for which it sought to collect hundreds of thousands of
15 dollars. This statement was materially false. Plaintiff never downloaded or distributed any
16 audio files nor did the record companies or any of their agents ever observe any such activity
17 associated with her personal home computer. Defendants were at all relevant times aware that
18 no evidence existed supporting their claims.
19
20

21 8.5 Defendants' representatives knowingly and intentionally misrepresented that
22 Defendants had actual evidence that Plaintiff had infringed the copyrights for thousands of song
23 titles listed in the defendant Record Companies' complaint. Defendants used this list of titles
24 as a means to embarrass, coerce, and threaten Plaintiff with the prospect of being sued for over
25 one million dollars. Defendants knowingly and intentionally withheld the material fact that
26 they did not know who engaged in any infringing activities, and they did not know whether any

1 of the thousands of file names contained any copyrighted sound recordings whatsoever. The
2 reason Defendants omitted this information was to intimidate Plaintiff into paying the
3 defendant Record Companies thousands of dollars.

4 8.6 Defendants failed to disclose to Plaintiff the fact that she had been misidentified,
5 and withheld from her the true nature of the "evidence" against her. Plaintiff had no access to
6 the information that the Defendants falsely claimed to have received from MediaSentry.
7 Plaintiff had no way of knowing that Defendants were withholding and omitting information
8 from her, on which they intended she rely.

9 8.7 Defendants had a duty to conduct a reasonable investigation into the information
10 that it was representing as true. Defendants breached that duty.

11 8.8 As a direct result of Defendants' materially false representations and omissions
12 of material facts, Plaintiff invested substantial resources into investigating the integrity of her
13 computer and investigating the claims of infringement at the request of Defendants.
14 Defendants' conduct resulted in direct and consequential harm to Ms. Andersen and damages in
15 an amount to be proven at trial.

16 **Count 3: Racketeer Influenced and Corrupt Organization Acts**

17 9.1 Plaintiff realleges and incorporates herein by reference each of the allegations set
18 forth above.

19 9.2 The Racketeer Influenced and Corrupt Organization Act (RICO) prohibits
20 companies from engaging in organized racketeering or criminal activities. 18 U.S.C. § 1961, *et*
21 *seq.* RICO provides that it is unlawful for any person employed by, or associated with, any
22 enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of
23 racketeering activity or the collection of an unlawful debt. 18 U.S.C. § 1962 (c). The Oregon
24
25
26

1 Racketeer Influenced and Corrupt Organizations Act (ORICO), ORS 166.715 *et seq.*, and many
2 other state RICO statutes prohibit the same and similar conduct and provide relief that is similar
3 and in cases more extensive than the federal RICO statute.

4 9.3 Defendants each worked in association with each other for the purpose of
5 creating and operating an enterprise to wage a public relations and public threat and
6 intimidation campaign targeting, in part, Plaintiff and other members of the class, in an attempt
7 to maintain control of and monopolize the distribution of music recordings.
8

9 9.4 Defendants' association constitutes an "enterprise" as defined in 18 U.S.C. §
10 1961(4).
11

12 9.5 Defendants common and conspiratorial conduct is set forth in detail in
13 paragraphs 5.1 to 5.45 above. Defendants conducted illegal and flawed investigations which
14 were designed to be and actually were used in a campaign of threat and extortion waged against
15 Plaintiff and the class members.

16 9.6 Defendants formed a scheme to defraud Plaintiff and the other class members
17 and directed their lawyers to send false and misleading communications through the U.S. mail
18 with the intent to defraud in violation of 18 U.S.C. § 1341.
19

20 9.7 Through the above-detailed enterprise, Defendants attempted to coerce and
21 threaten Plaintiff and the other class members into paying the Defendant Record Companies
22 thousands of dollars in violation of the Hobbs Act, 18 U.S.C. § 1951, *et seq.*

23 9.8 While each of the Defendants participate in the enterprise, they also have an
24 existence separate and distinct from the enterprise.

25 9.9 Defendants are each "persons" as defined in 18 U.S.C. § 1961(3).
26

1 9.10 Defendants' acts formed a pattern of racketeering as defined in 18 U.S.C. §
2 1961(5). Defendants have committed at least two acts of racketeering. These acts represent a
3 common course of conduct used by plaintiffs to target thousands of citizens throughout the
4 United States. These activities shared the common objectives of seeking payment of thousands
5 of dollars from each person targeted, regardless of their innocence in order to protect a
6 monopolistic music distribution scheme. These acts had the same or similar purposes, results,
7 participants, victims and methods of commission. The predicate acts of racketeering include,
8 but are not limited to: mail fraud, 18 U.S.C. § 1341; attempts to obtain property with consent
9 induced by wrongful fear and intimidation in violation of the Hobbs Act, 18 U.S.C. § 1951, *et*
10 *seq.*; extortion; and conspiracy to violate 18 U.S.C. § 1962(c) in violation of 18 U.S.C. §
11 1962(d).
12
13

14 9.11 These unlawful activities were not isolated. The RIAA and its member
15 companies have repeated this coercive conduct with other members of the class. For example,
16 the Settlement Support Center has reportedly engaged in the same pattern of threatening and
17 coercive conduct. In 2004, the RIAA targeted another potential class member. When presented
18 with evidence that the individual did not engage in any of the downloading activities, RIAA
19 members insisted that her lack of involvement was irrelevant and reportedly threatened that
20 they would sue her for hundreds of thousands of dollars whether or not she had ever engaged in
21 the alleged file sharing: "It didn't matter. Someone is responsible and someone is going to have
22 to pay." Motown Records, et al. v. Nelson, No. 04-73646 (E.D. MI).
23

24 9.12 Defendants and their agents stood to financially benefit from these deceptive and
25 unlawful acts. Proceeds from these activities are used to fund the operation of Defendants'
26 continued public threat campaigns against the class members.

1 9.13 Defendants' enterprise engages in interstate commerce, and Defendants'
2 activities affect interstate commerce.

3 9.14 Defendants' racketeering conduct directly and proximately resulted in damages
4 to Plaintiff and other members of the class in an amount to be specifically proven at trial.

5
6 **Count 4: Abuse of Legal Process**

7 10.1 Plaintiff realleges and incorporates herein by reference each of the allegations set
8 forth above.

9 10.2 Despite knowing that Plaintiff and the class members were never observed
10 downloading any music, Defendants used the threat of expensive and intrusive litigation as a
11 tool to coerce them into paying many thousands of dollars for obligations they did not owe.
12 Defendants pursued their collection activities and this lawsuit for the primary purpose of
13 threatening Plaintiff and the other class members as part of its public relations campaign
14 targeting electronic file sharing.

15
16 10.3 Defendants have falsely and publicly represented and asserted to this Court that
17 information obtained in this invasive and secret manner existed and proved Ms. Andersen's
18 alleged downloaded and distributed copyrighted audio recordings. Ms. Andersen and the other
19 class members never downloaded music but have been subjected to public derision and
20 embarrassment.

21
22 10.4 Defendants' conduct proximately resulted in damages to Plaintiff and other
23 members of the class in an amount to be specifically proven at trial.

24 **Count 5: Malicious Prosecution**

25 11.1 Plaintiff realleges and incorporates herein by reference each the allegations set
26 forth above.

1 11.2 Despite knowing that their faulty and illegal investigation protocol did not give
2 rise to probable cause for commencing and then continuing civil litigation against Plaintiff and
3 the other class members, RIAA and the Defendant Record Companies relied upon the same
4 illegal and flawed investigation as the sole asserted basis for their false claims.

5 11.3 Prior to commencing their abusive litigation against Ms. Andersen, Defendants
6 were aware that Ms. Andersen's psychological condition was deteriorating and worsening as a
7 result of the threats of imminent litigation.

8 11.4 Despite her repeated requests, Defendants refused to inspect Ms. Andersen's
9 computer prior to commencing litigation, and refused to adequately investigate the identity of
10 gotenkito both before the litigation commenced and during the years they abusively continued
11 it.

12 11.5 After becoming aware that Ms. Andersen was acutely sensitive to the prospect of
13 her daughter's persecution, defendants' agents contacted Ms. Andersen's apartment building
14 looking for Kylee. Disturbing calls to Kylee's former grade school were made under false
15 pretenses inquiring as to her attendance. Ms. Andersen learned of these tactics and was
16 frightened and distressed.

17 11.6 Defendants' lawyers threatened persecution of Kylee in an effort to force Ms.
18 Andersen to abandon her counterclaims against Defendant Record Companies. Their demand
19 for face-to-face confrontation with Ms. Andersen's then 10 year-old child in a deposition at the
20 offices of RIAA lawyers were also intended to coerce and threaten her.

21 11.7 Defendant Record Companies abusively filed and continued this baseless
22 litigation against Ms. Andersen for nearly two years, ignoring her many pleas that the litigation
23 cease. Defendants were at all times aware of the total lack of probable cause for commencing
24 litigation against Ms. Andersen for nearly two years, ignoring her many pleas that the litigation
25 cease. Defendants were at all times aware of the total lack of probable cause for commencing
26 litigation against Ms. Andersen for nearly two years, ignoring her many pleas that the litigation

1 and maintaining it, and the serious harm it caused to Ms. Andersen.

2 11.8 The litigation terminated in Ms. Andersen's favor upon the unconditional
3 dismissal with prejudice of the claims against her on June 1, 2007.

4 11.9 The above course of conduct was malicious, and was intended to serve the
5 primary purpose of intimidating, coercing, and threatening Ms. Andersen and others.
6

7 11.10 Defendants' conduct described above proximately caused direct and
8 consequential monetary, physical, and psychological harms to Ms. Andersen and all others
9 similarly situated, resulting in damages in an amount to be proven at trial.

10 **Count 6: Outrage and Intentional Infliction of Emotional Distress**

11 12.1 Plaintiff realleges and incorporates herein by reference each of the allegations set
12 forth above.
13

14 12.2 Defendants' outrageous conduct, including threats, intimidation, and coercion,
15 was intended to and actually caused Ms. Andersen and thousands of others extreme emotional
16 distress.

17 12.3 Defendants' conduct was without any reasonable basis and reckless in that they
18 did not reasonably investigate the defendant Record Companies' claims before initiating their
19 lawsuits and in continuing to pursue lawsuits when they knew that no facts or evidence actually
20 supported their claims.
21

22 12.4 Defendants also pursued debt collection activities for the inappropriate purpose
23 of illegally threatening Ms. Andersen and many thousands of others. This tortious abuse was
24 motivated by and constituted a central part of a nationwide campaign of threat and intimidation.

25 12.5 Defendants were aware that their conduct would cause extreme distress in Ms.
26 Andersen and all others similarly situated.

1 12.6 Defendants' conduct resulted in damages to Ms. Andersen and all others
2 similarly situated to be proven at trial.

3 **Count 7: Computer Fraud and Abuse Act**

4 13.1 Plaintiff realleges and incorporates herein by reference each of the allegations set
5 forth above.

6
7 13.2 Under the provisions of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030,
8 *et seq.* ("CFAA"), it is illegal to invade another person's private computer to spy, steal or
9 remove private information, damage property, or cause other harm and losses. The CFAA
10 prohibits a person from accessing a computer without authorization to "obtain information from
11 any protected computer if the conduct involved an interstate or foreign communication." 18
12 U.S.C. § 1030(a)(2)(C). The CFAA further prohibits a person from breaking into a computer
13 without permission and creates a cause of action where the unauthorized access results in
14 damage, loss, or personal injury. 18 U.S.C. § 1030(a)(5)(B)(iii).

15
16 13.3 Like most other U.S. citizens, Plaintiff regularly used her personal computer to
17 communicate with friends and family across the country and for interstate e-commerce. Ms.
18 Andersen had password protection and security in place to protect her computer and personal
19 files from access by others. Ms. Andersen has never engaged in file sharing activities, did not
20 make any portion of her computer available to the public, and did not authorize defendants to
21 invade her computer or steal information.

22
23 13.4 Plaintiff's computer is her personal and private property. Defendant
24 MediaSentry claims to have bypassed Ms. Andersen's computer security systems and to have
25 invaded her personal computer to secretly spy on and steal or remove private information. If
26 this occurred as claimed, MediaSentry did not have her permission to inspect, copy, or remove

1 her private computer files. If this occurred, MediaSentry gained access secretly and illegally.

2 13.5 Even assuming that Defendants could have had implied consent to view certain
3 files on Plaintiff and class members' computers, by using pretext, acting deceptively and
4 masquerading as a peer user, using false pretenses, and employing sophisticated data collection
5 technology, Defendants' acts vitiated whatever implied consent they might have had.
6

7 13.6 If Defendants' investigative claims are to be believed, they willfully used
8 Plaintiff's and other members of the class' computers without authorization to appropriate
9 personal property for their own purposes.

10 13.7 Defendants' claimed conduct resulted in damages and harm to Plaintiff and other
11 members of the class' property. As a direct result of Defendants' purported interference with
12 the integrity and capacity of Plaintiff's personal computer, Defendants' conduct resulted in
13 direct and consequential damages, loss, and harm to Plaintiff's person and property and to all
14 others similarly situated in an amount far in excess of \$5,000 (the minimum damages required
15 to be proved under the CFAA).
16

17 **Count 8: Trespass to Chattels**

18 14.1 Plaintiff's computer, its capacity and its integrity are her personal property.
19 Plaintiff had password protection and security in place to protect her computer and personal
20 files from access by others. Ms. Andersen has never engaged in file sharing activities, did not
21 make any portion of her computer available to the public, and did not expressly or impliedly
22 authorize defendants or any of their agents to enter her computer or steal information therefrom.
23

24 14.2 RIAA and the defendant Record Companies employed MediaSentry as their
25 agent and claimed that it invaded Plaintiff's personal computer and secretly spied on and stole
26 information or removed files from it. If Defendants' investigative claims are to be believed,

1 they willfully misused Plaintiff's computer without authorization to appropriate Plaintiff's
2 personal property for their own purposes. Defendants' claimed unauthorized invasion and use
3 of Plaintiff's computer would constitute an interference and/or intermeddling with the capacity
4 and integrity of her personal property.

5
6 14.3 Even assuming that Defendants could have had implied consent to view files
7 appearing on Plaintiff's and class members' computers, Defendants use of false pretext,
8 deception and their claimed masquerading as a peer user vitiated whatever implied consent they
9 might have had

10 14.4 Defendants used the private information (including an alleged internet protocol
11 address) that they claimed to have stolen from Plaintiff's computer in their attempt to threaten
12 and coerce her into paying thousands of dollars. Defendants' claims and conduct resulted in
13 damages and harm to Plaintiff and others similarly situated in an amount to be proven at trial.
14

15 **Count 9: Invasion of Privacy**

16 15.1 Plaintiff realleges and incorporates herein by reference each of the allegations set
17 forth above.

18 15.2 According to Defendants, MediaSentry invaded Plaintiff's personal computer. If
19 these claims are to be believed, MediaSentry did not have permission to inspect Plaintiff's
20 private computer files and it gained access only by illegal acts of subterfuge.
21

22 15.3 Plaintiff's computer, its capacity, integrity, and the information contained in it
23 are her personal, private property. Plaintiff did not authorize defendants or any of their agents
24 to invade her computer or steal information. MediaSentry did not have her permission to
25 inspect, copy, or remove her private computer files.
26

1 15.4 Even assuming that Defendants could have had implied consent to view certain
2 files allegedly appearing on Plaintiff's and class members' computers, by using pretext, acting
3 deceptively and masquerading as a peer user, using false pretenses, and employing sophisticated
4 data collection technology, Defendants' acts wrongfully and fraudulently vitiated whatever
5 implied consent they might have had.
6

7 15.5 Defendants have falsely represented that information obtained in this invasive
8 and secret manner is proof of Plaintiff's alleged downloading. Ms. Andersen never
9 downloaded music but has been subjected to public derision and embarrassment associated with
10 defendants' claims and public relations campaign.
11

12 15.6 Defendants have used this improperly obtained information to make reckless,
13 shameful and slanderous public accusations about Plaintiff. Defendant RIAA has made further
14 widely publicized statements portraying those it accuses of infringement as "pirates" and
15 "thieves". These statements, innuendo and subsequent republications thereof place Ms.
16 Andersen in a false light.
17

18 15.7 Defendants' conduct described above proximately caused direct and
19 consequential damages to Plaintiff and all others similarly situated in an amount to be proven at
20 trial.
21

Count 10: Libel and Slander

22 16.1 Defendants acted in concert to publicly state and represent that Ms. Andersen
23 stole and collected racist, misogynist and violent music. She was publicly called a thief and a
24 liar by defendants and their agents. The repulsive song titles were published repeatedly.
25

26 16.2 Defendants' conduct described above resulted in damages to Ms. Andersen and
all others similarly situated in an amount to be proven at trial.

Count 11: Deceptive Business Practices

17.1 Plaintiff realleges and incorporates herein by reference each of the allegations set forth above.

17.2 Oregon's Unlawful Trade Practices Act prohibits those in trade or commerce from engaging in unfair or deceptive practices in the course of business with consumers. ORS 646.605 et seq. Most states have similar statutes protecting their citizens from fraudulent and deceptive business practices harmful to their citizens.

17.3 Settlement Support Center, acting on behalf of the RIAA and the defendant Record Companies, made false and deceptive statements to Ms. Andersen in an attempt to mislead, threaten, and coerce her into paying thousands of dollars.

17.4 Settlement Support Center, acting on behalf of the RIAA, the defendant Record Companies, and other RIAA members, has made similar false and deceptive statements to many other residents of Oregon and other states across the country. The public interest has been and continues to be directly impacted by defendants' deceptive practices.

17.5 Defendants intended that Ms. Andersen and the class members believe their false statements and rely on their omissions so that they would be frightened and coerced into paying them thousands of dollars. Defendants' misrepresentations and omissions created an unreasonable risk that Ms. Andersen and the class members would rely upon their misrepresentations and omissions to their detriment.

17.6 Ms. Andersen had no access to the information that defendants falsely claimed to have received from MediaSentry. Ms. Andersen had no way of knowing that defendants were withholding and omitting information, on which they intended she rely. As a result, Ms. Andersen was justified in relying on defendants' representations and acting on their omissions,

1 which she in fact did.

2 17.7 Prior to the threats from defendants, Ms. Andersen had an ongoing customer
3 relationship with the RIAA's member companies, and purchased music from them.

4 17.8 As a direct result of defendants' materially false representations and omissions
5 of material facts, Ms. Andersen invested substantial resources into investigating the integrity of
6 her computer and investigating the claims of infringement for the benefit of the record
7 companies. Defendants' conduct caused her medical condition to worsen, requiring that she
8 return to her doctor and caused her to be unable to return to work. Defendants' conduct
9 resulted in damages to Ms. Andersen and all others similarly situated in an amount to be
10 specifically proven at trial.
11

12 **Count 12: Misuse of Copyright Laws**

13
14 18.1 Plaintiff realleges and incorporates herein by reference each of the allegations set
15 forth above.

16 18.2 Defendant Record Companies are in the business of creating and distributing
17 recorded music, and investigating, threatening and prosecuting those who are deemed to present
18 a threat to their business interests.

19 18.3 Defendants are a cartel acting collusively in violation of anti-trust laws and
20 public policy. Their illegal conduct includes litigating all cases similar to this case in an
21 identical manner, and engaging in a secret conspiracy and according to a uniform and unlawful
22 agreement among themselves to litigate and dispose of all cases in an identical manner.

23
24 18.4 Defendants actions set forth above represent an attempt by Defendants to secure
25 for themselves monopolistic rights far exceeding those provided by the Copyright Act.
26

18.5 Such actions constitute a misuse of copyrights, and lead to a forfeiture of the exclusive rights granted to Defendants by those laws.

18.6 Plaintiff is entitled to judgment that Defendants have forfeited the exclusive rights, if any, which they possess in and to the sound recordings which they allege her to have infringed.

18.7 Plaintiff is entitled to costs and a reasonable attorney's fees and such other relief as may be just.

Count 13: Civil Conspiracy

19.1 Plaintiff realleges and incorporates herein by reference each of the allegations set forth above.

19.2 Defendants have entered into a conspiracy to perpetrate this nationwide “campaign of threats and intimidation” against Plaintiff and the other members of the class. The unlawful and overt acts committed by Defendants were committed in furtherance of a common plan and design. Defendants all benefited and continue to benefit from the enjoyment of the fruits of the civil conspiracy and fraud perpetrated on Plaintiff and the other members of the class. Accordingly, each of Defendants must be held liable to Plaintiff and all others similarly situated for the wrongful acts committed by one or more of the others.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff Tanya Anderson, individually and on behalf of others similarly situated, prays for:

a. All direct and consequential damages necessary to compensate Plaintiff and the other members of the class;

- 1 b. Injunctive relief;
- 2 c. Statutory and punitive damages awardable under 18 U.S.C. § 1961, *et seq.*, and state
- 3 RICO statutes;
- 4 d. Attorneys' fees and costs awardable;
- 5 e. For post-judgment interest on the entire judgment until paid in full;
- 6 f. For such other and further relief as the Court may deem just and equitable.
- 7

8 **DEMAND FOR JURY TRIAL**

9 Plaintiffs request a trial by jury.

10 Respectfully submitted this 15th day of August, 2007.

11 Lybeck Murphy, LLP

12

13 By: 

14 Lory R. Lybeck (OSB #83276)

15 Attorneys for plaintiff

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