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IN THE SUPREME COURT OF THE UNITED STATES

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KENNETH CAREY AND STEVE ANYADIKE,

Appellants, Counter Defendants and Plaintiffs

v.

JONATHAN KIRK aka DaBaby

Defendant, Counter Claimant, Appellee,

And

BILLION DOLLAR BABY ENTERTAINMENT, LLC

UNIVERSAL MUSIC GROUP, INC. AND

INTERSCOPE RECORDS

Defendants, Appellees

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Seeking Certiorari from the United States District Court

For the Southern District of Florida No. 1:21-cv-20408-JEM-JM and

The Eleventh Circuit Court of Appeals No. 23-10308

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**PLAINTIFFS/APPELLANT'S PETITION FOR WRIT OF CERTIORARI**

## **FEDERAL QUESTIONS 14(1)(a)**

Plaintiffs seeks de novo review of the entirety of the District Court Case No. 21-20408-CIV-MARTINEZ-BECERRA and the Eleventh Circuit Court of Appeals No. 23-10308 which set a precedent in this case that creates extraordinary danger to individual and community safety and security for the pure unnecessary desire for corporate and individual profits. Plaintiffs seeks these specific questions for review:

1. Are UMG and Interscope Records able to handsomely profit from their involvement and contributions to an illegal marketing scheme comprised from illegal physical attacks by Jonathan Kirk aka DaBaby that created viral media coverage and increased DaBaby's social media following by the millions?
2. Should the District Court have dismissed UMG and Interscope Records Motion to Dismiss Count for conspiracy when 1. Plaintiff's provided video admissions by involved but now deceased coconspirator Cam Coldheart, 2. proof that Defendants hid and suppressed required contract language that would include UMG in the contract between Plaintiffs and DaBaby/Jonathan Kirk and expose their involvement in the agreement, 3. UMG blatantly ignoring their code of conduct requiring actions taken to 4. avoid hurting other people over 16 times in nearly monthly periods and many more facts that support the Plaintiff's cause of action for conspiracy.
3. Can a company trade name (Interscope Records) evade service and any lawsuit because it is designated as a division of a larger company, even though it is one of the most recognizable brands in the world, contracts under the brand name Interscope Records and holds itself out to the public as a company?
4. Is UMG and Interscope Records subject to the long arm jurisdiction based on their involvement and profit from the contractual agreement in Miami, Florida area and owning a company that has an office in Florida and selling

likely millions of sales in digital streaming, concerts, merchandise, public appearances and otherwise in Florida and throughout the 11<sup>th</sup> Circuit?

5. Should a civil theft count be dismissed when a person robbed (Kenneth Carey) of cash, phone and cards does not know the exact amount of cash that was stolen from him nor the exact amount of the value of data on his phone that contained contacts to hard to reach celebrity artists ?
6. Was beating Kenneth Carey to the ground by jumping him by Dababy and his entourage, pouring apple juice on him and saying it looked like he peed himself, robbing him of his possessions, dragging him across the street while pulling his pants off and exposing his private parts to the world, while cars passed close by endangering them all, and then knocking Carey to the ground, all similar to a prior attack by Dababy, and on camera and published to millions around the world on TMZ, youtube, major media outlets and otherwise, constitute Intentional Infliction of Emotional Distress?
7. Was it improper when Defendant Kirk DaBaby had granted the Motion to Dismiss the Count for Promissory Estoppel based on the defense of a valid contract existing then testified in Trial Court that a valid contract did not exist?
8. Can the Trial Court have knowledge of a subpoena delivered to a third party witness and then not require them to appear to testify based on that subpoena being issued.
9. Can the Trial Court deny authentication and admissibility of security camera video footage obtained via subpoena duces tecum through the Court process when the Plaintiffs attempted to authenticate the video which they were in the contents of the video.
10. Can UMG and Interscope records completely avoid discovery and producing documents based on ignoring the discovery request timely submitted to them until the deadline?
11. Can UMG and Interscope avoid a timely scheduled deposition of a corporate representative because the scope of the deposition would be what they

considered too broad, which the scope was stated as “all knowledge relating to the Counts in the Complaint”?

12. Can UMG and Interscope CEO’s avoid depositions based on the APEX doctrine when Plaintiffs presented statements that the CEO’s had specific knowledge about the attacks because the CEO’s were the only ones that could have overridden the code of conduct that required them to take action and sever relationships of people that hurt others?

**A LIST OF ALL PARTIES TO THE PROCEEDING IN THE COURT WHOSE JUDGMENT IS SOUGHT TO BE REVIEWED PER RULE 14(1)(b)(i)**

The caption of the case contains the names of all of the Parties whose judgment is sought to be reviewed and they include all of the Appellants and Appellees, including Kenneth Carey and Steve Anyadike as Appellants and Jonathan Kirk, Billion Dollar Baby Entertainment LLC, Interscope Records and Universal Music Group Inc. as Appellees

**CORPORATE DISCLOSURE STATEMENT RULE 14(1)(b)(ii)**

This statement is not required because Plaintiffs are not Corporate Entities



**CASE HISTORY: A LIST OF ALL PROCEEDINGS IN STATE AND  
FEDERAL TRIAL AND APPELLATE COURTS 14(1)(b)(iii)**

1. This case started in State Court under the case number 2020-002448-CA-01.  
The case was removed to federal court.
2. The Southern District of Florida, case number No. 1:21-cv-20408-JEM-JM  
went to a jury trial and Judgment was issued on December 30<sup>th</sup>, 2022 and the  
rehearing was denied on September 9<sup>th</sup>, 2024.
3. The case was appealed to the Eleventh Circuit Court of Appeals under case  
number No. 23-10308 whereby the Judgement was issued on June 27<sup>th</sup>, 2024.  
A Motion for Rehearing was submitted and then denied.
4. An Order for Sanctions was issued by the Southern District of Florida via  
Docket Number 396: Omnibus Order on Motion for Sanctions against  
Plaintiffs on February 13<sup>th</sup>, 2025 and Docket Number 399 Plaintiffs' Motion  
to Recuse Judge Jose Martinez was denied and those Orders are being  
Appealed via Case Number 25-10866-E in the Eleventh Circuit Court of  
Appeals. The Notice of Appeal was filed on March 13<sup>th</sup>, 2025.

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## TABLE OF CITED AUTHORITIES RULE 14(1)(c)

1. *Crawford v. Gulf Coast Motor Sales*, 2021 U.S. Dist.  
LEXIS 244617, \*11-12 p. 36
2. *Frozen Moments LLC v. UMG Recordings Inc and Spotify USA, Inc.*  
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3. *Grobman v. Posey*, 863 So. 2d 1230, 1234-37 (Fla. 4th DCA 2003)  
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4. *LeVers v. Cafe*, 2023 U.S. Dist. LEXIS 93361, \*5-6 p. 34
5. *Riggs v Palmer*, 22 N.E. 188, 116 N.Y. 506 (1889) p. 12
6. *United States v. Williams*, 2022 U.S. Dist. LEXIS 222405, \*15 p. 31
7. Please consider all case law from prior filings as it is impossible to include all  
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## CITATIONS OF THE OPINIONS AND ORDERS ENTERED IN THE CASE BY COURTS RULE 14(1)(d)

1. *Carey v Kirk*, S.D. Fla, 1:21-cv-20408-JEM-JM (D. Fla Dec. 30, 2022)
2. *Carey v Kirk*, 23-10308, unpublished memorandum decision (11<sup>th</sup> Cir. Jun.  
27, 2024)
3. *Carey v. Kirk*, 2024 U.S. App. LEXIS 22939, \*1
4. *Carey v Kirk*, 23-10308, unpublished memorandum decision (11<sup>th</sup> Cir. Sep. 9,  
2024)
5. *Carey v Kirk*, S.D. Fla, 1:21-cv-20408-JEM-JM (D. Fla Feb. 13, 2025)
6. *Carey v Kirk*, S.D. Fla, 1:21-cv-20408-JEM-JM (D. Fla Mar. 13, 2025)

### **BASIS FOR JURISDICTION RULE 14(1)(e)**

Pursuant to the Rules of the Supreme Court of the United States 14(e), the Eleventh Circuit Court of Appeals denied Plaintiffs' Appeal on June 27<sup>th</sup>, 2024. The rehearing was denied on September 19<sup>th</sup>, 2024. A request for an Extension to submit the Petition for Writ of Certiorari was granted on December 12<sup>th</sup>, 2024 until January 7<sup>th</sup>, 2025. In compliance with Rule 14, This Petition for Writ of Certiorari is entered into by both of the Plaintiffs of this case, Kenneth Carey and Steve Anyadike against all Defendants of this case, Universal Music Group Inc., Interscope Records, Jonathan Kirk and Billion Dollar Baby Entertainment LLC.

### **CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, ORDINANCES**

#### **AND REGULATIONS RULE 14(1)(f)**

This appeal is partially brought in order to enforce Due Process with regards to enforcing Discovery obligations upon the Defendants.

## **STATEMENT OF THE CASE AND ARGUMENT RULE 14(1)(g) and (h)**

1. This case represents a grave injustice that sets an extremely dangerous precedent that will destroy American lives, America's reputation and the public's trust and faith in the American legal and justice system if action is not taken by this Supreme Court. This is a unique public policy case that allows the Court to establish a precedent that no record label can profit from the illegal acts of its artists when those acts are illegal in their intent to create following, social media awareness, sales and downloads.
2. This case applies to Supreme Court Rule 10(c) in that the lower courts have so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power.
3. This case presents a novel area of legal and societal consideration because, historically, there was no intersection between social media marketing, digital media influence, and violent behavior. With advancements in digital music distribution and the universal reach of social media, the music industry has transitioned into a landscape where artists' actions, both lawful and unlawful, can significantly amplify their digital presence, increase their virality, and generate substantial profits for record labels. This raises critical questions about whether it aligns with constitutional and federal frameworks for corporations to profit from criminal activities associated with artists, such as assault, battery, or other violent acts, which contribute to their fame and financial success. Alternatively,

it is necessary for the Supreme Court to establish a clear legal precedent that provides guidance for large corporations to engage with high-profile artists without endorsing or benefiting from violence or illegal conduct.

4. Additionally, this case presents an innovative and pressing legal issue regarding the misuse of unincorporated divisions within the music industry to evade liability for illegal practices. Specifically, it highlights how entities such as Interscope Records, operating as an unincorporated division of Universal Music Group, have been used as shields to avoid accountability under the guise of not being legal entities subject to judicial process. Despite this technicality, these divisions operate with full corporate structures, including CEOs, and generate millions of dollars in revenue from both legal and, in this case, illegal activities. The deliberate use of such organizational forms to engage in premeditated illegal practices—such as promoting violence and crime for profit—raises a fundamental question: are these divisions liable under the law as Georgia and Alabama have declared, or are they above justice simply because they lack formal incorporation? A trade name and a corporate name represent the same thing, the same company, the same services and more. In this instance, Interscope Records actively participated in the marketing and promotion of DaBaby's violent and criminal behavior, yet, sought dismissal of claims based on its status as an unincorporated division. This tactic undermines the ethical and legal principles of accountability and fairness. It is imperative for the Court to address whether such entities can escape liability for their substantial involvement in unlawful activities or whether

they must be held to the same standards of justice as any other party engaged in wrongdoing.

5. In this case, the petition for certiorari should be granted in order to address significant legal questions regarding conspiracy to profit from illegal activities and unlawful marketing. The lower court's decision, which largely exonerated Mr. Kirk (DaBaby) and his associates, raises concerns about the consistent application of federal law in cases involving public figures and allegations of violent misconduct. The institution of justice demands clarity on whether the lower court's interpretation aligns with statutory and constitutional principles. Denying review risks undermining public confidence in the judiciary and allowing influential individuals to evade accountability under the law.
6. The trial Court and Appeals courts found that there was not one item of evidence or circumstantial argument that indicated that UMG/Interscope contributed or omitted actions that furthered their conspiracy. Such a conclusion is so far from reasonable and is asinine. The fact of the following admission by Dababy alone proves that there is a conspiracy between Defendants through admissions/specific statements made by defendant Jonathan Kirk/DaBaby, which was published by UMG/Interscope saying *"I'll f\*ck around and can kill another ni\*\*a...(omitted lyrics)..*, I can make the news with it, break the internet, have them all nervous and scared of me and get away sneaky clean"* . UMG/Interscope could have avoided publishing those lyrics or avoided marketing them to the masses. In addition, there are other specific actions that prove the conspiracy such as 1.*

UMG/Interscope avoided discovery requests, 2. Defendants having a contractual relationship and purposely hiding/concealing that relationship in the contract that they(Dababy's team) drafted, 3. UMG/Interscope blatantly ignoring their Code of Conduct to dissociate from people that do harm or violence to others, 4. The proven extreme worldwide media coverage and impressions associated with all of the attacks, in the millions, 5. Cam Coldhearts admission to conspiring with all of the parties and 6. all parties profit from increased social media following and many more incidences of evidence.

7. Consider a common latin legal phrase that translates to "Nothing legal can come out of something illegal," meaning in this case that Parties cannot profit from doing illegal, heinous acts. DaBaby murdered and killed a teenager and wrote a song about profiting from it. Then, he attacked another guy and wrote a song about it. Then he attacked another guy and posted about it. Then he came to Miami and attacked Plaintiffs Ken and Steve and published the storyline with the largest music company in the world.
8. If UMG/Interscope and Jonathan Kirk are not held liable through this case, artists and rappers will see this marketing scheme as a grand opportunity to become famous and make great profit. Please consider the testimony in our Appeal that shows the pressure from the Industry to push rappers into the gangster rap/violence genre because it is profitable. Pushing them into that genre means to encourage them financially and otherwise to do acts that fit and associate with that genre like violence, drugs, rape and otherwise. This case isn't to stop lyrics



about those things, but is designed to stop actually doing those things to bring life to the lyrics that are meant to be only imaginary. People will copy Dababy in these actions, people have attempted to copycatting the crime of Luigi Mangioni, who murdered the CEO for United HealthCare and they are doing that purely for fame and not for profit.

9. There is a legal danger to our country if this case is not overturned. If certiorari is not granted, the lower court's decision will remain binding and sets a precedent within the 11<sup>th</sup> Circuit's jurisdiction and beyond, potentially solidifying legal interpretations that are undoubtedly flawed and inconsistent with important common law maxims and legal principles. Socially, this will undoubtedly undermine public confidence in the justice system, especially when the decision affects future rights of victims whose lives are destroyed. Legally, it extremely limits avenues for redress, leaving unresolved jurisdictional or constitutional questions that will perpetuate injustice and inconsistent application of the law.
10. The New York Court of Appeals *Riggs v Palmer*, 22 N.E. 188, 116 N.Y. 506 (1889), opined in 1889 the following and teaches us about common law maxims relating to public policy that supersede any statutes and law. *"No one shall be permitted to profit by his own fraud, or to take advantage of his own wrong, or to found any claim upon his own iniquity, or to acquire property by his own crime"*.

*"Besides, all laws as well as all contracts may be controlled in their operation and effect by general, fundamental maxims of the common law. No one shall be permitted to profit by his own fraud, or to take advantage of his own wrong, or*

to found any claim upon his own iniquity (defined as immoral or unfair behavior), or to acquire property by his own crime. These maxims are dictated by public policy, have their foundation in universal law administered in all civilized countries, and have nowhere been superseded by statutes. They were applied in the decision of the case of the New York Mutual Life Insurance Company v. Armstrong (117 U. S. 591). There it was held that the person who procured a policy upon the life of another, payable at his death, and then murdered the assured to make the policy payable, could not recover thereon. These maxims, without any statute giving them force or operation, frequently control the effect and nullify the language of wills. A will procured by fraud and deception, like any other instrument, may be decreed void and set aside, and so a particular portion of a will may be excluded from probate or held inoperative if induced by the fraud or undue influence of the person in whose favor it is. (Allen v. M'Pherson, 1 H. L. Cas. 191; Harrison's Appeal, 48 Conn. 202.) So a will may contain provisions which are immoral, irreligious or against public policy, and they will be held void.....

*Under such circumstances, what law, human or divine, will allow him to take the estate and enjoy the fruits of his crime?*

11. The principle that “no one shall profit from their own fraud, iniquity, or crime,” as affirmed in *Riggs v. Palmer* (1889), underscores the necessity of aligning statutory interpretation with natural justice. In *Riggs*, the Court invoked equitable

principles to prevent a murderer from inheriting under a will, emphasizing that laws must not enable individuals to exploit their wrongdoing for personal gain.

12. In fact, even with agency or intercorporate laws in Florida, a master is liable for its agents illegal acts. A contractual partner is liable for its partners illegal acts. The Court was clear when it states that the master is in a better position to prevent the agent from causing harm or damage and thus liability upon the master will create a safer society. The same concept applies with contractual partners. These legal premises are why the Code of Conduct of UMG/Interscope requires dissociation from agents or partners that hurt others. These laws have been presented to the Courts since the beginning of this case to no avail, when the facts and application is so clearly applicable to this case and these facts.

13. The following case has the same considerations as the following In *Grobman v. Posey*, 863 So. 2d 1230, 1234-37 (Fla. 4th DCA 2003), the court defined Florida law with relation to joint and several liability.

*The liability of a master for the acts of a servant . . . within the scope of the employment . . . stands upon grounds that do not support apportionment.*

*Under the doctrine of respondeat superior, the master becomes responsible for the same act for which the servant is liable, and for the same consequences.....*

*The logic behind refusing to apportion responsibility between directly and derivatively liable persons is compelling. **When the risk of tortious or***

**criminal conduct is the very risk that made the derivatively liable**

**party's conduct negligent in the first place, allowing the occurrence of**

**that foreseeable conduct to reduce the responsibility of the  
derivatively liable party undermines the incentive for that party to  
take precautions against this risk.**

*This reasoning was one basis for our holding in Suarez v. Gonzalez, 820 So.  
2d 342 (Fla. 4th DCA 2002). There the defendant was sued for negligently  
hiring an independent contractor who installed kitchen cabinets that fell onto  
the plaintiff.. (omitted text)*

**Here, because [the defendant] negligently hired the "phantom"  
contractor, she is liable for his negligence to the same extent as if she  
had done the work herself. This is similar to situations of  
vicarious liability, such as master and servant, or the breach of a nondelegable  
duty, where there are no logical bases for apportioning liability into  
percentages of fault. Liability for damages may not be apportioned to a  
nonparty defendant where that liability is vicarious in nature.**

14. Here, the relationship between contractual partners is much greater, closer or stronger than an agency relationship but the same legal principles should apply. UMG/Interscope should be liable for the acts of their contractual partner (DaBaby and all others associated with him with contractual performance, including Billion Dollar Baby Entertainment and his entourage/security/helpers/attackers) during the services that they provide and profit from and contribute to.
15. UMG's active role in marketing Dababy's music, as outlined in their contractual agreements, demonstrates their shared intent to monetize content that was tied

to illegal actions. This collaboration not only violates public policy but also aligns UMG with the exploitation of criminal acts for financial gain, rendering their profits as unlawfully derived under principles of equity and justice.

16. We know a lack of accountability is a nation-wide danger because Dababy even continued dangerous attacks after the filing of this lawsuit using the most elaborate marketing scheme (attack at a “bowl”ing alley in LA before the super “bowl”). He planned the location at the “bowl”ing alley because it would come up with searches of the Superbowl. He also had professional camera men film the attack. He knocked out the tooth of an older gentleman according to Court filings, he murdered a black teenager, he struck a woman in the face and continues to rain terror. Imagine how profitable it must be for Defendants to continue such evil behavior, to no avail, with no justice and continued protection from the Courts (by not enforcing discovery and rejecting important evidence and denying important motions). Imagine how powerful they must be to avoid producing discovery and depositions. It is a blatant abuse of power and enormous resources to continue their illegal profiting.

17. Additionally, UMG/Interscope Records can never say they were not aware of these actions as there were many incidents over a period of time in worldwide news in addition to continued attacks after this lawsuit. Yet, they proudly admit to taking no action against DaBaby’s attacks in their policy to allow their artists freedom. Even the least prudent company would ask Dababy to stop attacking people. They would warn him in writing, reprimand him or fine him, yet, UMG/Interscope

rest their decision on inaction and apathy and the reality is that they encourage the actions behind closed doors by marketing DaBaby as follows as they make millions. They not only profit in money but also power and influence over media, social media users and music consumers.

18. The Appeals court of review said that the trial judge did not make any reversible errors, that it is normal in America that somebody can do crime after crime with the backing of the largest music company in America. If this case is not reviewed, it will not only create the worst precedent case in America but also the entire Western civilization. Sean Diddy Combes, R Kelly, Jay Z and Epstein all have been held accountable, but Jonathan Kirk/DaBaby and his team have not been held accountable in any way. He even claimed in his interrogatory responses that he didn't know the men that attacked Plaintiff Carey with him, but on social media at the same time, called them his brothers, managers, assistants, security and more.

19. This "case is of such imperative public importance" as to require the need for review by the US Supreme Court. This case is of such imperative public importance because the case exposes a viable and extremely profitable marketing and sales strategy to make amazing profits at the destruction of vulnerable (mostly black) men and women, whereby the Defendants specifically targeted African Americans.

20. Counsel for Plaintiffs is a communications professor for over fourteen (14) universities for more than eleven (11) years teaching logical reasoning and structure, persuasion and debate and is a Christian preacher.
21. These conspiracy allegations by Plaintiffs aren't mere wishful thinking but Plaintiffs heroically exposing an evil sales and marketing plan that will destroy the fabric of America if artists follow this pattern and path blazed by Defendants to profit from attacking and hurting vulnerable men and women, mostly African American, as Plaintiffs are. DaBaby (Kirk) attacked in regular periods different vulnerable men, women and elderly over 16 times over a 3 year period, whereby each attack lead to widespread international news media coverage and social media coverage, which increased the following, downloads and sales of Dababy's music, in which the other Defendants profit as well. The lower Courts denied these claims as far-fetched, yet, the logical reasoning is so obvious to a reasonable person because 1. The amount of the attacks, 2. The social media following and profits created, 3. DaBaby admitted to the same in his lyrics 4. Cam Coldheart, their co-conspirator, admitted to conspiring with DaBaby and Interscope in a Youtube tell-all video and was later found dead prior to deposition or trial, 5. The parties concealed UMG and Interscope in the agreement that they drafted for Plaintiffs, when they had a contractual obligation to include them, 6. UMG/Interscope did not respond to discovery requests for production and deposition requests, 7. UMG/ Interscope ignored their Code of Conduct that requires them to end any agreement with a third party that hurts others, which

the Trial Court did not allow to be introduced in trial 8. Defendants promoting any social media following regarding violence towards others and profiting from illegal activity makes them complicit with it, 9. Recent Notarized Sworn Affidavit by Aubry Graham (Drake), who is an artist with UMG and Interscope and has exposed their conspiracy of Marketing tactics used for major artists like himself and Kendrick Lamar, whereby he exposes their influence over Spotify because they earn in excess of \$3 billion dollars from Spotify, UMG pays radios stations upwards of \$5,000 a week, they pay influencers to post the music, they use bots to increase the amount of listeners of digital music and other marketing and sales tactics that were the catalyst and strategist for DaBaby to be able to execute this plan to market his music to his audience that likes gangster rap.

22. The Trial Courts dismissed Plaintiffs' claims as far-fetched, illogical or ridiculous, but now there is insider admissions and proof via notarized statements by one of the largest artists in the world, very similar to Dababy.

23. It goes without saying that a gangster rapper and his entire team target a market where people are entertained by violence and dramatic acts. See our Appeal Reply documents evidencing proof from industry standards of all of the allegations that Plaintiffs made.

24. All of this is connected when DaBaby not only beats Ken Carey to the ground with his entourage, but also poured apple juice on him and says that it looks like he peed himself after they dragged him across the street pavement, pulling his pants



off and exposing his gentiles as he helplessly was exposed to millions online and on television.

25. DaBaby testified that he didn't pour apple juice on Ken Carey, but the video shows a liquid on the pavement below Kenneth Carey and later interviews (after trial) show that DaBaby requests apple juice in his hotel rooms (which he denied under oath).

26. Thus, the logical connections are so strong and the evidence is overwhelming in favor of the Count of Conspiracy and other Counts against Defendants.

27. Additionally, UMG/Interscope claimed to not do any marketing for DaBaby but the notarized/Verified Petition/Court Filing in the Supreme Court of New York, County of New York by Drake (Aubrey Graham) on November 25<sup>th</sup>, 2024 (Frozen Moments LLC v. UMG Recordings Inc and Spotify USA, Inc.) is an admission within their own company and states the following about their marketing practices. This document is important in that Judge Martinez was not convinced that UMG/Interscope utilized their contractual relationships to promote DaBaby and the attack actions based on a single simple affidavit from their officer with the last name of Gold.

*“The CEO of UMG, Lucian Grainge, remarked on it being “harder than ever for artists to break through the noise: sixty thousand songs are added to Spotify every day.” thousands of songs are added to Spotify every day.” Spotify is the world’s most popular audio streaming subscription service . As of the end of the third quarter of 2024, Spotify boasted more than 640 million monthly active*

*users and 252 million subscribers. Spotify pays music companies, like UMG, for the right to license songs so it can play them on its streaming and subscription platforms. In 2023 alone, Spotify paid songs so it can play them on its streaming and subscription platforms. In 2023 alone, Spotify paid more than \$9 billion in royalties to music labels and producers. Hip-hop is one of the most popular genres, more than \$9 billion in royalties to music labels and producers." Hip-hop is one of the most popular 'genres on Spotify, amounting to nearly a quarter of all streams genres on Spotify, amounting to nearly a quarter of all streams on Spotify globally in 2023. Spotify and UMG have a long-standing, symbiotic business relationship. As "one of Spotify's earliest supporters," UMG entered into a multi-year global license agreement with Spotify in 2020. UMG and Spotify collaborate on strategic marketing campaigns and products of Spotify's earliest supporters," UMG entered into a multi-year global license agreement with Spotify in 2020. UMG and Spotify collaborate on strategic marketing campaigns and products and, in 2024, announced an expansion of their strategic partnership through which Spotify will and, in 2024, announced an expansion of their strategic partnership through which Spotify will "amplify music discovery and social interaction and enhance fan experiences across the platform "amplify music discovery and social interaction and enhance fan experiences across the platform for UMG's family of artists and songwriters." Based on UMGs financial reporting, Spotify paid UMG around \$2.28 billion in 2023, which amounted to 19 percent of*

*UMG's total revenues in for UMG's family of artists and songwriters." In 2024, UMG did not rely on chance, or even ordinary business practices, to "break through the noise" on Spotify, and likely other music platforms. It instead launched a campaign on Spotify, and likely other music platforms. It instead launched a campaign to manipulate and saturate the streaming services and airwaves with a song, "Not Like Us." in order to make that song go viral, including by using "bots" and pay-to-play agreements.*

*On information and belief, UMG charged Spotify licensing rates 30 percent lower than its usual licensing rates for "Not Like Us" in exchange for Spotify affirmatively than its usual licensing rates for "Not Like Us" in exchange for Spotify affirmatively recommending the Song to users who are searching for other unrelated songs and artists. Neither recommending the Song to users who are searching for other unrelated songs and artists. Neither UMG nor Spotify disclosed that Spotify had received compensation of any kind in exchange for recommending the Song. On information and belief, Spotify pays UMG licensing fees through the wires or mails.*

*UMG, directly or through Interscope, also conspired with and paid currently unknown parties to use "bots" to artificially inflate the spread of "Not Like Us" and deceive unknown parties to use "bots" to artificially inflate the spread of "Not Like Us" and deceive consumers into believing the Song was more popular than it was in reality. Bots are software programs designed to mimic human behavior to appear to be real social media accounts. One individual unknown*

to Petitioner revealed publicly on a popular podcast that Mr. Kendrick Lamar Duckworth' "label" (i.e., Interscope) paid him via third parties to use "bots" to achieve 30,000,000 streams on Spotify in the first days of the release of "Not Like Us" with the goal of "jumpstarting" the Song's spread and turning it into "a crazy hit" on the platform." The whistleblower described Spotify as the easiest platform "to bot" because it does not, like other streaming platforms, have certain security measures "when it comes to bot protection." The whistleblower further revealed that, on May 6, 2024, an individual affiliated with Interscope sent him a payment of \$2,500 via the digital payments platform, Zelle, which is owned by a number of banks, and that he was promised another \$2,500 and a percentage of the Song's total sales for this initial push.

On information and belief, UMG hired other unknown third parties to use "bots" to promote "Not Like Us" and also to inflate the streams of the "Not Like Us" music video, which UMG first published on July 4, 2024.

UMG appears to have used similar tactics with other streaming services. On information and belief, UMG paid, or approved payments to, Apple Inc. to have its voice-activated digital assistant "Siri" purposely misdirect users to "Not Like Us." Online sources reported that when users asked Siri to play the album "Certified Loverboy" by recording artist Aubrey Drake Graham d/b/a Drake, Siri instead played "Not Like Us." which contains the lyric "certified pedophile," an allegation against Drake.

*UMG engaged in similar pay-to-play schemes to increase the air play of “Not Like Us” on the radio. Petitioner has obtained information from a third party indicating that at least one UMG employee made payments to an independent radio promotor, serving as an intermediary, who had agreed to transfer those payments to certain radio stations and/or radio station employees. These radio stations subsequently played (or caused to be played) “Not Like Us” without disclosing that they had been paid to do so. This practice, known as “payola,” is prohibited by the Communications Act of 1934 (see 47 U.S.C. §§ 317, 508), and has been the subject of regulatory Communications Act of 1934 (see 47 U.S.C. §§ 317, 508), and has been the subject of regulatory scrutiny by a number of Executive agencies.” In 2006, UMG agreed to pay \$12 million in a settlement with the New York Attorney General following an investigation involving accusations that UMG executives had used a broad array of “pay for play” tactics to secure radio airplay for music. In connection with UMG’s settlement, then-New York attorney general Eliot Spitzer explained “Consumers have a right not to be misled about the way in which the music they hear on the radio is selected.” He continued to say that “Pay-for-play makes a mockery of claims that only the “best” or ‘most popular’ music is broadcast.” Separately, in 2005, UMG was sued by two radio promotion companies alleging fraudulent pay-to-play practices!*

*While historically payola has been thought of in terms of paying radio stations to play songs, in February 2020, the Federal Trade Commission released*

*guidance stating that “by paying an influencer to pretend that their endorsement or review is untainted by a financial relationship, this is illegal payola.” On information and belief, UMG employed a similar scheme paying an influencer to pretend that their endorsement or review is untainted by a financial relationship, this is illegal payola.” On information and belief, UMG employed a similar scheme by paying social media influencers to promote and endorse the Song and Video. For example, Petitioner understands that UMG paid the popular NFR Podcast—which has nearly 300,000 subscribers on YouTube and over 330,000 followers on X to promote “Not Like Us” and its Video without disclosing the payment. As part of its deal with UMG, the NFR Podcast published podcast episodes, tweets, and other content publicly about the Song. And in a sea-change for UMG’s internal policy, UMG removed the Song’s copyright restrictions on YouTube and Twitch, thereby “whitelisting” the Song (for the first time in UMG history), which further incentivized influencers to spread the Song.*

*UMG’s schemes to artificially inflate the popularity of “Not Like Us” were motivated, at least in part, by the desire of executives at Interscope to maximize their own profits. UMG executives have an annual incentive program pursuant to which they are rewarded for meeting and surpassing sales and profits projections, among other metrics. The incentives are largely based on the specific UMG division, rather than the performance of UMG more generally. For example, the annual incentive or bonus of Interscope’s CEO, John Janick,*

*is based 90 percent on the financial success of Interscope and only 10 percent on the financial success of UMG generally. Thus, on information and belief, Mr. Janick and other executives at Interscope have been incentivized to maximize the financial success of Interscope through the promotion of “Not Like Us” and its revitalizing impact on the artist’s prior recording catalog, including his first five studio albums, which are owned by Interscope.*

***Petitioner has received information that UMG has been taking steps in an apparent effort to conceal its schemes, including, but not limited to, by terminating employees*** associated with or perceived as having loyalty to Drake. Indeed, UMG has demonstrated that it has no interest in taking responsibility for its misconduct.... This Court has personal jurisdiction over UMG pursuant to CPLR 302. UMG This Court has personal jurisdiction over UMG pursuant to CPLR 302. UMG regularly transacts business within the State, including by doing business and entering into contracts with New York-based Spotify, licensing and promoting music to streaming and radio regularly transacts business within the State and supplying its music management and publicity services in the State. The events at issue, including UMGs licensing contract with Spotify and payments to New York-based radio stations to inflate the popularity of the Song, occurred within the State. The events at issue, including UMG’s licensing contract with Spotify and payments to New York-based radio stations to inflate the popularity of the Song, occurred within the State.

28. Why target vulnerable African Americans by Defendants? First, if they don't have money then they can't bring forth legal assistance in criminal and civil actions. Second, they believe that there will be less media coverage and public backlash if the victims are African American. Consider why there was a media craze and intense police manhunt for the killer of the United Healthcare CEO Brian Thompson, a white American, yet, African Americans and others are killed by violence everyday and police reaction is far less and media coverage doesn't exist or barely exists.
29. The reality is that the Trial Court made every decision improperly in favor of Defendants, including many at trial, of which many cannot be reversed upon review. The Appeals Court glossed over the case and agreed improperly with the Trial Court. These decisions made by the Lower Courts failed to protect the Due Process rights of Plaintiffs to do discovery and highly improperly protected Defendants in a way that will allow them and others after them to continue to hurt people for financial gain, to gain media coverage and followers and, consequentially, sell more digital streams and downloads. UMG published that digital streams and downloads are the majority of earnings by labels now. The lower Courts accused counsel of being accusatory and without evidence but such statements show a dangerous precedent towards violence created and protected by teams of individuals whereby they all profit (likely millions).
30. Hypothetically consider a twelve (12) year old aspiring gangsta rapper to see the actions and profit of DaBaby and UMG together and that they did not face any



repercussions, except for \$100 jury verdict and profited millions. What will his reaction be? He will have to make hard decisions whether to take the same path or forge the legal, kind and loving path. The gangsta rap expert in *United States v. Williams*, 2022 U.S. Dist. LEXIS 222405, \*15, named Professor Eric Nielson in our Appeal Reply Brief testified in another Court that the labels are persuading and pushing aspiring artists and rappers into this genre and actions like these, that while they hurt vulnerable people, ruin lives, they all profit enormously. This country, America, cannot afford to set precedents like this, that lead to lawlessness, lack of accountability and hurt of innocent vulnerable people.

31. Consider the facts of this case. DaBaby and his team planned and attacked, hurt and destroyed Ken Carey and Steve Anyadike and destroyed their careers and livelihood, all for a profit. Instead of being punished, they are only forced to pay \$100 while making millions and respond by requesting many sanctions motions against their counsel, seeking to prevent any other smaller party from coming against them, because they want to send that message that anybody that comes against them may not win their case and may risk extreme sanctions.

32. UMG is not even an originally American company, but is from the Netherlands and their actions show that they don't care about the destruction of America so long as they profit or else they would have followed their Code of Conduct. Their Code of Conduct will only apply when it doesn't limit their ability to profit. America is not a land where profits and powerful corporations can supersede the rule of law. We are a country where the innocent and truthful are protected and

compensated when they are illegally hurt. We sought documents like the Code of Conduct in discovery and they did not respond. We found the document published online but the Court ruled it was too late. However, if UMG had produced the document when requested, it would have been timely and properly addressed. Thus, UMG was rewarded many times for their bad and illegal behavior.

33. The Professor Eric Nielson explained about Gangsta Rap in the Appeal Reply Brief specifically provides the motivation and links the connection between UMG and DaBaby and their conspiracy to do these acts and to profit from them. The expert testimony showed that the profits are extremely substantial, that labels push violent music and violence in general, that artists are being pressured into the genre of gangsta rap because of its massive popularity and more. It is essential to read the Appeal Brief and Reply and the case itself that published the testimony.

34. Additionally, one of the ways that powerful corporations avoid liability in situations like this is to avoid anyone knowing their business name or where to sue them and to not participate or produce discovery requests. These issues have always been extremely easy to complete in any other case in a 10 year legal career, but UMG and Interscope has taken a strategical approach that should be illegal to avoid any liability by conducting business under their tradename and completely avoiding exposure to their company name or information. They operate and contract under the trade name name and registered trademark

Interscope Records, which is one of the most recognizable labels, logos and trademarks in the world, yet, they divested Interscope Records and made it into a UMG Recordings “division”. UMGR is owned by UMG. Any company can have any division, but can they do business and contract under the name Interscope Records and not be liable under that name? There was no information online to determine where they have offices, that they were a division, their structure, who owns them or otherwise, just selling music. We served them where the company that owns them has their principle offices and where UMG has its principle office as well. Yet, they claimed to not have been served because the service was in the name of Interscope Records rather than UMG Recordings. Both UMG Recordings and Interscope Records describe this company of UMG Recordings. The registered mark of Interscope Records is owned by UMG Recordings, but they hold themselves out to the public and on contracts as Interscope Records. They should not be able to advertise a name, do business under a name, contract under a name and not be responsible in Court for that same name. Both Georgia and Alabama Supreme Courts under the 11<sup>th</sup> Circuit allow for litigants to sue companies under the trade name. Additionally, service under that name should be valid also. The Trial Court found it not to be valid. This is an extremely important federal issue because all corporations can start to do business under any brand name and have their company under a name unknown to others and the public, preventing lawsuits and justice from being served. Walmart has attempted the same strategies and was denied by Federal Courts ruling with regards to Georgia law.

Same with McDonalds. It is prejudicial and biased to the suing party, the party that was aggrieved and hurt by the other party to have to located an entity or company that doesn't formally exist. If they do business under any name, they should be able to be sued by that name. This is mainly the reasoning for the new federal Corporate disclosure law and registration. Any desire to sue any company should be easy to locate and identify and serve rather than allowing any entity to hide and prevent disclosure in every way possible.

35. Plaintiffs sued Interscope Records, who is a trade name of UMGR. The same was admitted by the Gold Affidavit or UMGI and Interscope Records in Docket 115-1. A trade name should be considered the same as the corporate name. The Eleventh Circuit in *LeVers v. Cafe*, 2023 U.S. Dist. LEXIS 93361, \*5-6, states that a trade name may be sued in place of the company name:

*"Next, the Court considers whether Govinda's Cafe has the capacity to be **sued** in federal court, a question which is determined by reference to Georgia law. Fed. R. Civ. P. 17(b)(2)-(3). In Georgia, "[a] corporation conducting **business** in a **trade name** may **sue** or be **sued** in the **trade name**." Sam's Wholesale Club v. Riley, 241 Ga. App. 693, 696, 527 S.E.2d 293 (1999) (citation omitted). **If a complaint names the parties "in such terms that every intelligent person understands who is meant, it has fulfilled its purpose; and courts should not put themselves in the position of failing to recognize what is apparent to everyone else."** Id. (citation omitted). In Sam's Wholesale Club, for example, the plaintiff was allowed to **sue** "Sam's Wholesale*

*Club" even though that was not a corporation registered to do **business** in Georgia. See id. at 695-96. Sam's argued that the proper legal entity was "Wal-Mart Stores, Inc." or the **trade name** "Sam's Club No. 8115." See id. at 695. The court rejected that argument, finding ample evidence in the record of Sam's referring to itself as "Sam's Club," "Sam's Wholesale Club," or "Sam's Wholesale Club # 8115." See id."*

36. Georgia Courts, in the 11<sup>th</sup> circuit, understand the practical nature of this type of situation. UMG Recordings Inc (owner of Interscope Records trade name and mark) did not disclose their name to the public. They concealed their identity on the contract that was signed between Plaintiffs and Defendants when they were contractually required to include it. They contract under Interscope Records. It was extremely difficult to serve Interscope Records because of their strategic desire to not be sued or avoid being sued. In Florida, they would have to register under that name and the name would be apparent as to what business owned it. But even though UMG/Interscope do business in Florida and make money in Florida, they are registered in Florida. In fact, they describe themselves online as being owned by Universal Music Group Inc., who is identified as being over all of the United States within their company, hence, why Plaintiffs sued Universal Music Group, Inc.. The public can only seek accountability from an entity based on a name that is available via public records or otherwise. Concealment of the entity name and inability to sue is why trade names should be allowed to be sued

under the trade name. It is the same company but use of different letters, purely semantic in that its different words that mean the same entity.

37. Further supporting this legal principal, the Courts in Alabama stated in *Crawford v. Gulf Coast Motor Sales*, 2021 U.S. Dist. LEXIS 244617, \*11-12,

*"Applying Alabama law, the District Court for the Northern District of Alabama in Ashland-Warren, Inc. v. Sanford, 497 F. Supp. 374 (M.D. Ala. 1980), addressed a similar situation. When the contracts at issue were signed, "Sam Finley Company was neither a natural nor artificial person but was a **trade name** owned by Ashland-Warren, Incorporated". Id., at 377. However, "obsolete" contract forms were executed and those forms indicated that "Sam Finley Company was a division of Ashland Oil, Incorporated[.]" Id. The district court found that this placed "Ashland-Warren, Incorporated in the position of an undisclosed principal" and "that in Maples v. Moring, 207 Ala. 352, 92 So. 470 (1922), the Alabama Supreme Court held: the rule seems to be universally accepted that, where an agent on behalf of his principal, enters into a simple contract as though made for himself, and the existence of the principal is not disclosed, the contract inures to the benefit of the principal, who may sue thereon as the real party in interest.*

*In Ex parte CTF Hotel, the Court addressed service of notice and the effect of a default judgment against a trade name defendant — "Stouffer Riverview Plaza Hotel". The Court explained that Based on the particular facts before us, we*

*conclude that both Riverview Plaza, which was in the business of owning hotels, and Stouffer Hotel Management, which was in the business of managing hotels, did business under the trade name "Stouffer Riverview Plaza Hotel." We agree with CTF that Hughes did not specifically deal with a situation such as this one. However, even though Hughes dealt with perhaps a more common situation involving an action filed against a defendant named by the trade name of a sole proprietorship, certainly nothing in Hughes precludes us from holding that when two corporate entities mutually agree to conduct their respective **businesses under one trade name**, a default judgment entered against a defendant **named** by that **trade name** is a judgment against either entity, provided that the entity sought to be bound was properly served with the complaint.*

*Ex parte CTF Hotel Mgmt. Corp., 719 So. 2d at 209.3 Contrary to Crawford's position, nothing in this case indicates that a contract signed by a trade name could not bind the entity which is using the trade name. **Here, the Alabama Supreme Court found that being sued under a trade name could support entry of a default judgment that would be effective against the entities using the trade name.***

38. Beyond the above legal arguments, this case was tainted by extreme, extraordinary bias. It appeared as if Judge Martinez and Magistrate Becerra were attorneys on behalf of Defendants rather than impartial judges. Judge Martinez

admonished Carey so strongly during trial for saying truthfully that there was a video of him being attacked that Carey refused to testify during the damages portion of the trial out of fear. The Court complete muzzled his testimony as to damages and prevented him from answering what he felt appropriat to answer within the law.

39. Magistrate Becerra instructed counsel Jonathan May that he could not speak during voir dire because he submitted a proposed voir dire question “do you believe in God” for the jury, rather than just deny the question, Magistrate Becerra lashed out and admonished attorney May and removed his ability to communicate appropriately during voir dire.

40. Additionally, the jury asked Judge Martinez for the transcript of Carey and whether Carey said that DaBaby struck him. Plaintiffs requested the jury see that portion of the transcript to refresh their memory but Judge Martinez denied it over Plaintiff’s objections.

41. Additionally, Judge Martinez impacted the trial by bifurcating it just before the trial and changing all of the questions planned to be asked to the Parties. Plaintiffs seek a trial that is not bifurcated.

42. Additionally, a video of Dababy displayed him saying he broke his thumb on the day of the incident, when confronted by the deposition transcript, DaBaby said he reinjured his thumb and it was previously injured. The judge determined that to mean he didn’t break his thumb that day and allowed that testimony and admonished Plaintiffs counsel even though DaBaby still broke his thumb that day



and said it on a police video. Judge Martinez then required the questions to be presented outside the presence of the Jury rather than in front of the Jury. Martinez also ruled in favor of Defendants if counsel May took more than a few seconds to provide a response when thinking about the best response to give. Instead of waiting for a response, he would rule for Defendants.

43. Defendants had many objections to Exhibits granted using the argument “wasn’t provided in discovery” when the same documents were in the initial Complaint and other legal documents. The objections were untruthful but not proven or checked by the judge.
44. Judge Martinez didn’t allow the surveillance video from Novotal Hotel to be authenticated and then admitted through the testimony of either Plaintiffs, who both appeared in the video and were present at the scene of the attack. The video was retrieved via Court Subpoena.
45. Defendants notified authorities of the whereabouts of Kenneth Carey and he was arrested at the end of the trial before the verdict. He was in great fear during the trial and could not think clearly having two marshals sitting behind him during the trial.
46. Opposing counsel Drew Findling backhandedly threatened violence against counsel Jonathan May during depositions when attorney May asked DaBaby p. 128 line 21 “isn’t it true that you deleted all of your Instagram account after the incident” (to avoid liability to his posts and destroy evidence) DaBaby responded “completely false” then Attorney Findling responded, “*You know, I’m going to put*

*something on record right now, Mr. May, and that is everybody – I know you live in a fictional world where everybody knows about your client, which is a fantasy, but everybody knows Jon’s reaction when his brother committed suicide, so I’m going to call a five minute session so he and I – so he can have a breather, **because if I were him, this would take it to another level.** What he did when when his brother committed suicide is not room for you to ask questions about right now.”*

Understand the context of DaBaby being one of the most violent celebrities in music history and his attorney encouraging him to take it to another level in depositions because they didn’t like the questions being answered. They could have politely declined to answer the question rather than making backhanded threats.

47. Additionally, UMG/Interscope via their label CMG music label, run by Yo Gotti, a friend and associate of John Janick, leased an office down the hall from Plaintiffs counsel The Lions’ Den, Attorneys at Law and have large security guards stand outside Plaintiffs counsel’s law office most days, for years now. These type of intimidation tactics are not in line with justice and the truth. They are meant to suppress the truth and avoid justice.

48. Then, Findling attempted to attack and had the present ability to injure and thus assaulted Jonathan May while Carey was arrested at trial and had to be held back by his co counsel and yelled “ this is your fault” as to Carey being arrested. Security had to surround Counsel May the rest of the hearing.

49. The same case for the arrest is believed to be created by and used in trial on behalf of the defense's attorneys to hurt Carey's credibility and to create fear during the trial. The Court should not have admitted any evidence from that case because it was not relevant to the instant cases facts and extremely prejudicial to the victim Kenneth Carey but Judge Martinez opined that the facts were almost the same. The facts of the other case were alleged that a gentleman invested in doing an event with Carey and that the funds were not used for the event. The facts in the instant case were that Carey sought to use another parties funds to pay for an event in which he had a partnership opportunity. However, the opposing party and testimony of "Soto" stated that he sought to pay for a different event and not the even the night of the incident and that the funds were sought to be misused.
50. Judge Martinez commented that he didn't understand simple common text language "we bout to make 100k" from Kenneth Carey and stated he needed a translator for such statements.
51. Judge Martinez also said the trial was a waste of time and threatened to charge medical costs if he fell asleep during the trial.
52. Plaintiffs seek a new trial with specific Court decisions that overturn the conspiracy claim and present it for trial, allow for video evidence and other evidence to be presented by Plaintiffs, require a new judge to be assigned, prevent the use of evidence of any outside arrest of Carey, determine that Interscope has been served and is the service is the same as serving UMG Recordings Inc, requires that UMG and Interscope complete discovery, admits evidence that was

denied improperly for being late, allows for the deposition of CEOs Grange and Janick and any other judgement or Order that creates fairness and justice with this case.

53. Thus, in conclusion, this Petition should be granted Certiorari for the following reasons: National and Global Reach: Through its vast infrastructure, UMG ensures DaBaby's music reaches millions of listeners across the United States and globally. This broad distribution amplifies the impact of content tied to criminal behavior, creating a model where crime can be leveraged for financial gain on an unprecedented scale.

54. Joint Marketing Efforts: UMPG and DaBaby have entered into a formal agreement that includes collaborative marketing strategies. This joint effort demonstrates that UMG is not merely a passive distributor but an active participant in profiting from content linked to illegal activities. Such partnerships blur the line between artistic expression and the commercial exploitation of crime.

55. Precedent for Future Exploitation: This partnership sets a dangerous precedent where artists and corporations may increasingly view criminal behavior as a pathway to fame and profit. If left unchecked, this model could encourage more individuals to engage in violent or illegal acts, knowing they can later monetize their notoriety through music or other forms of media.

56. The collaboration between DaBaby and UMG represents a systemic issue where corporate entities profit alongside individuals who exploit their criminal histories.

This undermines legal principles and public policy, creating a pathway for unlimited violence and crime-driven profit across the entire nation.

57. Reinforcing the Rule of Law: The judiciary's intervention would reaffirm the rule of law by demonstrating that legal systems prioritize justice over profit. This ensures that neither individuals nor corporations can exploit loopholes to benefit from wrongdoing, maintaining the integrity of U.S. legal principles. In conclusion, judicial action is necessary to prevent collaborations like those between DaBaby and UMG from creating a dangerous precedent where crime is commercialized and incentivized. By addressing these agreements, courts can reduce crime, uphold public policy, and reinforce the foundational principles of justice and accountability in the United States.

58. A ruling in favor of Plaintiffs will benefit Corporations in the future as they will have a clearly defined precedent to stop agents, artists or contractual partners from hurting others for profit and will give them a clear line of action to take to avoid liability. It will erase any confusion or hesitation for them to take actions to stop the bad actor so that they can avoid liability. Additionally, Plaintiffs plead with this Court to dive into the contents of the filings of the District Court and Appeals Court further and deeper as the Appeals Court glossed over or did not consider the same arguments, evidence and facts that clearly persuade in favor of Plaintiffs. The longer this case has been outstanding, the more and more facts, evidence and law come to light as has happened since this cases inception. We respectfully request all of that the fact finders review the facts, law and evidence

because this is a conspiracy case whereby very powerful Defendants sought to conceal its nature and evidence.

59. The collective nature of conspiracies poses a greater societal threat than individual crimes, as conspiracies enable more complex and harmful criminal schemes. This case requires a deep dive to untangle Defendants' conspiracy, skimming or quick reviews by any Court will not expose Defendant's evil plans and evidence that implicates them.

By: */s/ Jonathan May Esq.*

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### **CERTIFICATE OF COMPLAINT**

1. Pursuant to the Rules of the Supreme Court of the United States Rule 12, Petitioner has filed 40 copies of a petition for a writ of certiorari, prepared as required by Rule 33.1.
2. This document contains 8,716 words in the Argument.
3. This filing has been distributed via email to all Defendants and Petitioner will notify all respondents promptly, on a form supplied by the Clerk, of the date of filing, the date the case was placed on the docket, and the docket number of the case.

## APPENDIX OF DOCUMENTS

1. Order Denying Motion for Rehearing
2. Appeal Denied
3. Final Judgment of the Jury Trial
4. Order Granting Motion to Dismiss
5. Omnibus Order on Motion for Sanctions and Order for Attorney Fees
6. Order on Plaintiffs Motion to Recuse
7. Verified Petition submitted to the Supreme Court of New York by Aubrey Graham (Drake)
8. Complaint Frozen Moments LLC v UMG Recordings with Exhibit B

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

David J. Smith  
Clerk of Court

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September 09, 2024

**MEMORANDUM TO COUNSEL OR PARTIES**

Appeal Number: 23-10308-CC

Case Style: Steve Anyadike, et al v. Jonathan Kirk, et al

District Court Docket No: 1:21-cv-20408-JEM

The enclosed order has been entered on petition(s) for rehearing.

See Rule 41, Federal Rules of Appellate Procedure, and Eleventh Circuit Rule 41-1 for information regarding issuance and stay of mandate.

Clerk's Office Phone Numbers

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REHG-1 Ltr Order Petition Rehearing



In the  
United States Court of Appeals  
For the Eleventh Circuit

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No. 23-10308

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KENNETH CAREY,  
STEVE ANYADIKE,

Plaintiffs-Counter Defendants-Appellants,

*versus*

JONATHAN KIRK,  
Individually, a.k.a. DaBaby,

Defendant-Counter Claimant-Appellee,

KHALIK CALDWELL,  
a.k.a. Stunna 4 Vegas, et al.,

Defendants,

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Order of the Court

23-10308

BILLION DOLLAR BABY ENTERTAINMENT, LLC,  
a North Carolina Corporation,  
UNIVERSAL MUSIC GROUP, INC.,  
a Colorado Corporation,  
INTERSCOPE RECORDS,  
a Colorado Corporation,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Southern District of Florida  
D.C. Docket No. 1:21-cv-20408-JEM

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ON PETITION(S) FOR REHEARING AND PETITION(S) FOR  
REHEARING EN BANC

Before WILSON, GRANT, and LAGOA, Circuit Judges.

PER CURIAM:

The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having requested that the Court be polled on rehearing en banc. FRAP 35. The Petition for Rehearing En Banc is also treated as a Petition for Rehearing before the panel and is DENIED. FRAP 35, IOP 2.

[DO NOT PUBLISH]

In the  
United States Court of Appeals  
For the Eleventh Circuit

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No. 23-10308

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KENNETH CAREY,  
STEVE ANYADIKE,

Plaintiffs-Counter Defendants-Appellants,

*versus*

JONATHAN KIRK,  
Individually, a.k.a. DaBaby,

Defendant-Counter Claimant-Appellee,

KHALIK CALDWELL,  
a.k.a. Stunna 4 Vegas, et al.,

Defendants,

BILLION DOLLAR BABY ENTERTAINMENT, LLC,  
a North Carolina Corporation,  
UNIVERSAL MUSIC GROUP, INC.,  
a Colorado Corporation,  
INTERSCOPE RECORDS,  
a Colorado Corporation,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Southern District of Florida  
D.C. Docket No. 1:21-cv-20408-JEM

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Before WILSON, GRANT, and LAGOA, Circuit Judges.

PER CURIAM:

Plaintiffs-Appellants Kenneth Carey and Steve Anyadike appeal the district court's<sup>1</sup> summary judgment rulings and final judgment in favor of Defendants-Appellees Jonathan Kirk, Billion Dollar Baby Entertainment, LLC (BDBE), Universal Music Group, Inc.

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<sup>1</sup> The trial for this case was scheduled before District Judge Jose E. Martinez. All discovery and related motions were referred to Magistrate Judge Jacqueline Becerra. These lower court decisions are collectively referred to as the district court.

23-10308

Opinion of the Court

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(UMGI), and Interscope Records. Plaintiffs timely filed a notice of appeal and raised the following issues:

- I. Whether the district court erred in granting UMGI's and Interscope Records' motions to dismiss for lack of personal jurisdiction and insufficient service of process.
- II. Whether the district court abused its discretion in ruling on Plaintiffs' discovery-related motions and denying Plaintiffs' requests to supplement the record with new evidence after the close of discovery and summary judgment briefing.
- III. Whether the district court erred in its partial granting of Kirk's and BDBE's motion for summary judgment.
- IV. Whether the district court erred in its evidentiary rulings concerning the admissibility of video evidence, an arrest report, and arrest warrant.

After thorough review and consideration of the briefs and record, and with the benefit of oral argument, we find no reversible error.

Beginning with the first issue, we find that the district court properly dismissed both UMGI and Interscope Records. The district court found that it lacked specific jurisdiction over UMGI because Plaintiffs failed to make sufficient allegations according to Florida Statute § 48.193(1)(a)(1). *See Snow v. DirecTV, Inc.*, 450 F.3d

1314, 1317–18 (11th Cir. 2006). Meanwhile, the district court found strong and convincing evidence of insufficient service of process with regards to Interscope Records. Fed. R. Civ. P. 12(b)(5).

Nor do we find reversible error in reviewing the district court’s discovery-related rulings.<sup>2</sup> District courts retain “broad discretion over the management of pre-trial activities, including discovery and scheduling.” *Johnson v. Bd. of Regents of Univ. of Ga.*, 263 F.3d 1234, 1269 (11th Cir. 2001). The district court provided numerous reasons in support of its rulings, including that Plaintiffs failed to comply with local rules and abide by discovery deadlines and rules. Considering the record, we find the district court clearly did not abuse its discretion.

As to Kirk’s and BDBE’s motions for summary judgment, a de novo review supports affirming the district court. *See Seamon v. Remington Arms Co.*, 813 F.3d 983, 987 (11th Cir. 2016). Plaintiffs took a kitchen sink approach, throwing every possible allegation at Kirk and BDBE, and cited little case law in doing so. We thus affirm the district court here as well.

Finally, the district court did not abuse its discretion in its evidentiary rulings. *See Wright v. CSX Transp., Inc.*, 375 F.3d 1252, 1260 (11th Cir. 2004) (per curiam). A review of the record shows

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<sup>2</sup> Within this issue, Plaintiffs challenge the denial of deposition requests. We find the district court’s courts rulings appropriate here as the identified persons were not parties to this suit. Additionally, Plaintiffs did not establish, nor does the record support finding, that the desired testimony would have proven relevant to this dispute.

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Opinion of the Court

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that the district court provided a fair and proper reason in making each of its rulings.

Accordingly, we affirm the well-reasoned decisions of the district court.

**AFFIRMED.**<sup>3</sup>

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<sup>3</sup> Sanctions pursuant to 28 U.S.C. § 1927 may be granted where counsel engages in “unreasonable and vexatious conduct.” *Schwartz v. Millon Air, Inc.*, 341 F.3d 1220, 1225 (11th Cir. 2003). The conduct must be “so egregious that is it tantamount to bad faith.” *Peer v. Lewis*, 606 F.3d 1306, 1314 (11th Cir. 2010) (quotation omitted). Here, while we do not condone the quality of the briefing provided by Plaintiffs’ counsel, we decline to find that this case warrants sanctions on appeal. Thus, we **DENY** Kirk’s and BDBE’s motion for sanctions.

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

David J. Smith  
Clerk of Court

For rules and forms visit  
[www.ca11.uscourts.gov](http://www.ca11.uscourts.gov)

June 27, 2024

**MEMORANDUM TO COUNSEL OR PARTIES**

Appeal Number: 23-10308-CC  
Case Style: Steve Anyadike, et al v. Jonathan Kirk, et al  
District Court Docket No: 1:21-cv-20408-JEM

**Opinion Issued**

Enclosed is a copy of the Court's decision issued today in this case. Judgment has been entered today pursuant to FRAP 36. The Court's mandate will issue at a later date pursuant to FRAP 41(b).

**Petitions for Rehearing**

The time for filing a petition for panel rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing is timely only if received in the clerk's office within the time specified in the rules. **A petition for rehearing must include a Certificate of Interested Persons and a copy of the opinion sought to be reheard.** See 11th Cir. R. 35-5(k) and 40-1.

**Costs**

Costs are taxed against Appellant(s) / Petitioner(s).

**Bill of Costs**

If costs are taxed, please use the most recent version of the Bill of Costs form available on the Court's website at [www.ca11.uscourts.gov](http://www.ca11.uscourts.gov). For more information regarding costs, see FRAP 39 and 11th Cir. R. 39-1.

**Attorney's Fees**

The time to file and required documentation for an application for attorney's fees and any objection to the application are governed by 11th Cir. R. 39-2 and 39-3.

**Appointed Counsel**

Counsel appointed under the Criminal Justice Act (CJA) must submit a voucher claiming compensation via the eVoucher system no later than 45 days after issuance of the mandate or the filing of a petition for writ of certiorari. Please contact the CJA Team at (404) 335-6167 or



cja\_evoucher@call.uscourts.gov for questions regarding CJA vouchers or the eVoucher system.

Clerk's Office Phone Numbers

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OPIN-1 Ntc of Issuance of Opinion

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

**Case Number: 21-20408-CIV-MARTINEZ**

KENNETH CAREY and STEVE ANYADIKE,

Plaintiffs,

v.

JONATHAN KIRK,

Defendant.

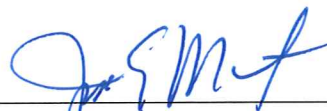
**FINAL JUDGMENT**

THIS CAUSE was tried before a jury from December 13, 2022 to December 15, 2022 with respect to liability and on December 16, 2022 with respect to damages. On December 15, 2022, the jury returned a verdict in favor of Defendant/Counter Claimant Jonathan Kirk and against Plaintiffs Kenneth Carey and Steve Anyadike. (ECF No. 331). On December 16, 2022, the jury returned a verdict on damages. (ECF No. 332). On the basis of the Jury Verdicts, it is

**ORDERED AND ADJUDGED** that:

1. Plaintiff Steve Anyadike does have and shall recover against Defendant, Jonathan Kirk, the sum of ONE HUNDRED and 00/100 (\$100.00) Dollars, for which let execution issue.
2. Defendant Jonathan Kirk does have and shall recover against Plaintiffs, Kenneth Carey and Steve Anyadike, the sum of ONE HUNDRED and 00/100 (\$100.00) Dollars, for which let execution issue.
3. This case is CLOSED.
4. The Court reserves jurisdiction to tax costs against Plaintiff, pursuant to the procedures set forth in Southern District of Florida Local Rule 7.3 and a bill of costs filed pursuant to 28 U.S.C. § 1920.

**DONE AND ORDERED** in Chambers at Miami, Florida, this 29 day of December, 2022.



JOSE E. MARTINEZ  
UNITED STATES DISTRICT JUDGE

Copies provided to:  
All Counsel of Record

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

**Case Number: 21-20408-CIV-MARTINEZ-BECERRA**

KENNETH CAREY, *et al.*,

Plaintiffs,

v.

JONATHAN KIRK, *et al.*,

Defendant.

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**OMNIBUS ORDER GRANTING MOTIONS TO DISMISS**

**THIS CAUSE** comes before the Court upon Defendant Universal Music Group, Inc.’s (“UMGI”) Motion to Dismiss Amended Complaint (“UMGI’s Motion”), (ECF No. 123), and UMG Recordings, Inc.’s (“UMGR”) Motion to Dismiss Interscope Records, Inc. (“Interscope”) as a defendant in this action<sup>1</sup> (“Interscope’s Motion”), (ECF No. 126). The Court has carefully considered the motions, Plaintiffs’ responses in opposition, (ECF Nos. 144, 145), UMGI and Interscope’s replies, (ECF Nos. 168, 169), and the pertinent portions of the record. For the reasons stated below, both UMGI and Interscope’s Motions to Dismiss are **GRANTED**. UMGI and Interscope are **DISMISSED**.

**I. BACKGROUND**

On January 29, 2021, Defendants removed this action from state court. (ECF No. 1). On November 15, 2021, the Court granted Carey leave to amend the complaint to add another Plaintiff,

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<sup>1</sup> UMGR maintains that Interscope is not an existing legal entity and is merely an unincorporated division of UMGR. Accordingly, the Interscope Motion is being brought by UMGR on behalf of the non-entity, Interscope.

Steve Anyadike, and include a request for punitive damages.<sup>2</sup> (ECF No. 119). In the Amended Complaint, Plaintiffs bring several claims against both UMGI and Interscope Records, Inc. (“Interscope”): intentional assault (Count II); intentional battery (Count III); civil conspiracy (Count V); defamation per se and per quod (Count VI); intentional infliction of emotional distress (Count VII); and civil theft (Count VIII).<sup>3</sup> (Am. Compl., ECF No. 121).

UMGI moved to dismiss the Amended Complaint based on lack of personal jurisdiction. Interscope, on the other hand, moved to dismiss based on insufficient process and insufficient process of service. The Court now turns to these motions.

## **II. LEGAL STANDARD**

### **A. Personal Jurisdiction**

Federal Rule of Civil Procedure 12(b)(2) allows a defendant to move to dismiss a claim against it by asserting the defense of lack of personal jurisdiction. A federal court sitting in Florida may properly exercise personal jurisdiction over a non-resident defendant “only if the requirements of (1) the relevant state long-arm statute; and (2) the Due Process Clause of the Fourteenth Amendment to the United States are both satisfied.” *Johnson v. Royal Caribbean Cruises Ltd.*, 474 F. Supp. 3d 1260, 1265 (S.D. Fla. 2020). Although “determining whether jurisdiction is appropriate under Florida’s Long-Arm Statute is a separate inquiry from determining whether exercising personal jurisdiction comports with the Due Process Clause” it is clear that the constitutional requirements are “more restrictive.” *Melgarejo v. Pycsa Panama, S.A.*, 537 F. App’x 852, 859–60 (11th Cir. 2013) (quoting *Internet Sols. Corp. v. Marshall*, 39 So.3d

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<sup>2</sup> UMGI and Interscope opposed Carey’s motion for leave to amend the complaint for many of the same reasons they now move to dismiss. (ECF No. 87).

<sup>3</sup> It is unclear from the allegations in the Amended Complaint whether these claims are brought against UMGI and Interscope as co-conspirators only.

1201, 1207 (Fla. 2010)).

To establish personal jurisdiction over a nonresident defendant, a plaintiff “initially need only allege sufficient facts to make out a prima facie case of jurisdiction.” *Posner v. Essex Ins. Co.*, 178 F.3d 1209, 1214 (11th Cir. 1999) (citation omitted). The Court must accept the facts alleged in the complaint as true, to the extent they are uncontroverted by the defendant’s affidavit. *Peruyero v. Airbus S.A.S.*, 83 F. Supp. 3d 1283, 1286 (11th Cir. 2000).

If a plaintiff pleads sufficient facts to support the exercise of personal jurisdiction, the burden shifts to the defendant to make a prima facie showing that the state’s long-arm statute is inapplicable. *See Future Tech. Today, Inc. v. OSF Healthcare Sys.*, 218 F.3d 1247, 1249 (11th Cir. 2000). Where, as here, the evidence proffered by the defendant contradicts the plaintiffs’ allegations, the burden shifts back to the plaintiffs to “substantiate the jurisdictional allegations in the complaint by affidavits or other competent proof, and not merely reiterate the factual allegations in the complaint.” *Id.* The affidavits must “set forth specific factual declarations within the affiant’s personal knowledge.” *Posner*, 178 F.3d at 1215. “The district court must construe all reasonable inferences in the light most favorable to the plaintiff when dealing with conflicting evidence.” *Peruyero*, 83 F. Supp. 3d at 1287 (citing *PVC Windoors, Inc. v. Babbittbay Beach Constr., N.V.*, 598 F.3d 802, 810 (11th Cir. 2010)).

## **B. Service of Process**

A Rule 12(b)(5) motion deals with insufficient service of process. “Service of process is a jurisdictional requirement: a court lacks jurisdiction over the person of a defendant when that defendant has not been served.” *Pardazi v. Cullman Med Ctr*, 896 F.2d 1313, 1317 (11th Cir. 1990). When the sufficiency of service is brought into question, the plaintiff has the burden of demonstrating service of process by making a prima facie case of proper service. *Fru Veg Mktg.*,

*Inc. v. Vegfruitworld Corp.*, 896 F. Supp. 2d 1175, 1182 (S.D. Fla. 2012); *Hollander v. Wolf*, No. 09-80587-CIV, 2009 WL 3336012, at \*3 (S.D. Fla. Oct. 14, 2009). If Plaintiffs can establish that service was proper, the burden shifts to the defendant to “bring strong and convincing evidence of insufficient service.” *Hollander*, 2009 WL 3336012, at \*3 (citations omitted). “The Court may look to affidavits, depositions, and oral testimony to resolve disputed questions of fact.” *Id.* (citations omitted).

### **III. ANALYSIS**

UMGI asserts that dismissal is proper pursuant to Federal Rule of Civil Procedure 12(b)(2) because the Court lacks personal jurisdiction over it. Interscope, on the other hand, contends that dismissal is proper pursuant to Rule 12(b)(4) and (5) for insufficient process and insufficient service of process.<sup>4</sup> The Court finds that the motions should be granted.

#### **A. UMGi’s Motion to Dismiss**

UMGI moves to dismiss the claims against it for lack of personal jurisdiction. Plaintiffs have the burden of establishing a prima facie case of personal jurisdiction over the nonresident defendants. *See Consol. Dev. Corp. v. Sheritt, Inc.*, 216 F.3d 1286, 1291 (11th Cir. 2000) (citing *Madara v. Hall*, 916 F.2d 1510, 1514 (11th Cir. 1990)). A prima facie case of personal jurisdiction is established if Plaintiffs present “enough evidence to withstand a motion for directed verdict.” *Id.* The Court can exercise specific jurisdiction over a nonresident domestic defendant if authorized by a state long-arm statute or a federal statute. *See Courboin v. Scott*, 596 F. App’x 729, 732 (11th Cir. 2014). In considering a motion to dismiss for lack of personal jurisdiction under Rule 12(b)(2), the Court must “first determine whether the applicable statute potentially

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<sup>4</sup> Because the Court finds that dismissal is warranted based on insufficient service of process, the Court does not address UMGi’s motion for insufficient process pursuant to Rule 12(b)(4).

confers jurisdiction over the defendant, and then determine whether the exercise of jurisdiction comports with due process.” *Republic of Panama v. BCCI Holdings (Lux.) S.A.*, 119 F.3d 935, 942 (11th Cir. 1997).

A non-resident defendant can be subject to personal jurisdiction under Florida’s long-arm statute in two ways. First, the Court can exercise specific personal jurisdiction—that is, jurisdiction over suits that arise out of or relate to a defendant’s contacts with Florida—if the claim asserted against the defendant arises from the defendant’s contacts with Florida, and those contacts fall within one of the enumerated categories set forth in Section 48.194(1)(a) of the Florida Statutes. *Schulman v. Inst. for Shipboard Educ.*, 624 F. App’x 1002, 1004–05 (11th Cir. 2015); *Waite v. All Acquisition Corp.*, 901 F.3d 1307, 1312 (11th Cir. 2008). Second, the Court “may exercise general personal jurisdiction—that is, jurisdiction over any claims against a defendant, whether they involve the defendant’s activities in Florida—if the defendant engages in ‘substantial and not isolated activity’ in Florida.” *Carmouche v. Tamborlee Mgmt., Inc.*, 789 F.3d 1201, 1204 (11th Cir. 2015) (quoting Fla. Stat. § 48.193(2)); *Waite*, 901 F.3d at 1312. “Florida’s long-arm statute is to be strictly construed,” *Sculptchair, Inc. v. Century Arts, Ltd.*, 94 F.3d 623, 627 (11th Cir. 1996), and because state law governs the long-arm statute, a federal court is required to construe the statute as would the Florida Supreme Court. *Lockard v. Equifax, Inc.*, 163 F.3d 1259, 1265 (11th Cir. 1998). “Whether specific or general, the exercise of personal jurisdiction over a defendant must comport with due process.” *Waite*, 901 F.3d at 1312.

At the outset, the Court notes that the Amended Complaint is completely devoid of *any* jurisdictional allegations as to UMGI. This alone constitutes a failure to plead a prima facie case of personal jurisdiction and warrants dismissal of UMGI. Plaintiffs argue in its Response, however, that the Court has general and specific personal jurisdiction over UMGI. (Pls.’ Resp.

UMGI Mot. ¶¶ 5, 6, ECF No. 144). The Court addresses each one in turn below, and finds that, even if Plaintiffs had properly pled a prima facie case of jurisdiction, which they did not, Plaintiffs failed to substantiate their allegations with competent proof.

**1) The Court Lacks Specific Personal Jurisdiction Over UMGi.**

The Court begins with specific personal jurisdiction. Under this step of the personal jurisdiction inquiry, the Court must determine whether UMGi's activities meet any of the enumerated acts listed in section 48.193(1) of the Florida Statutes. While the First Amended Complaint lacks any jurisdictional allegations, based on Plaintiffs' response to UMGi's Motion, it appears that Plaintiffs contend that personal jurisdiction is proper pursuant to sections 48.193(1)(a)(1) and 48.193(1)(a)(2) of the Florida Statutes. (*See* Pls.' Resp. UMGi's Mot. ¶¶ 3, 6). The Court disagrees.

*i. The Court lacks personal jurisdiction pursuant to Fla. Stat. § 48.193(1)(a)(1).*

As stated before, subsection (1)(a)(1) of Florida's long-arm statute provides that courts may exercise personal jurisdiction over a non-resident defendant "for any cause of action arising from" any of the following acts: "[o]perating, conducting, engaging in, or carrying on a business or business venture in [Florida] or having an office or agency in [Florida]." Fla. Stat. § 48.193(1)(a)(1). To establish personal jurisdiction pursuant to section 48.193(1)(a)(1), then, "the cause of action must arise from the defendant's business activity." *Melgarejo*, 537 F. App'x at 859. For Plaintiffs to establish that UMGi is "conducting" or "carrying on a business" for the purposes of this section, "the activities of the defendant must be considered collectively and show a general course of business activity in the state for pecuniary benefit." *Future Tech. Today*, 218 F.3d at 1249.

The Eleventh Circuit has "identified factors relevant to whether a plaintiff has shown a



defendant's 'general course of business activity, including'" (1) presence and operation of an office in Florida; (2) number of Florida clients served; and (3) percentage of overall revenue gleaned from Florida clients. *Melgarejo*, 537 F. App'x at 860 (quoting *Horizon Aggressive Growth, L.P. v. Rothstein-Kass, P.A.*, 421 F.3d 1162, 1167 (11th Cir. 2005) (citing Florida cases)).

Plaintiffs fail to meet their burden of presenting competent evidence to prove specific personal jurisdiction based on Fla. Stat. § 8.193(1)(a)(1). UMGI challenged jurisdiction with a sworn declaration from one of its officers, Sheryl Gold. (Gold. Decl., ECF No. 123-1). In Gold's sworn declaration, she states that UMGI is not registered to transact business in Florida; does not conduct business in Florida; does not own, operate, or control an office in Florida; does not own, possess, rent, or hold any real property in Florida; and does not maintain any financial accounts in Florida. (Gold. Decl. ¶¶ 3, 5–7). Plaintiffs respond to this evidence by simply arguing, without more, that UMGI: "contracts with artists"; "advises Kirk"; "make[s] revenue from all of [Kirk's] activity," which includes "performing in Florida at least three times in the last two years"; shares revenue with Kirk; provides "marketing and branding for all of [its] artists"; has "portrayed Dababy as its agent"; has publicly declared that it "owns rights to [its] artists [sic] songs and ha[s] over four million tracks"; and "portrays Kirk as their [sic] artist and agent." (Pls.' Resp. UMGI Mot. ¶ 9). Plaintiffs, however, fail to present any evidence whatsoever to substantiate these contentions and thus fail to meet their burden. Plaintiffs' allegations in their Amended Complaint that they will demonstrate jurisdiction "through depositions and cross examination under oath during the trial[.]" (Am. Compl. ¶ 34), are inappropriate, as they are required to substantiate their jurisdictional allegations with competent evidence at the dismissal stage, not later.<sup>5</sup>

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<sup>5</sup> Plaintiffs' unsubstantiated contention that UMGI has been sued in the Southern District of Florida in 2012 and was subject to the Court's personal jurisdiction does nothing to salvage their allegations. (*Id.* ¶ 15). Even if this could be considered a factor in the determination of specific

**ii. The Court lacks conspiracy-based personal jurisdiction pursuant to Fla. Stat. § 48.193(1)(a)(2).**

Florida’s “long-arm statute can support personal jurisdiction over any alleged conspirator where any other conspirator commits an act in Florida in furtherance of the conspiracy, even if the defendant over whom personal jurisdiction is sought individually committed no act in, or had no relevant contact with, Florida.” *United Tech. Corp. v. Mazer*, 556 F.3d 1281–82 (11th Ci. 2009) (citing *Machtlinger v. Inertial Airline Servs.*, 937 So. 2d 730, 734–63 (Fla. 3d DCA 2006); *see Wilcox v. Stout*, 637 So. 2d 335, 337 (Fla. 2d DCA 2006); *Execu-Tech Bus. Sys. v. New Oji Paper Co.*, 752 So. 2d 582, 584–85 (Fla. 2000)).

Plaintiffs once again fail to meet their burden of establishing personal jurisdiction based on conspiracy because they have alleged nothing that clearly connects UMGI to a conspiracy made or carried out in Florida. In their Amended Complaint, Plaintiffs allege that UMGI conspired with other defendants to commit assault, battery, defamation, and intentional infliction of emotional distress. (Am. Compl. ¶ 89). In particular, Plaintiffs contend that UMGI and all other defendants in this action “conspired and have implemented a Marketing Plan and Scheme/Show that includes attacking and hurting innocent people, mostly African Americans, for the purposes of gaining news

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personal jurisdiction, Plaintiffs’ representations to the Court are not only misleading, but incorrect. Indeed, UMGI was substituted for UMG Recordings, Inc. early in the lawsuit and the district court never ruled on whether it had personal jurisdiction over UMGI. *See Panama Music Corp. et al. v. Universal Music Grp., Inc.*, Case No. 12-cv-20200, ECF No. 16. Plaintiffs appear to ignore the glaring fact that UMG Recordings, Inc. is a separate and distinct legal entity. *See United States v. Bestfoods*, 524 U.S. 51, 61 (1998).

Plaintiffs also appear to argue that UMGI owns property in Florida by citing to an online article that is not only inadmissible hearsay but does not establish that UMGI, rather than another entity within the Universal Music Group, owns or controls property in Florida. *See Mazer*, 556 F.3d at 1278 (holding that a party cannot rely on inadmissible hearsay to establish jurisdiction in opposition to an affidavit).

coverage and notoriety for their financial gain[.]” (*Id.* ¶ 90). UMGI denies these allegations in Gold’s sworn declaration, which as stated above, Plaintiffs have failed to rebut with competent evidence. (*See* Gold Decl. ¶ 13 (“Because UMGI has no operations, it could not have induced or authorized any recording artist, including DaBaby . . . to threaten and/or assault Carey in this action. Indeed, UMGI had no involvement whatsoever with the alleged January 2, 2020 appearance by DaBaby.”). As such, the Court cannot consider the allegations about UMGI’s conduct in Florida. *See Mazer*, 556 F.3d at 1282. “Thus, any conspiracy-based exercise of personal jurisdiction must be founded on conduct committed in Florida by others that can be attributed to [UMGI] as a co-conspirator.” *Id.*

The alleged conspiracy involved a “plan” or “scheme” wherein Kirk physically attacked and hurt people, especially African Americans, for publicity. Plaintiffs’ allegations stem from an incident where Kirk allegedly physically attacked Carey in public, and forcibly removed Carey’s pants and poured apple juice on him. (Am. Compl. ¶¶ 91, 92). A civil conspiracy requires “(a) an agreement between two or more parties, (b) to do an unlawful act or to do a lawful act by unlawful means, (c) the doing of some overt act in pursuance of the conspiracy, and (d) damage to plaintiff as a result of the acts done under the conspiracy.” *Mazer*, 556 F.3d at 1271 (quoting *Charles v. Fla. Foreclosure Placement Ctr., LLC*, 988 So. 2d 1157, 1159–60 (Fla. 3d DCA 2008)). Thus, to tie UMGI to the alleged conspiracy in a manner adequate to support personal jurisdiction in Florida, Plaintiffs “had to allege unambiguously that [UMGI] was involved in a Florida-based agreement” to batter individuals—“i.e., involved in a meeting of the minds with at least one other co-conspirator—*before* the time of the [battery].” *Mazer*, 556 F.3d at 1282. Here, however, the Amended Complaint does not allege that UMGI had an agreement with Kirk—or any other defendant, for that matter—that Kirk would batter (or assault) people as a publicity stunt. Nor

does the Amended Complaint contain allegations that an agreement was formed *before* Kirk attacked Carey. The Amended Complaint is simply devoid of any allegations connecting UMGI to the physical altercation between Kirk and Carey. Plaintiffs only allege that they “know there was a scheme because[,]” among other reasons, “[UMGI] and Interscope have not done any actions to prevent DaBaby from [his] criminal conduct[.]” (Am. Compl. ¶ 97). Plaintiffs’ speculative conspiracy allegations leap much too far and cannot form the basis for personal jurisdiction. Therefore, UMGI is not subject to conspiracy-based personal jurisdiction under Florida’s long-arm statute.

***iii. Exercising Specific Jurisdiction Over UMGI Would Violate Due Process.***

Even if the Court could exercise specific personal jurisdiction over UMGI, doing so would violate due process. To determine whether the exercise of specific personal jurisdiction affords due process, the Eleventh Circuit has set forth a three-part test. *Waite*, 901 F.3d at 1313 (citing *Louis Vuitton Malletier, S.A. v. Mosseri*, 736 F.3d 1339, 1355 (11th Cir. 2013)). First, the Court must consider “whether the plaintiffs have established that their claims ‘arise out of or relate to’ at least one of the defendant’s contacts with the forum. *Id.* (quoting *Mosseri*, 736 F.3d at 1355). Second, the Court determines “whether the plaintiffs have demonstrated that the defendant ‘purposefully availed’ itself of the privilege of conducting activities within the forum state.” *Id.* If the plaintiffs can establish the first two prongs, the Court moves on to consider “whether the defendant has ‘ma[de] a compelling case that the exercise of jurisdiction would violate traditional notions of fair play and substantial justice.’” *Id.*

Here, Plaintiffs fail to establish at least one prong. Plaintiffs have not demonstrated that UMGI purposefully availed itself of the privilege of conducting activities within Florida. As established above, Plaintiffs have failed to provide any evidence of UMGI’s purported activities

in Florida, thus it cannot be said that UMGI availed itself of the privilege of conducting activities within Florida. Exercising specific personal jurisdiction would therefore violate due process.<sup>6</sup>

## **2) The Court Lacks General Personal Jurisdiction Over UMGI.**

Next, the Court turns to general personal jurisdiction. Under Florida's long-arm statute, "[a] defendant who is engaged in substantial and not isolated activity within this state, whether such activity is wholly interstate, intrastate, or otherwise, is subject to the jurisdiction of the courts of this state, whether or not the claim arises from that activity." Fla. Stat. § 48.193(2). "The reach of this provision extends to the limits on personal jurisdiction imposed by the Due Process Clause of the Fourteenth Amendment." *Fraser v. Smith*, 594 F.3d 842, 846 (11th Cir. 2010). Thus, the Court need only determine whether its exercise of jurisdiction over UMGI would exceed constitutional bounds. *Id.*

The Supreme Court has sweepingly declared "that only a limited set of affiliations with a forum will render a defendant amenable to all-purpose jurisdiction there." *Thompson v. Carnival Corp.*, 174 F. Supp. 3d 1327, 1334 (S.D. Fla. 2016) (quoting *Daimler AG v. Bauman*, 571 U.S. 117, 137 (2014)). The *Daimler* Court reinforced that there are only two "paradigm bases" for asserting general personal jurisdiction over a corporation: (1) its place of incorporation, and (2) its principal place of business." 517 U.S. at 137. "The Court further determined that 'a corporation's operations in a forum other than its formal place of incorporation or principal place of business' will be 'so substantial and of such a nature as to render the corporation at home in that State' only in 'exceptional' cases." *Thompson*, 174 F. Supp. 3d at 1334 (quoting *Daimler*, 517 U.S. at 139 n.19). A plaintiff bears a heavy burden of establishing such an exceptional case. *Waite*, 901 F.3d

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<sup>6</sup> Because the Court concludes that UMGI did not purposefully avail itself of the privilege of conducting activities in Florida, it need not address the other two prongs.

at 1317.

Here, the analysis “practically ends before it begins.” *See Thompson*, 174 F. Supp. 3d at 1334. While Plaintiffs fail to allege UMGI’s place of incorporation or principal place of business, Gold’s declaration states that “UMGI is incorporated in Delaware and has its principal place of business in Santa Monica, California.” (Gold. Decl. ¶ 3). Gold further states that UMGI is a holding company that is part of the “Universal Music Group,” the colloquial name given to the group of music-related companies ultimately owned by Universal Music Group N.V., a Netherlands entity. (*Id.* ¶ 2). She declares that UMGI neither conducts business nor engages in day-to-day operations in Florida. (*Id.* ¶¶ 3–4). According to Gold, UMGI “does not own, operate, or control an office in Florida”; it “does not own possess, rent, or hold any real property in Florida”; and it “does not maintain any financial accounts in Florida.” (*Id.* ¶¶ 5–7).

Plaintiffs provide no evidence—affidavits or other competent proof—apart from their conclusory arguments in their response to UMGI’s Motion to rebut Gold’s declaration. *See Future Tech. Today, Inc.*, 218 F.3d at 1249. Plaintiffs merely argue that “[UMGI] do[es] thousands of transactions of business in Florida everyday [sic] [and] [it] benefit[s] financially from concerts, merchandise sales, and many other avenues of business activity in Florida.” (Pls.’ Resp. ¶ 5). But their arguments in an opposing memorandum are simply not enough to assert general personal jurisdiction over a foreign defendant. *See Future Tech. Today*, 218 F.3d at 1249 (noting that it is Plaintiff’s burden to “substantiate the jurisdictional allegations in the complaint by affidavits or other competent proof[.]”).

Even if Plaintiffs had established that UMGI has contacts and activities in Florida, which they have not, UMGI’s purported activities in Florida do not “closely approximate the activities that ordinarily characterize a corporation’s place of incorporation or principal place of business.”

*Waite*, 901 F.3d at 1318 (quoting *Carmouche*, 789 F.3d at 1205). The circumstances in this case are not “exceptional,” so as to deem UMGI at home in Florida. The Court therefore cannot exercise general personal jurisdiction over UMGI in Florida, as doing so would violate due process. *See Daimler*, 517 U.S. at 139 n.19.

Accordingly, UMGI is dismissed for lack of personal jurisdiction.

### **3) Plaintiffs’ Request to Amend the Complaint**

In response to UMGI’s Motion to Dismiss, Plaintiffs ask for leave to amend the Amended Complaint. (Pls.’ Resp. ¶ 50). This request is improperly brought in a response to a motion to dismiss and is therefore denied. *See Newton v. Duke Energy Fla., LLC*, 895 F.3d 1270, 1277 (11th Cir. 2018) (“[W]here a request for leave to file an amended complaint simply is embedded within an opposition memorandum, the issue has not been raised properly.”) (citations omitted). Even if the request had been properly brought, however, Plaintiffs’ request comes nearly two years too late. Plaintiffs have known of the deficiencies in their original complaint and the Amended Complaint since the inception of this case. At the very least, Plaintiffs have known of the deficiencies in their complaint since September 2021, when UMGI raised the same arguments it now raises in the instant Motion. (*See* ECF No. 87). Instead of curing these deficiencies, Plaintiffs chose to sit idle and wait months after the deadline to amend the complaint had passed to request permission to amend the complaint again. The Court will not condone this conduct. For these reasons, Plaintiffs’ request for leave to amend the Amended Complaint is denied.

### **B. Interscope’s Motion to Dismiss**

UMGR moves to dismiss Interscope as a defendant in this action for insufficient process and insufficient service of process pursuant to Federal Rules of Civil Procedure 12(b)(4) and (5) because “Interscope Records, Inc.” is a non-existent entity, and “Interscope Records” is not a legal

entity, rather it is a brand name and division of UMGR. The Court grants this Motion for insufficient service of process.

In support of its motion, UMGR primarily relies on Gold's sworn declaration and a letter dated March 3, 2020, sent by CT Corporation, the registered agent served with process, to Plaintiffs' counsel. The letter notifies Plaintiffs' counsel that "Interscope Records Inc." is not listed on CT Corporation's records or the records of the State of California. (ECF Nos. 126-1, 126-3). The Court finds that this constitutes strong and convincing evidence of insufficient service of process and dismissal is appropriate.

In response to Interscope's Motion, Plaintiffs seek leave to amend their Amended Complaint. The request is denied because, as stated previously, a request for leave to amend a complaint simply embedded within an opposition memorandum is not properly raised before the Court. *See Newton*, 895 F.3d at 1277. Even if the request had been properly brought, it would nevertheless be denied. Plaintiffs have had ample opportunity to correct their mistakes and have failed to do so. In fact, since the inception of this case, UMGR/Interscope has maintained its position that Interscope Records is a non-juridical entity which has not been properly served pursuant to the Federal Rules of Civil Procedure. (Jt. Scheduling Conference R., ECF No. 30). UMGR reiterated this position in its response in opposition to Plaintiff Carey's motion to amend the original complaint, yet Plaintiffs have turned a blind eye. (Opp'n Mot. Amend, ECF No. 87). What's more, it appears that Plaintiffs' counsel conceded that Interscope Records had never been properly served at one point in 2020, when this case was still before the state court. (*See* ECF Nos. 126-6, 126-7). Plaintiffs' undue delay and repeated failures to cure deficiencies in this action will no longer be tolerated. *See Foman v. Davis*, 371 U.S. 178, 182 (1962). Accordingly, Plaintiffs' request for leave to amend the complaint is denied.



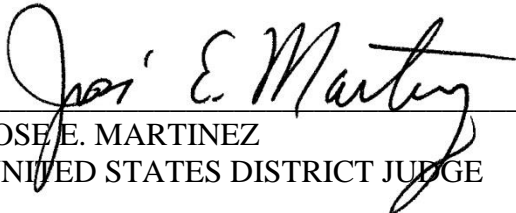
**IV. CONCLUSION**

For the foregoing reasons, it is

**ORDERED AND ADJUDGED** that:

1. UMGI's Motion to Dismiss, (ECF No. 123), is **GRANTED**. Defendant Universal Music Group, Inc. is hereby **DISMISSED** for lack of personal jurisdiction.
2. Interscope's Motion to Dismiss, (ECF No. 126), is **GRANTED**.
3. Plaintiffs' requests for leave to amend the First Amended Complaint is denied.
4. UMGI and Interscope's Motion for Sanctions, (ECF No. 244), shall remain pending. All other pending motions related to UMGI and Interscope, (ECF Nos. 155, 158, 195), are **DENIED as moot**.

DONE AND ORDERED in Chambers at Miami, Florida, this 4th day of August, 2022.

  
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JOSE E. MARTINEZ  
UNITED STATES DISTRICT JUDGE

Copies provided to:  
Magistrate Judge Becerra  
All Counsel of Record

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

**Case No.: 21-20408-CIV-MARINEZ**

KENNETH CAREY, *et al.*,

Plaintiffs,

v.

JONATHAN KIRK, *et al.*,

Defendants.

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**OMNIBUS ORDER ON MOTIONS FOR SANCTIONS**

**THIS CAUSE** came before the Court upon three related motions for sanctions. First, Defendants Jonathan Kirk (“Kirk”) and Billion Dollar Baby Entertainment, LLC (“BDBE”) filed a Motion for Sanctions Pursuant to Federal Rule of Civil Procedure 11(c) (the “First Rule 11 Sanctions Motion”), (ECF No. 222). Plaintiffs Kenneth Carey (“Carey”) and Steve Anyadike (“Anyadike”) (collectively, “Plaintiffs”) filed an Opposition, (ECF No. 225), and Defendants Kirk and BDBE filed a Reply, (ECF No. 228). Second, Defendants Universal Music Group, Inc. (“UMGI”) and Interscope Records (“Interscope”)<sup>1</sup> filed a Motion for Sanctions Pursuant to Federal Rule of Civil Procedure 11(c) (the “Second Rule 11 Sanctions Motion”), (ECF No. 244). Plaintiffs filed an Opposition, (ECF No. 265), and Defendants UMGI and Interscope filed a Reply, (ECF No. 266). The First and Second Rule 11 Sanctions Motions seek sanctions against Plaintiffs, Plaintiffs’ counsel Jonathan May, Esq. (“Mr. May”), and Mr. May’s law firm The Lions’ Den,

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<sup>1</sup> The Second Rule 11 Sanctions Motion clarifies that “Interscope is not a legal entity. It is an unincorporated division of UMG Recordings, Inc. (“UMGR”). This motion is technically brought by UMGR on behalf of non-entity, Interscope.” (ECF No. 244 at 1). The Court acknowledges this distinction but will continue to refer to “Interscope” herein for consistency with other filings.

Attorneys at Law (the “Lions’ Den”), in connection with Plaintiffs’ civil conspiracy claims, which were dismissed by the Court.<sup>2</sup> Finally, Defendant Kirk filed a Motion for Sanctions Including an Award of Attorneys’ Fees Against Plaintiffs’ Counsel Jonathan May and His Law Firm The Lions’ Den and Renewal of Motion for Fees Pursuant to ECF No. 275, seeking sanctions under both 28 U.S.C. § 1927 and the Court’s inherent authority against Mr. May and the Lions’ Den for conduct leading up to and including the trial (the “1927 Sanctions Motion”), (ECF No. 341). Plaintiffs filed an Opposition, (ECF No. 344), and Defendant Kirk filed a Reply, (ECF No. 350).

Counsel for the Parties appeared before United States Magistrate Judge Jacqueline Becerra for oral argument on the First and Second Rule 11 Sanctions Motions on January 30, 2023 (the “Rule 11 Hearing”). (See ECF No. 356). Following the Rule 11 Hearing, without leave of Court and after expressly informing the Court that no further argument or submission was necessary, Plaintiffs filed a Notice of Supplemental Authority Pursuant to Local Rule 7.8 In Support of Plaintiffs’ Response to All Defendants’ Motion for Sanctions, (ECF No. 359). Defendants Kirk and BDBE filed a Motion to Strike Plaintiffs’ Notice of Supplemental Authority, (ECF No. 360). Defendants UMGI and Interscope also filed a Response to Plaintiffs’ Notice of Supplemental Authority, asking the Court to disregard the Notice, (ECF No. 363). Plaintiffs then filed a Second Notice of Supplemental Authority Pursuant to Local Rule 7.8 In Support of Plaintiffs’ Response to All Defendants’ Motion for Sanctions, (ECF No. 365). Defendants UMGI and Interscope filed a Response to Plaintiffs’ Second Notice, asking the Court to disregard the Second Notice, (ECF No. 366), and Defendants Kirk and BDBE filed a Notice of Adoption of that Response, (ECF No. 367).

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<sup>2</sup> Count V (civil conspiracy) was dismissed as to UMGI and Interscope, (ECF No. 272), and summary judgment was granted as to Count V for Defendants Kirk and BDBE, (ECF No. 279).

After a review of the instant Motions, the arguments of the Parties, including the Supplemental Briefing filed by both Defendant Jonathan Kirk, (ECF No. 394), and Plaintiffs, (ECF No. 395), the pertinent portions of the record, and the relevant authorities, and for the reasons stated below, it is hereby **ORDERED and ADJUDGED** that the First Rule 11 Sanctions Motion, (ECF No. 222), and the Second Rule 11 Sanctions Motion, (ECF No. 244), are **GRANTED IN PART AND DENIED IN PART**. Specifically, the Rule 11 Sanctions Motions is **GRANTED** as against Mr. May and the Lions' Den and **DENIED** as against Plaintiffs individually, as outlined below. It is **FURTHER ORDERED and ADJUDGED** that the 1927 Sanctions Motion, (ECF No. 341), is **DENIED**.

#### **I. PROCEDURAL HISTORY**

This case began over four years (and 395 filings) ago. At issue now is the conduct of Plaintiffs and their counsel from the time of filing the Complaint, through the trial, and up to and including the filings made after and in connection with the instant Motions. As such, the Court will review the pertinent parts of the record upon which it will rely to evaluate the conduct of Plaintiffs and their counsel.

##### **A. The Parties and The Factual Background**

Plaintiffs Carey and Anyadike are music event planners/promoters who are generally in the business of booking rap artists for performances. (*See* ECF No. 279 at 2). Defendant Kirk is a rap artist professionally known as "DaBaby." (*Id.*) Defendant Interscope is a record label brand that releases Kirk's music. (*See* ECF No. 244 at 2). Interscope is neither a corporation nor a legal entity, but rather is a brand that exists within the corporation UMG Recordings, Inc. (*Id.* at 1–2.) Defendant UMGI is a holding company that owns UMG Recordings, Inc. (*Id.*) Defendant BDBE is an entity solely owned by Kirk used for signing new artists discovered by Kirk. (*Id.*) Throughout the action, Plaintiffs characterized BDBE, Interscope, and UMGI as record labels to which

Defendant Kirk, performing as “DaBaby,” is “signed”—meaning that they have an agreement to publish and/or promote his music. (*See* ECF No. 121). This characterization was disputed by Defendants throughout the proceedings. As discussed in more detail below, the case at hand stems from events surrounding a performance at Café Iguana on January 2, 2020, for which Plaintiffs alleged that Defendant Kirk failed to appear as agreed, and a physical altercation that occurred shortly before the scheduled performance. (*See id.*)

Specifically, Plaintiffs alleged that they entered into two performance agreements—one with former Defendant Khalik Caldwell (“Caldwell”), another rap artist, and one with Defendant Kirk. (ECF No. 121 at 3, 4.)<sup>3</sup> According to the Amended Complaint, Plaintiffs had a written agreement with Caldwell to perform at Café Iguana in Broward County, Florida on January 2, 2020 (the “Event”) in exchange for a payment. (*Id.* at 3.) Plaintiffs also alleged that they had a written agreement with Kirk, to attend the Event for promotional purposes in exchange for a payment, which Plaintiffs attached to the Amended Complaint as Exhibit 7. (*See* ECF No. 121-1 at 9). The purported performance agreement with Kirk consisted of a single page and stated that it was made “between [Defendant] Jonathan Kirk p/k/a DaBaby and [Plaintiff] Steve Ayandike [sic] on this date January 2, 2019,” for a performance on January 2, 2019, although the Amended Complaint stated that the Event was to occur on January 2, 2020. (*Id.*) The performance agreement further stated that “the Artist(s),” which was an undefined term, “hereby agrees to a social media post, social media drop, and venue walkthrough” at a time “TBD” in exchange for an “engagement fee [of] \$20,000,” which was “due by 4pm 1/2/2019” and “ALL PAYMENTS SHALL BE BY

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<sup>3</sup> Because the Amended Complaint contains multiple instances of re-numbering paragraphs (*i.e.*, the “Introduction” begins with paragraph 1, the “General Allegations” begins with paragraph 1, Count VII begins with paragraph 1, and the section titled “Destruction of Evidence as Criminal Conduct” begins with paragraph 1), the undersigned will cite only to the page numbers of the relevant allegations. (*See* ECF No. 121).

CASH.” (*Id.* (emphasis in original)). The document was signed by Plaintiff Anyadike and contained no date. (*Id.*) No other party, or non-party, signed the document. (*Id.*)

The Event, however, did not occur. Plaintiffs alleged that this was because Kirk “anticipatorily repudiated the agreement by attacking Plaintiffs viciously” prior to the scheduled Event. (ECF No. 121 at 3). Plaintiffs arrived at the Novotel Hotel in Miami, Florida to meet Kirk and tender payment for the Event. (*Id.* at 4) Plaintiffs alleged that they tendered \$20,000.00 in cash to Kirk, and Kirk “demanded an additional \$10,000.00.” (*Id.*). Plaintiffs alleged that they did not have an additional \$10,000.00 in cash available at the time, and Kirk “[a]pparently infuriated by being told no,” proceeded to “punch[] Steve Anyadike,” while “four identified co-conspirators/agents of DaBaby” attacked Carey. (*Id.* at 4–5).

### **B. The Amended Complaint**

The Amended Complaint, the operative pleading in the matter, asserted eight counts against various combinations of the Defendants. (ECF No. 121.)<sup>4</sup> Below is a summary of those counts and the factual allegations, if any, that were offered in support of each count.

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<sup>4</sup> This matter originated in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, on February 1, 2020, styled as Case No. 2020-002448-CA-01 (the “State Court Lawsuit”). (*See* ECF No. 1-3 (Complaint in the State Court Lawsuit)). Carey’s complaint in the State Court Lawsuit asserted various claims sounding in contract and tort against Defendants Kirk, BDBE, UMGI, Interscope, Caldwell, and Unknown Conspirators Nos. 1–4. (*Id.*) Anyadike was not a plaintiff in the State Court Lawsuit. (*Id.*) Kirk and BDBE filed an Answer on June 1, 2020, after Carey filed three Motions for Default that were denied by the court. (*See* State Court Lawsuit, ECF Nos. 23, 31, 69.) UMGI, Interscope, and Caldwell did not respond to the Complaint. In June 2020, Kirk and BDBE served written discovery requests on Carey, to which Carey failed to respond. (*See* State Court Lawsuit, ECF Nos. 64–67.) Kirk and BDBE moved to compel responses, and the court granted the motion. (*See* State Court Lawsuit, ECF Nos. 74, 75, 79.) On October 29, 2020, Carey moved to add Anyadike as a plaintiff to the State Court Lawsuit. (ECF No. 80.) Defendants did not respond. In January 2021, Carey served written discovery requests on Kirk and UMGI. (*See* State Court Lawsuit, ECF Nos. 82–84.) On January 27, 2021, Caldwell accepted service of process through his counsel. (*See* State Court Lawsuit, ECF No. 85.) On January 29, 2021, the case was removed to this Court. (ECF No. 1.)

First, Plaintiffs asserted a claim for breach of contract against Defendant Kirk (Count I). (*Id.* at 7–8.) Plaintiffs alleged that Defendant Kirk failed to appear at Café Iguana as his performance agreement required, although Plaintiffs executed their end of the bargain by tendering payment to Kirk. (*Id.* at 8.) Plaintiffs alleged that they “spent days planning and prepping for this event in hopes and virtual guarantee of making over 100K for each Plaintiff in profit,” and that they “had arranged for other celebrities to appear for the event, since DaBaby was going to be there.” (*Id.*) On this count alone, Plaintiffs sought \$263,750.00 in compensatory damages from their calculations of the potential profit on the Event, plus court costs and attorney’s fees. (*Id.*)

Second, Plaintiffs asserted a claim for intentional assault against Defendants Kirk, BDBE, UMGI, Interscope, and “Identified Co[-]Conspirators” (Count II). (*Id.* at 9–10.) As to Plaintiff Anyadike, Plaintiffs alleged that Kirk “put Steve [Anyadike] in fear of great bodily harm, prior to punching him in the face and then chased him with the assistance of his four coconspirators.” (*Id.* at 9.) As to Plaintiff Carey, Plaintiffs alleged that “[u]nknown conspirators jumped Kenneth Carey and put him in fear of extreme bodily harm and even death, while the[y] knocked him down, humiliated him, pulled his pants down, [and] poured apple juice on him.” (*Id.*) Plaintiffs alleged that Defendant Kirk should be “held jointly and severally liable, pursuant to Florida case law,” with Defendants BDBE, UMGI, and Interscope, because they “conspired and . . . implemented a marketing plan/scheme/show that includes attacking and hurting innocent people for the purposes of gaining ratings, news coverage and notoriety for their financial gain and they have gained incredible amounts of influence and power from their illegal, criminal scheme.” (*Id.*) Plaintiffs’ theory of a “scheme” runs throughout the Amended Complaint and is explained more below. On this count, Plaintiffs demanded \$100,000, plus attorney’s fees and court costs. (*Id.* at 10.)

Third, Plaintiffs asserted a claim for intentional battery against Defendants Kirk, BDBE, UMGI, Interscope, and “Identified Co-Conspirators” (Count III). (*See* ECF No. 121 at 10–13.) As to Plaintiff Anyadike, Plaintiffs alleged that “DaBaby intended to and did punch Steve Anyadike on hotel cameras and then chased him towards the hotel.” (*Id.* at 11.) As to Plaintiff Carey, Plaintiffs alleged that

DaBaby and identified Co[-]Conspirators 1[-]4 intended to cause harmful or offensive contact with Kenneth Carey by grabbing him, punching him, forcibly removing his pants as part of their signature attack and attempting to humiliate him by dragging him and pouring apple juice on him while taunting him and saying it looks like he peed himself.

(*Id.*) Plaintiffs added that Carey “is alive by the mercy of God.” (*Id.*) Plaintiffs asserted the same theory of a “marketing plan/scheme” to involve Defendants BDBE, UMGI, and Interscope. (*Id.*) In doing so, Plaintiffs stated, “[w]e have evidence that it was a scheme because DaBaby’s agents/coconspirators pulled Kenneth’s pants down as they taunted him before knocking him unconscious as DaBaby has done before and sold merchandise bragging about it.” (*Id.*) As to damages, Plaintiffs stated that “[i]t will take an extremely high award to convince these juggernauts from forgoing their fraudulent scheme/show because if they profit \$100 million but it costs them \$90 million, they still make \$10 million.” (*Id.* at 11–12.) Accordingly, on this count, Plaintiffs sought damages “[t]otaling \$300,000,000,” “[p]unitive damages (uncapped),” court costs, and attorney’s fees. (*Id.* at 13.)

Fourth, Plaintiffs asserted a claim for promissory estoppel against Defendants Kirk and BDBE (Count IV). (*Id.* at 13–14.) Plaintiffs alleged that Kirk promised to appear at Café Iguana “in fulfillment of a contractual obligation between DaBaby and a third party and accepted \$20,000.00 in payment from Kenneth Carey,” but “later asserted that he was to have received \$30,000.00 instead,” and did not appear at the Event. (*Id.* at 14.) Plaintiffs asserted that they “relied on DaBaby’s promise to fulfill his contractual obligation when they tendered the \$20,000.00 cash



to” Kirk and that Kirk did not return the payment. (*Id.*) Plaintiffs sought \$24,000 in damages for this count, plus court costs and attorney’s fees. (*Id.*)

Fifth, and particularly relevant to the instant Motions, Plaintiffs asserted a claim of civil conspiracy against Defendants Kirk, BDBE, UMGI, Interscope, and “Identified Conspirators 1-4” (Count V). (*Id.* at 14–17.) Specifically, Plaintiffs alleged that:

DaBaby, BDBE, Identified Co[-]co[n]spirators/Agents of BDBE, Universal [UMGI] and Interscope conspired and have implemented a Marketing Plan and Scheme/Show that includes attacking and hurting innocent people, mostly African Americans, for the purposes of gaining news coverage and notoriety for their financial gain and they have gained incredible amounts of influence and power from their illegal, criminal scheme.

(*Id.* at 15.) According to Plaintiffs, Defendant Kirk’s altercation with Plaintiffs on January 2, 2020, was no more than a marketing tactic, either conceived of or encouraged by BDBE, UMGI, and Interscope. (*Id.*) Plaintiffs alleged that they

know there was a scheme because 1. DaBaby attacked parties over a measly \$10,000 dollars when he had \$250,000 to \$300,000 in his room, when they didn’t owe the money and 2. This is a pattern and course of conduct by DaBaby and has shown over time his desperate attempts for stardom and fame at the expense of others and 3. Universal [UMGI] and Interscope have not done any actions to prevent DaBaby from this criminal conduct.

(*Id.* at 16.) In short, Plaintiffs claimed that because Defendants profit from Kirk’s music and image, they are liable for anything that Kirk does. On this count, Plaintiffs sought “Punitive Damages (uncapped) . . . Totaling \$300,000,000,” plus court costs and attorney’s fees. (*Id.* at 15.)

Sixth, Plaintiffs asserted a claim for defamation against Defendants Kirk, BDBE, UMGI, and Interscope (Count VI). (*Id.* at 17–19.) Plaintiffs alleged that Defendant Kirk made various false statements that harmed Plaintiffs’ reputation as businessmen. (*Id.*) Specifically, Plaintiffs identified four statements as defamatory. First, Plaintiffs took issue with “[t]he Police Report stat[ing] that Kenneth [Carey], as a promoter, did not pay [Kirk] the full amount he was owed which [is] untrue.” (*Id.* at 17.) Plaintiffs alleged that “these words caused others to post videos

threatening [Carey], stating that he was terrible at his job,” and accordingly damaged Carey’s reputation. (*Id.*) Next, Plaintiffs took issue with lyrics from two songs performed by Defendant Kirk as DaBaby, one of which was a remix published on another artist’s album. (*Id.* at 5, 18.) Plaintiffs asserted that a song titled “Life Is Good” included the lyrics, “I can’t entertain all that flodgin, . . . I got fools try to sue up the boss . . . I got dudes trying to sue down in Florida.” (*Id.* at 18.) Plaintiffs argued that the use of the word “flodgin,” (which they contended means “lying”) was defamatory because Plaintiffs never lied. (*Id.*) Plaintiffs also asserted that a song titled “Talk About It” included the lyrics,

Court Days for the New Year . . . 20 on a lawyer, twenty seven thousand for a jet I never boarded . . . A rich n\*\*\*\* can’t rob a broke n\*\*\*\* and you know that, lock a n\*\*\*\* up in South Florida like Kodak, quarter million dollars in my [] tote bag, think I like to fight til a n\*\*\*\* get a toe tag.

(*Id.*) Plaintiffs alleged that these lyrics “defame Kenneth Carey by saying DaBaby and his assailants didn’t rob Kenneth, yet they did not rob him to gain money, but to humiliate him, deprive him of his phone and evidence and to deprive him of the resources he had at the time, out of pure evil intentions and their own gain.” (*Id.*) Plaintiffs stated that “Interscope and Universal helped sell the records and streams for the album *Blame It On Baby*,” which contained one of the songs at issue, but they do not reference Defendant BDBE’s role, despite adding BDBE to this count. (*Id.*) Finally, Plaintiffs alleged that Kirk posted “to DaBaby’s social media” a statement that “calls Plaintiffs Janky Promoters,” which Plaintiffs argued “is not an opinion but a *comment* on their work product as described by one of their prior important clients.” (*Id.* at 18–19 (emphasis added)). On this count alone, Plaintiffs sought “\$1.00 for every stream and every person that they were defamed and falsely accused by DaBaby,” and calculated that total to be 500 million people. (*Id.* at 19.) Plaintiffs also alleged that they were damaged by “los[ing] employment opportunities in the form of working with artists and other promoters,” and that “[i]t will take Carey and Anyadike

years to try to repair their reputation by doing excellent work and being excellent with their jobs and even still, some people may never hire them again.” (*Id.*) In total, Plaintiffs sought \$7,000,000.00 in “general damages” on this count, plus court costs and attorney’s fees. (*Id.*)

Seventh, Plaintiffs asserted a claim of intentional infliction of emotional distress against Defendants Kirk, BDBE, UMGI, Interscope, and “Co[-]conspirators” (Count VII). (*Id.* at 19–21.) Plaintiffs reiterated the allegation that Defendants have all implemented a “Marketing Plan and Scheme that includes attacking and hurting innocent people, mostly African Americans, for the purposes of gaining news coverage and notoriety for their financial gain and they have gained incredible amounts of influence and power from their illegal, criminal scheme.” (*Id.* at 20.) Plaintiffs then alleged that “[t]he conduct [] of Defendants was extreme and outrageous,” namely “punching Steve [Anyadike] and Kenneth [Carey], grabbing Kenneth [Carey], forcibly removing his pants as part of their signature attack and attempting to humiliate him, dragging him and pouring apple juice on him while taunting him and saying it looks like he peed himself.” (*Id.*) Plaintiffs alleged that “DaBaby and BDBE and Caldwell regularly release music threatening to kill people” and “Plaintiffs are exposed to these messages everywhere they go because DaBaby is on the radio, on tv, in shopping stores and all of the time, so the threat is a constant reminder to Plaintiffs.” (*Id.*) Plaintiffs sought \$300,000,000.00 in damages on this count, including “therapy expenses” and “mental distress,” plus court costs and attorney’s fees (*Id.* at 20–21.)

The final count asserted by Plaintiffs was a claim of civil theft against Defendants Kirk, BDBE, UMGI, Interscope, and “Co[-]conspirators” (Count VIII). (*Id.* at 21–23.) Plaintiffs alleged that “DaBaby, BDBE and the Co[-]conspirators stole \$80, credit cards and Kenneth [Carey’s] iphone 7.” (*Id.* at 21.) Plaintiffs described Carey’s phone as his “personal computer and lifeline to work with celebrity performers,” and alleged that the value of the information in his phone totaled

“\$100,000 at least.” (*Id.* at 22.) Plaintiffs alleged that “[w]hen [Carey’s] \$80 and his \$20,000 cash were taken from him, he did not have money to replace his phone and the phone was not backed up so he lost all of his information.” (*Id.* at 22.)

Plaintiffs also included a section titled “Destruction of Evidence as Criminal Conduct,” at the conclusion of the Amended Complaint. (*Id.* at 23.) The section was neither styled as background nor a substantive claim, and it is unclear whether it was meant to be considered alongside the civil theft claim. In this section, Plaintiffs alleged that “DaBaby and all of the other parties took the phone in order to destroy evidence,” which “is analogous to a professional criminal that breaks into the home would show little forced entry whereas a person lacking experience may just through [sic] a brick through glass and leave the evidence. Da[B]aby and Defendants are professional criminals that commit crimes and then try to cover them up in anyway they can.” (*Id.*)

Plaintiffs concluded their Amended Complaint with a “Summary” stating that they sought in excess of \$907,487,000.00 against Defendants—the majority of which are punitive damages. (*Id.* at 24.) Plaintiffs asserted that “[w]hile nearly one billion may be a lot of money to most people, it is only about 1/50th of Universal[’s] net worth,” and “[t]he punishment must be financially severe to put an end to the scheme of criminal behavior as indicated herein.” (*Id.*)

Plaintiffs attached thirty-seven exhibits to the Amended Complaint. (ECF No. 121-1.) These thirty-seven exhibits consisted of: ten screenshots of purported posts from the social media platform Instagram (one of which does not identify the posting account, one of which contains highlighted circles inserted by Plaintiffs over the faces of individuals, and one of which is a screenshot of a website “eurweb” showing what appears to be an Instagram post); eight screenshots of purported videos from the web platform YouTube (one of which was posted by the account “Real World Police,” one of which was posted by the account “How Rich Are They?” and six of

which do not identify the posting account); one screenshot of an unknown website purporting to show the “streaming activity of Da[B]aby and other top artists” which appears to be representative of the week ending on September 3, 2020, for an unknown reason, and contains highlights inserted by Plaintiffs; one graphic of a purported quote from an unknown source; and various other screenshots without sources. (*Id.*)

### **C. The Motions To Dismiss Filed By Defendants UMGI and Interscope**

Defendants UMGI and Interscope each filed a Motion to Dismiss the Amended Complaint, (ECF Nos. 123, 126.) Defendant UMGI argued that the Court lacked personal jurisdiction over it because it is a Delaware Corporation with a principal place of business in California, and has no ties to Florida, to Kirk, or to BDBE. (ECF No. 123 at 3.) UMGI noted that the Amended Complaint was devoid of any allegations to support personal jurisdiction over UMGI, and that UMGI was not even mentioned in the “Jurisdiction and Venue” section of the Amended Complaint. (*Id.* at 6.) Defendant UMGI also argued that the Amended Complaint failed to state a claim against it as the allegations were all conclusory. (*Id.* at 16.)

In response, Plaintiffs argued that the Court had personal jurisdiction over UMGI because it conducted substantial activity in Florida. (ECF No. 144 at 2.) Specifically, Plaintiffs stated UMGI “do[es] thousands of transactions of business in Florida everyday,” “[t]hey pretend to the Court that they think they don’t run businesses in Florida even though the same Universal Music Group says they run businesses through Florida through their labels and divisions and they have been involved in lawsuits against them in the same Southern District of Florida,” and “[t]hey had an interest in DaBaby’s recent shows at Rolling Loud in Miami, Florida in 2021 and West Palm Beach on Thanksgiving in 2021.” (*Id.* at 2, 5.) Plaintiffs cited no support (either legal or factual) for these propositions. Instead, Plaintiffs asked, “[i]s UMGI and UMGR going to deny that

Floridians, which the state of Florida which has over 20 million people that none of them download music or generate profit for UMG and all of their labels?” (*Id.* at 6.) Plaintiffs further argued that UMGI, Interscope, and non-party UMG Recordings, Inc. were all the same company because they “present themselves as a unity, not different entities,” by referencing one another on their respective websites, on YouTube, and on other “social media.” (*Id.* at 5–6.) Additionally, Plaintiffs stated that UMGI’s “agreement with Da[B]aby states that the agreement is valid throughout the Universe. Literally it says Universe. See agreement between UMGR/Interscope and DaBaby. Florida is in the Universe.” (*Id.* at 5.) Finally, Plaintiffs restated that UMGI must have conspired with Kirk, because it “ha[s]n’t stopped him from *doing criminal crimes*, [it] sell[s] his gangster persona and brand,” and it “contracted with him for a lot of money upon his violent actions.” (*Id.* at 2–3 (emphasis added)). Plaintiffs concluded by requesting that the Court deny UMGI’s Motion to Dismiss and “[i]f this Court is not so inclined,” requesting “that this Court grant [Plaintiffs] leave to amend either the Complaint or another remedy to satisfy this Court[’]s reasoning for granting their Motion to Dismiss.” (*Id.* at 12.)

Plaintiffs attached 17 pages of “exhibits” to their Opposition to UMGI’s Motion to Dismiss, although they did not reference any specific exhibits in their Opposition. (ECF No. 144-1.) The first two pages of these exhibits are screenshots of a website purporting to be [www.interscope.com](http://www.interscope.com), viewed on an unspecified date. (*Id.* at 1–2.) The third is a screenshot of a Google search, where a search was conducted for “univeral music group”—wherein Google shows results for “*universal music group*” instead of the inputted misspelling—and retrieving a result from [www.universalmusic.com](http://www.universalmusic.com) on an unspecified date. (*Id.* at 3.) The remaining exhibits include screenshots of videos and descriptions from YouTube, an article from the publication Rolling

Stone regarding an unrelated “Vault Fire Lawsuit,” and screenshots from unidentified websites. (*Id.* at 4–17.)

Defendant UMGI filed a Reply in Support of its Motion to Dismiss. (ECF No. 169.) As to personal jurisdiction, UMGI noted that Plaintiffs provided no support for their proposition that UMGI conducts any business in Florida. (*Id.* at 3.) As to the failure to state a claim, UMGI argued that “[w]hile Plaintiffs use the buzz words ‘conspiracy,’ ‘mastermind,’ ‘plan,’ and ‘scheme,’ the allegations are entirely conclusory” and rather than address their “pleading failures,” Plaintiffs made new allegations regarding the conspiracy that are nowhere to be found in the Amended Complaint. (*Id.* at 4.)

Defendant Interscope also filed a separate Motion to Dismiss. (ECF No. 126.) Defendant Interscope, through UMG Recordings, Inc., argued that it is not a legal entity, and therefore, could not be sued or served with process. (*Id.* at 2.) Interscope noted that its counsel notified Plaintiffs’ counsel Mr. May of this fact as early as April 2020, and Mr. May took no action to remedy the lack of service. (*Id.*)

Plaintiffs filed an Opposition to Interscope’s Motion to Dismiss. (ECF No. 145.) Plaintiffs argued that “Interscope was served with Process of Service [sic]” because “Interscope holds themselves out to be located at the same address that [UMGI] is located and both were served at that location. Interscope is owned by UMGI.” (*Id.* at 1.) Plaintiffs stated that this “multinational corporation” “pretend[s] to use legalities to confuse the Court, the public and avoid liability.” (*Id.*) Plaintiffs then, for the first time, asked the Court to “allow them to substitute UMG Recordings Inc. (UMGR) for Interscope, or to add UMG Recordings Inc. as a Defendant.” (*Id.* at 2.) Regardless of what entity they sued, however, Plaintiffs argued that “they were precise and concise with the fact that the mastermind behind the civil conspiracy was Lucian Grainge (CEO of UMG N.V.) and

John Janick of Interscope,” because “Lucian Grange presents himself as the most intelligent, smart CEO of the music industry, according to his own profile,” and “[w]ho is going to believe that the CEO of a multinational company was not aware of an agreement worth millions of dollars when singing [sic] Da[B]aby and that he was not be [sic] aware of the transaction or was not informed as to the transaction.” (*Id.* at 3.) Finally, Plaintiffs argued that “UMG is like an octopus, [t]hey are created in Delaware to not reveal who are the owners but at the same time they are a publicly traded company in Europe, largely owned by Vivendi,” and Plaintiffs “request[ed] that this court lift up the corporate veil and the legal maneuvers that the opposing counsel is trying to do to avoid the truth and liability.” (*Id.* at 6.) Although Plaintiffs cited to no exhibits in their Opposition to Interscope’s Motion to Dismiss, they attached the same 17 pages of exhibits that they attached to their Opposition to UMGI’s Motion to Dismiss. (ECF No. 145-1.)

Defendant Interscope filed a Reply in Support of their Motion to Dismiss. (ECF No. 168.) Interscope’s Reply simply stated that Plaintiffs’ Opposition was not responsive to the Motion to Dismiss at all. (*Id.* at 1.) Interscope asserted that it was never served, Plaintiffs provided no evidence to the contrary, and Plaintiffs “demonstrate[d] a fundamental lack of understanding of corporate law.” (*Id.* at 2–3.)

The Court granted both Motions to Dismiss on August 4, 2022. (ECF No. 272.) First, in granting UMGI’s Motion to Dismiss, the Court found that “the Amended Complaint is completely devoid of *any* jurisdictional allegations as to UMGI,” which “alone constitutes a failure to plead a *prima facie* case of personal jurisdiction and warrants dismissal of UMGI.” (*Id.* at 5 (emphasis in original)). Nevertheless, the Court analyzed the Amended Complaint as to both specific personal jurisdiction over UMGI under the Florida Long-Arm Statute (Sections



48.193(1)(a)(1) and (1)(a)(2)) and general personal jurisdiction over UMGI under the Florida Long-Arm Statute (Section 48.193(2)). (*Id.* at 6–7.)

As to Section 48.193 (1)(a)(1), which provides for specific personal jurisdiction over a non-resident defendant “[o]perating, conducting, engaging in, or carrying on a business or business venture in [Florida] or having an office or agency in [Florida],” the Court found that Plaintiffs “fail to present any evidence whatsoever to substantiate these contentions and thus fail to meet their burden.” (*Id.* at 7.) The Court further stated that “Plaintiffs’ unsubstantiated contention that UMGI has been sued in the Southern District of Florida in 2012 and was subject to the Court’s personal jurisdiction does nothing to salvage their allegations. [] Even if this could be considered a factor in the determination of specific personal jurisdiction, Plaintiffs’ representations to the Court are not only misleading, but incorrect,” as “the district court never ruled on whether it had personal jurisdiction over UMGI,” and “Plaintiffs appear to ignore the glaring fact that UMG Recordings, Inc. is a separate and distinct legal entity.” (*Id.* at 7–8.) Finally, the Court stated that “Plaintiffs’ allegations in their Amended Complaint that they will demonstrate jurisdiction ‘through depositions and cross examination under oath during the trial[,]’ (Am. Compl. ¶ 34), are inappropriate, as they are required to substantiate their jurisdictional allegations with competent evidence at the dismissal stage, not later.” (*Id.* at 7.)

As to Section 48.193 (1)(a)(2), which, as relevant herein, provides for specific personal jurisdiction over a non-resident defendant conspirator, the Court noted that “Plaintiffs once again fail to meet their burden of establishing personal jurisdiction based on conspiracy because they have alleged nothing that clearly connects UMGI to a conspiracy made or carried out in Florida,” and “[t]he Amended Complaint is simply devoid of any allegations connecting UMGI to the physical altercation between Kirk and Carey.” (*Id.* at 8, 10.) Accordingly, the Court found that

“Plaintiffs’ speculative conspiracy allegations leap much too far and cannot form the basis for personal jurisdiction.” (*Id.*)

The Court also found that UMGI was not subject to general personal jurisdiction under Section (2) of the Florida Long-Arm Statute and stated that “Plaintiffs provide no evidence—affidavits or other competent proof—apart from their conclusory arguments in their response to UMGI’s Motion to rebut” the sworn declaration of Sheryl Gold, an officer of UMGI, which was attached to UMGI’s Motion to Dismiss. (*Id.* at 12.) Additionally, the Court denied Plaintiffs’ request to further amend the Amended Complaint, stating,

[a]t the very least, Plaintiffs have known of the deficiencies in their complaint since September 2021, when UMGI raised the same arguments it now raises in the instant Motion [to Dismiss]. (*See* ECF No. 87). Instead of curing these deficiencies, Plaintiffs chose to sit idle and wait months after the deadline to amend the complaint had passed to request permission to amend the complaint again. The Court will not condone this conduct.”

(*Id.* at 13.)

In granting Interscope’s Motion to Dismiss, the Court stated, “since the inception of this case, UMGR/Interscope has maintained its position that Interscope Records is a non-judicial entity which has not been properly served pursuant to the Federal Rules of Civil Procedure . . . yet Plaintiffs have turned a blind eye.” (*Id.* at 14.) The Court added that “Plaintiffs’ undue delay and repeated failures to cure deficiencies in this action will no longer be tolerated,” and denied Plaintiffs’ request to further amend the Amended Complaint. (*Id.*)

#### **D. The Motions to Dismiss and for Summary Judgment Filed By Defendants Kirk and BDBE**

Kirk and BDBE also filed a joint Motion to Dismiss the Amended Complaint, (ECF No. 127), and a joint Motion for Summary Judgment, (ECF No. 151). In their Motion to Dismiss, Kirk and BDBE argued that the Amended Complaint was a “shotgun pleading” that failed to state a claim against them. (ECF No. 127 at 5–11.) Kirk and BDBE specifically took issue with Plaintiffs’

recurrent use of “Plaintiffs” and “Defendants,” attributing all conduct to all Defendants. (*Id.* at 7–8.) As to each count, Kirk and BDBE argued: (1) Count IV for promissory estoppel must fail as to Plaintiff Anyadike because there was undisputedly a written agreement between Anyadike and Kirk; (2) Count V for civil conspiracy must fail as a matter of law because the intra-corporate conspiracy doctrine bars a conspiracy claim against a corporation and its own agents or employees; (3) Count VIII for civil theft must fail as to Anyadike because he did not serve a statutory pre-suit demand as required; and (4) seven of the eight counts improperly sought attorneys’ fees with no contractual or statutory basis. (*Id.* at 8–11.)

Plaintiffs filed an Opposition to Kirk and BDBE’s Motion to Dismiss. (ECF No. 146.) Therein, Plaintiffs argued that the Amended Complaint was not a shotgun pleading because “Plaintiff uses the term Plaintiffs to refer to both Plaintiffs and would specify an individual Plaintiff when necessary,” and “Defendants plural could mean all of the Defendants or a portion of the Defendants and requires the context of the description to determine and distinguish between the two.” (*Id.* at 1.) As to promissory estoppel, Plaintiffs asserted that the claim “includes both Anyadike and Kirk because the two men were partners with regards to this deal and both parties relied upon the promises and representations made by [BDBE’s] agent Kinsza Virgil.” (*Id.* at 1–2.) Plaintiffs then “request[ed] from this Court to add Defendant Universal Music Group Recordings, as Plaintiffs would like to involve all potentially liable Defendants with this suit.” (*Id.* at 2.) In response to the intra-corporate conspiracy doctrine argument, Plaintiffs stated that they “disagree and argue that they do not allege an int[r]acorporate conspiracy,” because “[w]hile Jonathan Kirk owns [BDBE], he had Kinsza Virgil running the company as president.” (*Id.*) Plaintiffs cited no authority as to why that would not constitute an intra-corporate conspiracy. As to civil theft, Plaintiffs stated that “Anyadike was not beaten down and had his phone, cards and

money taken like Kenneth Carey, yet Steve Anyadike did tender payment to DaBaby for services and did not receive his tender for payment back from Jonathan Kirk.” (*Id.* at 2–3.) Plaintiffs admitted that Anyadike “did not tender a letter separate from Kenneth Carey” and did not cite any authority to support why that statutory requirement should be excused. (*Id.* at 3.) Plaintiffs stated that they “don’t dispute that attorneys[’] fees are not available for Counts 1[–]7,” and requested the “ability to amend the complaint to comply with this Court[’]s findings” if the Motion to Dismiss was granted. (*Id.*)

Kirk and BDBE filed a Reply in Support of their Motion to Dismiss, noting that “Plaintiffs’ three-page Response fails to address most of the BDBE Defendants’ arguments, fails to cite *any* case law, and makes no attempt to explain why the case law cited by the BDBE Defendants does not control.” (ECF No. 170 at 1 (emphasis in original)). Kirk and BDBE further argued that Plaintiffs “should not be permitted to benefit from their shotgun pleading simply because this case is in its late stages and set for trial,” because “Plaintiffs caused this predicament—they filed the Amended Complaint on November 19, 2021—the last day their amendment was allowed, as extended by the Court,” and “Plaintiffs’ repeated failure to comply with the Federal Rules of Civil Procedure and Local Rules caused Plaintiffs’ delay getting their Amended Complaint on file.” (*Id.* at 4–5.)

Before the Motion to Dismiss was fully briefed, Kirk and BDBE filed a joint Motion for Summary Judgment. (ECF No. 151.) BDBE moved for summary judgment against both Plaintiffs on all seven counts of the Amended Complaint against it, and Kirk moved for summary judgment against both Plaintiffs on all counts except Count I (breach of contract by Anyadike only), Count II (assault), and Count III (battery). (*Id.*) Kirk and BDBE filed a Statement of Material Facts in support of their Motion for Summary Judgment, containing citations to the record and exhibits

attached thereto. (ECF No. 152.) Kirk and BDBE also filed additional Exhibits in Support of their Motion for Summary Judgment, including declarations and deposition transcripts. (ECF No. 153.)

Plaintiffs filed an Opposition to Kirk and BDBE's Motion for Summary Judgment. (ECF No. 174.) Throughout the Opposition, Plaintiffs stated that they "dispute" statements, but provided no support for their arguments. (*Id.* at 1, 4.) For example, as to the conspiracy, Plaintiffs stated that "[t]he evidence is not uncontroverted that a conspiracy didn't exist," but "[r]ather, there is about every possible circumstantial evidence available other than a recording of them agreeing or them agreeing on paper," yet Plaintiffs pointed to no such evidence in the record. (*Id.* at 3.) Plaintiffs did, however, point vaguely to "TMZ and many of [sic] media sources" as evidence that Kirk had committed unrelated violent acts before and after the events at issue. (*Id.* at 3.) Plaintiffs analogized their situation to "[a] grocery store that is robbed[, which] does not know that the robber and the getaway driver agreed to what happened before, but their actions and the consequences show their conspiracy," and to "a racism/discrimination case," where "[p]eople know it is wrong so they don't admit to it[.] [y]et the courts allow recovery based on disparate impact, essentially, the consequences and facts of the situation show whether they were bad actors or not." (*Id.* at 2–4.) Plaintiffs then characterized the altercation as Kirk "pulling [Carey's] pants and underwear down in front of potentially hundreds of millions of people, *sexually battered* him and could have killed him in *attempted murder* that wasn't successful," and claimed that they were entitled to damages for intentional infliction of emotional distress, with no citations to the record or case law. (*Id.* at 6 (emphasis added)). Plaintiffs then changed the narrative of their civil theft claim, stating that "Carey doesn't asse[r]t that Defendants took his credit cards but asserts that they did deprive him of his credit cards when they took the cards out of his pockets without his permission." (*Id.* at 7.) Plaintiffs concluded with a three-page long quotation from a case regarding vicarious liability, and

a “request” that “all of Defendants Motions for Summary Judgment are denied,” although this Opposition was directed only at Kirk and BDBE’s Motion for Summary Judgment. (*Id.* at 8–10.)

Plaintiffs also filed an Opposition to Kirk and BDBE’s Statement of Material Facts. (ECF No. 176.) While Plaintiffs stated that facts were “disputed” throughout (*e.g.*, “9 – Disputed”), they provided no citations to the record. (*Id.*) Most notably, Plaintiffs responded to one statement regarding the conspiracy with, “[t]here is an admission of Cam Caldwell that the parties conspired. There is proof that DaBaby made shirts about the Cam Caldwell incident glorifying himself. There is an admission from Jonathan Kirk that violence helps sales when speaking about signing with Interscope. There is proof that the parties make money together . . .” (*Id.* at 3.) Again, Plaintiff provided no citation for the “proof.”

Kirk and BDBE moved to strike Plaintiffs’ Opposition to their Statement of Material Facts, arguing that it failed to comply with the Local Rules because it contained no record citations. (ECF No. 184.) Plaintiffs responded to the Motion to Strike by “provid[ing] their best citations herein with the hopes that this Court will consider the same,” and stated that they “have attempted to gain compliance with the local rules as best they can, being as specific as they can.” (ECF No. 208 at 1.) The Court struck both Plaintiffs’ Opposition to Kirk and BDBE’s Motion for Summary Judgment and Plaintiffs’ Opposition to Kirk and BDBE’s Statement of Material Facts for failure to follow the Local Rules. (ECF No. 232.) In doing so, the Court found that

[t]his is not the first time Plaintiffs fail to comply with the Rules and the Court has repeatedly warned them that their actions will no longer be tolerated. (*See, e.g.*, ECF No. 96, 143). The Court warns Plaintiffs, as it has previously done on many occasions, that continued violations of the Federal Rules of Civil Procedure and the Local Rules will result in appropriate sanctions.

(*Id.* at 1.) The Court allowed Plaintiffs to file revised Oppositions within a week, and Plaintiffs complied. (*See* ECF No. 239.)

While Kirk and BDBE's Motion for Summary Judgment was pending, Plaintiffs filed their own Motion for Summary Judgment against Kirk, and another against BDBE. (ECF Nos. 157, 159.) First, Plaintiffs moved for summary judgment on all eight counts against Kirk. (ECF No. 157.) Throughout the Motion, Plaintiffs cited "Undisputed Facts" as authority, with no references to the docket or any other document. (*Id.*) Plaintiffs also repeatedly cited to the Amended Complaint as "undisputed evidence" of multiple propositions. (*Id.*)

On Count I (breach of contract), Plaintiffs cited the Amended Complaint as existence of the contract and argued, "Jonathan Kirk admits to not appearing for the event as he had agreed to do so. See Undisputed Facts by Defendant." (*Id.* at 2–3.) On Counts II and III (assault and battery), Plaintiffs argued that Kirk committed assault and battery when he "struck Steve Anyadike intentionally," citing only Anyadike's own affidavit, and when he "poured apple juice on Kenneth Carey while telling him that it looked like he peed on himself," and "struck Kenneth Carey on the ground," citing only Carey's own affidavit. (*Id.* at 4.) Plaintiffs further accused Kirk of "commit[ing] perjury in proceedings when he responded to his interrogatories that he didn't know any of the men identified on instagram," who Plaintiffs allege are co-conspirators. (*Id.* at 5.) On Count IV (promissory estoppel), Plaintiffs argued that "the parties had an agreement via an offer, acceptance and consideration. See Undisputed Facts," and "[y]et, if this Court does not accept that there was an agreement/contract then Plaintiffs seek together and/or separately a remedy with promissory estoppel." (*Id.* at 6–7.) On Count V (civil conspiracy), Plaintiffs made several unsupported statements including "Kirk conspired with his friends that attacked Kenneth Carey," "Kirk [c]onspired as well with Billion Dollar Baby Entertainment LLC, Interscope/UMGR and UMGI to make money from violent acts by receiving boosts in the media which would boost his brand awareness, social media following and sales," and "[t]here is a video of an artist that got in

a violent fight with DaBaby named Cam Coldheart. See evidentiary video and transcript.” (*Id.* at 7–8.) On Count VI (defamation), Plaintiffs stated, “Plaintiffs both believes [sic] these lyrics are about them and are a great threat against my [sic] life,” and cited the “Music Recording of Talk About It on the album Blame It On Baby” for evidence of the song lyrics at issue. (*Id.* at 13.) On Count VII (intentional infliction of emotional distress), Plaintiffs argued that “[t]he conduct [] of Defendants was extreme and outrageous,” referring to the altercation with Kirk; cited to Carey’s affidavit for details of the altercation; stated “[a]dditionally, Kirk admits to striking Steve. Undisputed Fact”; and cited one line of Kirk’s deposition wherein Kirk states that he thought his thumb was broken but that he had also broken it the year prior. (*Id.* at 14–15.) On Count VIII (civil theft), Plaintiffs cited “TMZ Video and testimony of Kenneth Carey” and the Amended Complaint for support that Kirk committed civil theft by removing “cash/dollars, credit cards and phone out of Kenneth Carey[’]s pockets,” but not actually taking anything from him. (*Id.* at 15.)

Plaintiffs also moved for summary judgment on all seven counts against BDBE. (ECF No. 159.) Plaintiffs began by stating “Billion Dollar Baby Entertainment LLC (BDBE) is involved as a co[-]conspirator based on the following evidence.” (*Id.* at 2.) Plaintiffs then quoted large portions of Kinsza Virgil’s deposition (a former employee of BDBE), without any argument therein, and concluded, “[t]hus, BDBE was run by a President who assisted him with Kirk’s plans [to] attack Kenneth Carey and Steve Anyadike.” (*Id.* at 2–3.) Plaintiffs additionally included multiple unsupported statements that each Plaintiff “attest[ed] to,” followed by a request that the Court “[c]onsider the following in conjunction with each other,” and another list of unsupported statements (with only two citations: “See Video of Court Proceeding” and “Prospectus”). (*Id.* at 4–7.) On each count, Plaintiffs largely reiterated their arguments from the Motion for Summary Judgment against Kirk verbatim and added few statements relating to BDBE. (*Id.* at 7–16.) For



instance, Plaintiffs argued that “BDBE is a corporate legal maneuver that DaBaby uses to pay conspirators because all of them use necklaces/chains with BDBE and BDBE would arrange for their travel and other benefits for the conspirators,” citing the deposition of Kinsza Virgil, which did not say anything to that effect. (*Id.* at 14.) Additionally, Plaintiffs stated, with no support, “BDBE assisted in setting up the show for DaBaby by writing the half page agreement to lure in promoters Anyadike and Carey.” (*Id.* at 15.)

Plaintiffs filed one Statement of Material Facts to support his two Motions for Summary Judgment against Kirk and BDBE.<sup>5</sup> (ECF No. 160.) Plaintiffs stated, “Steve Anyadike testified to the following,” with statements that were neither quoted nor cited, and “Kenneth Carey testified to the following,” with statements that were neither quoted nor cited. (*Id.* at 1–4.) Plaintiffs cited to “[t]he transcript of the video [] attached as Exhibit 2,” to support non-party Cam Coldheart’s purported statements about an unrelated altercation, although there is no Exhibit 2 to the Statement of Material Facts. (*Id.* at 4–6.) Plaintiffs also cited to “Video of Interview and Transcript on Page 24, Line 5,” filed in an unspecified location, as support for statements attributed to Kirk on a “Breakfast Club radio show” regarding an unrelated altercation. (*Id.* at 6.) The remainder of Plaintiffs’ Statement of Material Facts vaguely cited deposition testimony, restated arguments that cannot be considered facts, and again accused Kirk of “commit[ing] perjury in proceedings when he responded to his interrogatories that he didn’t know any of the men identified on instagram”. (*Id.* at 9.) Plaintiffs then filed a separate “Notice of Filing Exhibits,” (ECF No. 161), with no case caption or explanation of what the exhibits related to—which was promptly stricken by order of the Clerk for failure to follow the Local Rules. (ECF No. 164.)

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<sup>5</sup> Plaintiffs’ Statement of Material Facts was also directed at Plaintiffs’ Motion for Summary Judgment against Defendant UMGI, (ECF No. 158), which was denied as moot when UMGI was dismissed from the action.

Defendants Kirk and BDBE filed a joint Opposition to Plaintiffs' Motions for Summary Judgment against them, stating that "[b]ecause both motions raise substantially the same arguments, the BDBE Defendants are filing this single memorandum in opposition, for efficiency's sake." (ECF No. 190 at 1.) Kirk and BDBE first noted that "Plaintiffs' Motion[s] fail[] to comply with Local Rule 56.1," because "Plaintiffs' Statement of Material Facts (ECF No. 160) fails in many instances to cite to any record evidence or to specific pages." (*Id.* at 2.) Kirk and BDBE then discussed each count in depth and outlined the outstanding disputes of material fact therein, arguing that summary judgment was not proper on any count and Plaintiffs' Motions should be denied. (*Id.* at 2–23.)

Plaintiffs filed one Reply in support of both of their Motions for Summary Judgment against Kirk and BDBE. (ECF No. 202.) Therein, Plaintiffs re-stated their original arguments, with little to no support from the record or other authorities. (*Id.*) Notably, Plaintiffs posed questions and promptly answered the same, including, "What if the co[-]conspirators were to tell him no when he asks them to do something? He can withdraw their benefits of traveling with him and being with him," and "Did they want to attack Kenneth Carey? They had no business or knowledge of Kenneth Carey. They risked their safety, criminal record and more just to appease and make DaBaby happy when he wanted to attack and embarrass Kenneth Carey." (*Id.* at 6.) Finally, Plaintiffs stated, "Plaintiffs tried to submit the videos to this Court earlier[,] but their Notice of Filing was denied and they had to submit the Motion instead of the Notice and then deliver it." (*Id.*)

The Court issued an Omnibus Order on September 2, 2022, ruling on the three Motions for Summary Judgment and denying Kirk and BDBE's Motion to Dismiss as moot. (ECF No. 279.) The Court granted summary judgment for BDBE on all seven counts against it; granted summary

judgment for Defendant Kirk on Count I (breach of contract by Carey), Count IV (promissory estoppel), Count V (civil conspiracy), Count VI (defamation), Count VII (intentional infliction of emotional distress), and Count VIII (civil theft); and granted summary judgment for Plaintiff Anyadike on Counts II and III (assault and battery) only. (*Id.*)

As to Count I (breach of contract) by Carey, the Court held that summary judgment was proper because Carey was not a party to the performance agreement. (*Id.* at 9–11.) The Court noted that because “Plaintiffs cannot raise a new legal claim for the first time in response to a summary judgment,” it would not consider the argument that Carey was a third-party beneficiary to the agreement. (*Id.* at 10.) As to Count IV (promissory estoppel), the Court held that the claim failed as to Anyadike because there was an express contract and failed as to Carey because “there [was] no evidence that Kirk made any promises to Carey.” (*Id.* at 16–17.) The Court again noted that “Plaintiffs argue, once again for the first time in their Motion, that this claim is being pled in the alternative and should therefore survive,” but did not consider that argument. (*Id.* at 16.) The Court further noted that “Plaintiffs’ response to the motion for summary judgment is not evidence, and Plaintiffs have failed to cite to particular parts of materials on the record to support their contentions, even after being given a second chance to do so.” (*Id.* at 17.) As to Count V (civil conspiracy), the Court held that the claim failed and noted that “Plaintiffs point[ed] to *no other evidence* on the record,” to show that “Defendants had an agreement between them to commit an unlawful act,” apart from a YouTube video that the Court declined to consider. (*Id.* at 19 (emphasis added)). As to Count VI (defamation), the Court found that “Plaintiffs’ position [] implies that extrinsic facts are necessary to establish that the statements made in the Instagram post are defamatory,” and thus could not constitute defamation *per se*. (*Id.* at 22.) The Court also found that “[b]ecause Plaintiffs have failed to present evidence of actual, out of pocket losses they

incurred as a result of the allegedly defamatory statements made against them,” their claims for defamation *per quod* must also fail. (*Id.* at 24.) As to Count VII (intentional infliction of emotional distress), the Court “agree[d] with Kirk that Plaintiffs’ claims ‘boil down to garden variety battery claims, with no serious injuries even alleged,’” and thus did not constitute intentional infliction of emotional distress. (*Id.* at 25.) Finally, as to Count VIII (civil theft), the Court found that “Carey’s claim for civil theft also fails because there is simply no evidence of Carey’s damages,” and “[b]ecause Plaintiffs’ positions rest upon mere allegations and speculation, [] there is no genuine issue of material fact.” (*Id.* at 27–28.)

In the Omnibus Order, the District Court also denied Plaintiffs’ Motion for Reconsideration of the Court’s Order denying Plaintiffs’ motions to submit new evidence in support of their motion for summary judgment, (ECF No. 246), reminding Plaintiffs “*once again* that a motion for reconsideration *must not* be used to ask the Court to rethink what the Court has already thought through.” (*Id.* at 7 (emphasis in original)). The Court also noted that Plaintiffs’ Opposition to Kirk and BDBE’s Motion for Summary Judgment had been stricken for failure to comply with the Local Rules. (*Id.* at 18–19 n.1.)

When the Court struck Plaintiffs’ original response, it was to provide Plaintiffs with an opportunity to *correct* their filings and provide specific citations to record material, nothing more. This Order did not give Plaintiffs *carte blanche* to reformulate their arguments after having the benefit of Defendants’ reply, and of additional filings on the docket. This conduct, along with Plaintiffs’ pattern of violations of this Court’s orders and the Rules, has not gone unnoticed.

(*Id.*)

In short, the only claims that remained for trial consisted of: Plaintiff Anyadike’s breach of contract claim against Defendant Kirk (Count I), and because the Court granted summary judgment for Plaintiff Anyadike on his assault and battery claims against Defendant Kirk (Counts II and III), a determination of damages on those two claims; Plaintiff Carey’s assault and battery

claims against Defendant Kirk (Counts II and III); and Defendant Kirk's two counterclaims against Plaintiffs for common law invasion of privacy and unauthorized use of name or likeness, which were not at issue in the Motions for Summary Judgment. (*See id.*)

#### **E. Other Pre-Trial Conduct**

Mr. May's conduct with respect to several pre-trial issues merits discussion in the context of the instant Motions. First, Plaintiffs moved for an extension of the discovery and dispositive motion deadlines, notably only three days before the deadlines which had already once been extended, without any reasonable explanation for doing so. (ECF No. 125.) Instead, Plaintiffs argued that an extension was proper because they "struggled to find appropriate experts," including therapists who "weren't available, were on sabbatical or only saw women in distress" and that "[t]he first attempted therapist Mr. Carey worked with, turned out to not be a licensed therapist when they were sought to be verified by Defendant[s'] counsel." (*Id.* at 2.) Plaintiffs then argued that Defendants did not cooperate with the discovery process, essentially framing the remainder of the motion as a motion to compel generalized discovery without any reference to a specific discovery matter or request. (*Id.* at 3–9.) Plaintiffs argued that "documents avoided show proof of premeditation. If it was not premeditated, then why did the attackers cover their head with hoods?" (*Id.* at 5.) The Court granted a brief extension of the deadlines "only for the purposes of taking the previously scheduled depositions." (ECF No. 136.) Despite their representations with respect to Defendants' discovery responses, Plaintiffs never sought to compel any discovery from Defendants, although the Court explicitly directed them to do so. (*See* ECF No. 100 ("Plaintiff shall notice its Motion for hearing on the Court's next available discovery calendar, pursuant to the undersigned's Discovery Procedures, available at <https://www.flsd.uscourts.gov/content/judge-jacqueline-becerra>.")).

Second, following the Court's brief extension of the discovery and dispositive motion deadlines, Plaintiffs filed a Motion for Reconsideration, under seal, without leave of Court to do so. (ECF No. 140.) Therein, Plaintiffs argued that they discovered "new evidence," consisting of two YouTube videos of a non-party, who Plaintiffs represented had died approximately eight months earlier, speaking about an unrelated altercation. (*Id.* at 3.) The Court struck the filing for violation of the Local Rules, warning that "Plaintiffs' continued noncompliance with this Court's orders and the Rules **will result in appropriate sanctions.**" (ECF No. 143 at 1 (emphasis in original)). Filing motions for reconsideration when Plaintiffs received an unfavorable result was somewhat commonplace, as Plaintiffs filed *four* motions for reconsideration of the Court's Orders, and each was denied or stricken. (*See* ECF Nos. 140, 163, 246, 277.)

Third, although Plaintiffs moved for extensions of time throughout the action, they opposed Defendants' Verified Joint Motion for Brief Continuance of Trial, (ECF No. 224). (ECF No. 226.) Plaintiffs' Opposition stated, "[w]e oppose to [*sic*] any dilatory extension that is trying to freeze the case and we believe the delays are due to recent violent incidents performed by the Defendants." (*Id.* at 1.) Plaintiffs further argued:

[I]mposing the rule of law cannot depend upon external necessities of family that has nothing to do with the attacks that DaBaby performed against Plaintiffs . . . What if, for extending the trial, DaBaby kills another person and goes to jail. He won't be able to take responsibility for these Court proceedings. Or what if DaBaby, according to his last posting, decides to shoot again but shoots himself . . . [T]hey are trying to freeze the case and avoid trial because the Academy recently banned Will Smith for 10 years for smacking Chris Rock in the face and the public opinion of America has a revival. So their strategy is to avoid court. [] If something happens with the war in Europe or any future event happens that can mitigate an action in which the Defendant punch kick or assault or jump or knock to the ground or almost killed [*sic*] based on their entertainment counseling wishes and desires. [] The opposing counsel, that wants to travel, should teach their families that the rule of law and the Court rulings are above individual necessity because they have been set up to protect justice and to serve a higher purpose, which is equal treatment under the law.

(*Id.* at 1–3.) Notably, Plaintiffs moved for continuance of the Rule 11 Hearing for personal reasons after they filed this Opposition. (ECF No. 345.)

Fourth, the Court repeatedly struck and denied Plaintiffs’ motions and accompanying “notices” for failure to follow the Local Rules and Court Orders, giving repeated and clear admonitions that the conduct would not be condoned. For instance, the Court denied Plaintiff Carey’s Motion to Add Plaintiff Steve Anyadike, (ECF No. 45), because “[t]he Motion fails to comply with the Local Rules,” and “Plaintiff fails to provide any authority, or even sufficient facts for the Court to assess the merits of his request.” (ECF No. 63 at 1.) The Court denied Plaintiff’s Motion to Add Punitive Damages, (ECF No. 70), for failure to comply with the Local Rules requiring that “fonts for typewritten filings must not be smaller than 12-point.” (ECF No. 71.) Plaintiff Carey filed a Response to that Order, arguing that there are no restrictions on the font style, and that his font was 13-point. (ECF No. 75.) The Court entered a second Order, “advis[ing] the parties that all filings must be in **Times New Roman, 12-point font and shall strictly comply with the Local Rules.**” (ECF No. 77 (emphasis in original)). The Court struck Plaintiff Carey’s Rule 26(a) Disclosures and Witness List, (ECF Nos. 72, 73), “for failure to comply with the Local Rules of the Southern District of Florida and this Court’s Scheduling Order,” adding “[t]he Court admonishes the parties of their responsibility to comply with the Local Rules of the Southern District of Florida . . . Going forward, the parties must strictly follow the local rules.” (ECF No. 74.)

The Court denied three of Plaintiff Carey’s motions—Plaintiff’s Motion for Leave to Amend Complaint Filed Jointly but Separately in Conjunction with a Motion to Add Punitive Damages, (ECF No. 68), Plaintiff’s Second Motion to Add Plaintiff Steve Anyadike, (ECF No. 69), and Plaintiff’s Motion to Add Punitive Damages, (ECF No. 80)—and stated that

[t]he Court is troubled by Plaintiff's continued attempts to circumvent the Local Rules . . . Plaintiff is well aware that these three motions should only be filed as *one* motion. Plaintiff is either trying to bypass the page limitation set forth in the Local Rules, or he is engaging in piecemeal litigation. Neither are acceptable in this Court. The Court has repeatedly admonished Plaintiff for failing to comply with the rules and this Court's orders, and further violations or attempts to circumvent the rules will not be tolerated.

(ECF No. 81 at 1–2.) The Court struck Plaintiff Carey's Reply In Support of his Motion to Amend the Complaint, (ECF No. 93), and stated:

Once again, the Court finds itself admonishing Plaintiff for his failure to comply with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of Florida . . . Plaintiff filed his reply without seeking an extension from this Court or explaining why his filing was delayed. (ECF No. 95). Plaintiff has continuously failed to comply with the rules of this Court since the inception of this case. Both the undersigned and Magistrate Judge Becerra have reminded Plaintiff that he must strictly comply with the Court's Orders, the Federal Rules of Civil Procedure[], the Local Rules of the Southern District of Florida, and Judge Becerra's Discovery Procedure. (*See, e.g.*, ECF Nos. 49, 50, 71, 74, 81). Plaintiff, however, has shown a pattern of disregard for the rules despite the Court's warnings. The only reasonable conclusion at this point is that Plaintiff is deliberately disregarding the rules. While the Court hesitates to penalize the plaintiff for the transgressions of his lawyer, it finds no other alternative than to strike the reply . . . Plaintiff is forewarned that further violations of the Court's Orders and the Rules will no longer be tolerated and may result in dismissal of this action. The Court has given Plaintiff numerous warnings, yet Plaintiff—or his counsel, or both—continue to deliberately ignore them.

(ECF No. 96 at 1–2.) The Court struck two of Plaintiffs' Oppositions to Motions for Summary Judgment and two of Plaintiffs' Oppositions to Defendants' Statements of Material Facts, (ECF Nos. 173–76), and stated,

Plaintiffs' statements of material facts are wholly devoid of any record citations and supporting documentation . . . This is not the first time Plaintiffs fail to comply with the Rules and the Court has repeatedly warned them that their actions will no longer be tolerated. (*See, e.g.*, ECF No. 96, 143). The Court warns Plaintiffs, as it has previously done on many occasions, that continued violations of the Federal Rules of Civil Procedure and the Local Rules will result in appropriate sanctions.

(ECF No. 232 at 1.)



Finally, Plaintiffs submitted *fourteen* filings past their respective deadlines, often due to vague “CM/ECF errors” or with no explanation at all. *See* ECF Nos. [23] (Certificate of Interested Parties filed 5 days after the deadline); [24] (Opposition to Defendant Caldwell’s Motion to Compel Arbitration filed 6 days after deadline, asserting that “[c]ounsel for Plaintiff was sick and faced CM ECF technical account errors,” though he did not move for an extension); [36] (Second Certificate of Interested Parties filed 39 days after the deadline); [38] (Third Certificate of Interested Parties filed 41 days after the deadline); [52] (Performance Agreement filed one day after the deadline, after the Court issued an Order to Show Cause, to which Plaintiff Carey replied, “Plaintiff’s counsel was in Mexico” and “Plaintiff’s counsel tried to submit the document to the Federal Filing System CM/ECF, however, because of the design of the system, Plaintiff could not access the system,” though he did not move for an extension); [92] (Reply in Support of Motion to Amend filed 7 days after deadline); [198] (Motion in Limine filed one day after the deadline); [218] (Motion to Submit Unconventional Filing of Evidentiary Videos to the Clerk for Support of Plaintiffs’ Motions for Summary Judgment and Other Court Considerations filed 30 days after the deadline for motions in limine); [225] (Opposition to the First Rule 11 Sanctions Motion, one of the *instant Motions*, filed 19 days after the deadline); [229] (Third Motion to Submit to this Court Terrifying, Newly Discovered Video, Articles and Photo Evidence filed 104 days after the deadline for motions in limine); [233] (Fourth Motion to Add New Evidence filed 122 days after the deadline for motions in limine); [251] (Proposed Voir Dire Questions filed 5 days after the deadline); [257] (Notice of Filing Joint Verdict Form for All Parties, which was not actually agreed to by the Defendants as Plaintiffs represented, filed 6 days after the deadline); [276] (Opposition to Defendants’ Motion to Preclude Kenneth Carey from Seeking Emotional Damages at Trial filed *6 months* after the deadline, after the Court issued an Order to Show Cause, to which Plaintiff

Carey replied, “Plaintiff misread this notice and thought that Defendants were required to refile their Motion rather than not refile. Furthermore, Plaintiffs intended to respond to the Motion when refiled and thought that they had responded to the Motion”).

#### **F. Compliance With the Scheduling Order**

The Court’s Scheduling Order set clear directives and deadlines for the Parties to follow in their pre-trial proceedings. (ECF No. 13.) For example, the Court ordered the Parties to submit “a **SINGLE JOINT** set of proposed jury instructions and a joint proposed verdict form in accordance with the deadlines set forth below,” which were subsequently extended due to the continuance of trial. (ECF No. 13 at 2 (emphasis in original)). Defendants, however, filed a unilateral set of proposed jury instructions, noting that “Defendants’ counsel is mindful that the Court’s Order requires all parties to file one joint submission. However, Plaintiffs’ counsel, Jonathan May, Esq., has not yet sent Defendants’ counsel any comments to Defendants’ proposed instructions, which Defendants sent” five days prior. (ECF No. 248 at 1–2.) Thereafter, Mr. May filed a “Notice of Filing Joint Verdict Form for All Parties” with the representation that Plaintiffs’ email submission to the Court represented a joint verdict form, agreed to by all Parties (including, at the time, Defendants BDBE, UMGI, Interscope, and Kirk). (ECF No. 257.) Defendants jointly moved to strike Plaintiffs’ Notice and email submission, stating that the form “was never agreed to by Defendants’ counsel.” (ECF No. 267.) The Court granted the Motion to Strike, noting that “it is apparent to the Court that Plaintiffs’ counsel exhibited an incredible lack of diligence and professionalism” and that “[t]he Court is concerned about Plaintiffs’ and their counsel’s continued unwillingness to abide by the rules and this Court[’s] orders.” (ECF No. 275 at 1.) The Court deferred ruling on Defendants’ request for attorneys’ fees incurred in connection with the motion to strike, a request that Defendant Kirk has now renewed within the instant 1927 Sanctions Motion. (ECF No. 341.)

Plaintiffs, through Mr. May, also submitted two nearly identical sets of proposed *voir dire* questions to the Court. (See ECF Nos. 251, 311.) Among the questions submitted, Plaintiffs proposed the following questions which were clearly inappropriate:

7. Do you play fortnight? [sic]
8. Do you like UFC fighting?
9. Do you like boxing matches?
10. Do you like Mike Tyson?
11. Do you like Mohammed Ali[?]
- [. . .]
29. Do you believe that people can be racist against other? [sic]
- [. . .]
31. Have you been involved with any movements involving racism like Black Lives Matter?
32. Are you affiliated with any political party?
- [. . .]
37. Did you grow up in a violent neighborhood?
38. Do you care about value and principals? [sic]
39. Have you been involved in the Me Too movement?
40. Are you pro choice?
41. Do you believe in God?

(ECF No. 311 at 1–3.) The Court did not allow any of Plaintiffs’ proposed questions to reach the jury during *voir dire*.

### **G. The Trial**

Before the jury heard opening statements, the Court addressed a number of outstanding issues with counsel. (ECF No. 368 at 3–38.) During that time the Court admonished Mr. May for “playing fast and loose with the rules of evidence” and attempting to admit multiple hearsay statements with no applicable exceptions. (See *id.* at 29:11–15.) Ultimately, the Court bifurcated the trial as to liability and damages. (*Id.* at 38:6–7.)

Plaintiffs presented their case as to liability on the first day of trial. (See ECF Nos. 368, 369.) Plaintiffs called three witnesses—Plaintiff Carey, Plaintiff Anyadike, and Defendant Kirk. (*Id.*) On that first day, the jury was asked to return to the jury room a total of five times, notably three of those times within the first hour of trial, to resolve objections to Mr. May’s attempts to

admit evidence which had either been previously excluded by the Court or had not been authenticated. (*See* ECF Nos. 368 at 40, 77, 81; 369 at 17, 98.)

Following the direct examination of Defendant Kirk, Mr. May attempted to call Loretta Carey as a witness via Zoom videoconference, however, the Court denied the request as the testimony concerned damages and not liability. (*See* ECF No. 369 at 98–99.) Mr. May then stated that he would like to call Kinsza Virgil as a witness, and asked Defendant Kirk’s counsel whether she was present. (*Id.* at 99.) The Court asked whether Mr. May had subpoenaed Ms. Virgil as a witness and Mr. May replied that he had not. (*Id.*) Mr. May then moved on and asked Defendant’s counsel whether “Mr. Soto” or “Arnold Taylor” were available and present in Court, and Defendant’s counsel replied that they were not present, as they were also not subpoenaed by Plaintiffs’ counsel. (*Id.*) Mr. May then promptly rested for Plaintiffs as to liability. (*Id.* at 100.)

The second day of trial began with Mr. May’s request that “the stipulated facts” be read to the jury, despite the fact that Plaintiffs had already rested their case—which Mr. May said was a “mistake” on his part. (ECF No. 370 at 4–5.) The Court denied the request, noting that Plaintiffs’ counsel had shown “an incredible lack of preparation.” (*Id.* at 7–10.) Defendant Kirk’s counsel called two witnesses—Antonio Soto and Kinsza Virgil—and additionally played two video depositions of witnesses who were unavailable, then rested as to liability at the conclusion of the day. (*See id.*)

The third day of trial began with Mr. May’s closing statement. (ECF No. 372 at 8–34.) Defendant Kirk’s counsel objected to Mr. May’s closing statement a total of eight times because counsel was discussing evidence that had not been introduced at trial. (*Id.*) The Court sustained multiple objections, instructing Mr. May to “restrict [him]self to the evidence that [he] remember[s] happening in this courtroom.” (*Id.* at 13.) At the conclusion of Mr. May’s closing

statement, the Court advised that Mr. May had “pretty much used up [his] time” as he left only 20 seconds for rebuttal. (*Id.* at 34.)

After Defense counsel’s closing statement, however, Mr. May’s co-counsel Mr. Morales began a rebuttal closing statement. (*Id.* at 57.) At the expiration of his brief 20 seconds, Mr. Morales continued on despite the Court’s repeated warnings that time had expired. (*Id.* at 57–58.) Mr. Morales was held in direct contempt of Court and issued a fine of \$500.00. (*Id.* at 58; ECF No. 375 at 7; ECF No. 328.)

Within four hours, the jury issued a verdict on liability. (ECF No. 373 at 5–6.) Defendant Kirk was found not liable to Plaintiff Anyadike on Count I, which was the only claim presented to the jury for a liability determination. (*Id.*) Defendant Kirk was found not liable to Plaintiff Carey on any count raised in the Amended Complaint. (*Id.*) Further, both Plaintiffs were found liable to Kirk on Counterclaim I one for common law invasion of privacy, and Counterclaim II for unauthorized use of name or likeness. (*Id.*)

On the fourth and final day, the Parties litigated the second phase of the trial: damages. (ECF No. 374.) Mr. May began with a direct examination of his first witness, Defendant Kirk. (*Id.* at 6.) Within the first five minutes of questioning, the Court called a sidebar conference to determine whether Mr. May was in fact referring to a statement found within a deposition transcript, as he represented. (*Id.* at 8–9.) Mr. May could not identify anything in the transcript to support his attempted impeachment, and the Court sustained Defense counsel’s objection. (*Id.* at 10.) Less than five minutes after the sidebar, the Court had to excuse the jury to instruct Mr. May to stop publishing documents to the jury that were not properly in evidence, noting that Mr. May had “totally ignored the rules of evidence, totally ignored the decorum of the courtroom, [and] totally ignored prior rulings by [the Court].” (*Id.* at 12–15.) The Court then required Mr. May to

proffer his remaining questions to Defendant Kirk outside the presence of the jury, an exercise which lasted approximately one hour, to determine what would be admissible. (*Id.* at 15–47.) During Mr. May’s second direct examination of Plaintiff Anyadike, the Court had to again excuse the jury to admonish Mr. May about a line of questioning regarding unrelated alleged assaults by Defendant Kirk. (*Id.* at 64.)

Defense counsel notified the Court at that time that Defendant Kirk would be moving for sanctions, for “putting up with [Mr. May’s] incompetence for two and a half years.” (*Id.* at 65.) The Court responded that “[i]f this was not incompetence, it was absolute derogation of [Mr. May’s] duty as an officer of the court,” and notified Mr. May that the Court would be “turn[ing] this case over to the peer review committee of the Federal District Court.” (*Id.*)

The jury returned a verdict in less than two hours, awarding a total of \$100.00 to Plaintiff Anyadike on his assault and battery claims against Defendant Kirk, and a total of \$100.00 to Defendant Kirk on his counterclaims for common law invasion of privacy and unauthorized use of name or likeness against both Plaintiffs. (ECF No. 375 at 4–5.) At the conclusion of the day, Counsel for Defendant Kirk asked if there would be an attorneys’ fees and sanctions hearing, and the Court advised counsel to move for that relief. (*Id.* at 7.)

## **II. THE INSTANT MOTIONS**

At issue now are two motions for sanctions pursuant to Federal Rule of Civil Procedure 11 (the First and Second Rule 11 Sanctions Motions, ECF Nos. 222 and 244), and one motion for sanctions pursuant to both 28 U.S.C. § 1927 and this Court’s inherent authority (the 1927 Sanctions Motion, ECF No. 341). The Motions are now ripe for review.

### **A. The First Rule 11 Sanctions Motion**

Defendants Kirk and BDBE filed the First Rule 11 Sanctions Motion, seeking Rule 11 sanctions against Plaintiffs, Mr. May, and the Lions’ Den, for the civil conspiracy allegations

found in Count V of the Amended Complaint, and the filings flowing therefrom. (ECF No. 222.) Kirk and BDBE argue that without the “conspiracy allegations and claims,” “the case is dwindled down to garden variety claims of breach of contract for minimal, if any, damages, and alleged assaults and battery.” (*Id.* at 9.) The conspiracy claims, Kirk and BDBE argue, were no more than “purported leverage in this case, which gave rise to wild damage demands – totaling more than \$907 million – in the Amended Complaint.” (*Id.* at 9.) Thus, Kirk and BDBE seek attorneys’ fees and costs for their defense of the conspiracy claims and related filings. (*Id.* at 2.) The improper filings at issue include: Plaintiffs’ Motions for Summary Judgment (ECF Nos. 157, 159), Plaintiffs’ Statement of Material Facts (ECF No. 160), Plaintiffs’ Opposition to Kirk and BDBE’s Motion for Summary Judgment (ECF No. 174), and Plaintiffs’ Opposition Statement of Facts (ECF No. 176), as well as portions of the Amended Complaint, (ECF No. 121), asserting claims against BDBE for Count II (assault), Count III (battery), Count IV (defamation), Count VII (intentional infliction of emotional distress), and Count VIII (civil theft), which Kirk and BDBE contend are premised exclusively upon the civil conspiracy claims of Count V. (*Id.* at 1–2.)

Kirk and BDBE posit two grounds for Rule 11 sanctions. First, under Rule 11(b)(2), Kirk and BDBE argue that Plaintiffs’ conspiracy claims were not “warranted by applicable law.” (*Id.* at 4.) Specifically, Kirk and BDBE argue that they could not possibly conspire with each other, because BDBE is Kirk’s company and under the intra-corporate conspiracy doctrine, Kirk cannot conspire with himself. (*Id.* at 7.) Kirk and BDBE note that sanctions are not available as against Plaintiffs themselves under Rule 11(b)(2), and that accordingly sanctions on this ground are sought only against Mr. May and the Lions’ Den. (*Id.* at 10.) Second, under Rule 11(b)(3), Kirk and BDBE argue that Plaintiffs’ conspiracy claims contained factual contentions that “did not have ‘evidentiary support’ and were unlikely to have evidentiary support ‘after a reasonable opportunity

for further investigation or discovery.” (*Id.* at 4.) As to the Rule 11(b)(3) argument, Kirk and BDBE seek sanctions against Plaintiffs, Mr. May, and the Lions’ Den. (*Id.* at 10.) On this basis, Kirk and BDBE cite to the deposition transcripts of both Carey and Anyadike, wherein each stated that it was only their “opinion” that the Defendants were part of a conspiracy, and that they based that opinion largely on posts from the Internet. (*Id.* at 5–6.)

Plaintiffs filed an Opposition to the First Rule 11 Sanctions Motion. (ECF No. 225.) Plaintiffs respond that they should not be sanctioned because they “have [] strong evidentiary and factual bases for their conspiracy count,” and “the interest of justice would find in favor of Plaintiffs even if the law would not.” (*Id.* at 2.) Plaintiffs’ Opposition aims to “further explain[] the logic of the conspiracy herein” and “giv[e] examples of analogous cases to the case herein.” (*Id.* at 1.)

As to their legal basis for the conspiracy claim, Plaintiffs cite to two wholly irrelevant “cases.” The first is *United States v. Lehder-Rivas*, 955 F.2d 1510 (11th Cir. 1992)—a criminal case wherein multiple defendants were convicted of criminal conspiracy to import cocaine—as an “illustration” for the Court to “understand a conspiracy.” (ECF No. 225 at 2, 5.) Plaintiffs also rely on the so-called “case” of actor Will Smith slapping comedian Chris Rock at the Academy Awards, as a juxtaposition to this conspiracy claim, to show what a conspiracy is not. (*Id.* at 4–5; ECF No. 225-1 at 6 (attaching a photograph from an unknown source of the incident at the Academy Awards)). Plaintiffs assert that the Academy of Motion Picture Arts and Sciences “punished” actor Will Smith after he “slapped Chris Rock on camera,” whereas in this case Defendant Kirk was not “punished” for his allegedly violent actions, and the inaction of BDBE, UMGI, and Interscope shows a conspiracy. (ECF No. 225 at 4–5.)

As to their factual basis for the conspiracy claim, Plaintiffs argue that:



[T]here is evidence in the contract the Defendants have together and with third party companies that advance their interests, there is evidence in the investment UMG makes on behalf of DaBaby, there is evidence that UMG is proud of and attracts investors in their public prospectus using Da[B]aby's name, there is evidence in the media coverage and buzz created on the subject, there is evidence in the influence UMG has and [its] agreements with social media powers like [T]witter, [F]acebook, [T]iktok and others and most importantly, there is evidence in the profits Defendants made together, specifically payments from UMG to DaBaby and from DaBaby to UMG. UMG entities knowingly contracted with DaBaby knowing his background of criminal behavior and attacks, all evidenced in news articles and videos online.

(*Id.* at 3 (emphasis in original).) Plaintiffs provide no citations to any of this “evidence” in their Opposition. (*Id.*) Plaintiffs also assert that UMG and Kirk have an agreement “to make money together”; “that anything Kirk does as DaBaby will result in shared profits for UMG and Interscope and its entities”; that “UMG and its holdings [] will advise Kirk (marketing, sales, strategy and more)”; and “that UMG entities advise DaBaby [Kirk] with regards to every aspect of his career.” (*Id.*) Again, Plaintiffs provide no citation to this purported agreement or any such clauses therein. (*Id.*) Plaintiffs further argue that they need not show a written agreement evidencing the conspiracy, because “criminals” would not put their conspiracies in writing, including “Noriega [who] didn’t create written documents with his co-conspirators to sell cocaine in the U.S.” (*Id.* at 5 (no citation provided as to the reference to “Noriega”)).

Defendants Kirk and BDBE filed a Reply in support of the First Rule 11 Sanctions Motion. (ECF No. 228.) Kirk and BDBE state that they continue to rely on the authorities cited in the First Rule 11 Sanctions Motions and additionally address two short points. (*Id.*) First, Kirk and BDBE argue that the Court should strike Plaintiffs’ Opposition for failure to comply with the Local Rules of the Court, because it was filed approximately 19 days after the deadline. (*Id.* at 1.) Second, Kirk and BDBE note that Plaintiffs’ Opposition is devoid of any record citations and relies entirely on unrelated incidents that post-dated summary judgment in the action. (*Id.* at 1–2.)

## **B. The Second Rule 11 Sanctions Motion**

Defendants UMGI and Interscope filed the Second Rule 11 Sanctions Motion, also seeking Rule 11 sanctions against Plaintiffs, Plaintiffs' Counsel Mr. May, and the Lions' Den, for involving UMGI and Interscope in this litigation with no factual or legal basis to do so. (ECF No. 244.) UMGI and Interscope contend that they were "named only because they have other business dealings with [Kirk] which are completely unrelated to the claims in this case," and that they have repeatedly urged Plaintiffs' counsel to withdraw their conspiracy claims to no avail. (*Id.* at 2.) UMGI and Interscope argue that Plaintiffs' and Mr. May's actions "have unnecessarily and unreasonably multiplied the litigation—which ultimately is a simple assault and battery case against Kirk—resulting in a waste of resources by all parties involved, including the Court." (*Id.* at 18.) Thus, UMGI and Interscope seek attorneys' fees and costs for their time spent defending this action from the moment that Plaintiffs filed the Amended Complaint onward. (*Id.* at 6.)

UMGI and Interscope posit two grounds for Rule 11 sanctions. First, under Rule 11(b)(2), UMGI and Interscope argue that Plaintiffs' conspiracy claims are "legally frivolous." (ECF No. 244 at 11.) Specifically, UMGI and Interscope argue that (1) Interscope is not a legal entity, and it therefore cannot be sued; (2) even if Interscope could be sued, the intra-corporate conspiracy doctrine bars Plaintiffs' theory of civil conspiracy as the agents of a corporation cannot conspire amongst themselves; and (3) even if Interscope could somehow be sued and held liable for Kirk's conduct, Plaintiffs have established no tie to UMGI as a matter of law and cannot assert personal jurisdiction over UMGI. (*Id.* at 11–13.) UMGI and Interscope note that sanctions are not available as against Plaintiffs themselves under Rule 11(b)(2), and that accordingly sanctions on this ground are sought only against Mr. May and the Lions' Den. (*Id.* at 19.) Second, under Rule 11(b)(3), UMGI and Interscope argue that Plaintiffs' conspiracy claims are "factually frivolous." (*Id.* at 13.)

Specifically, UMGI and Interscope note that Plaintiffs testified that they based their claims on their own “opinions” and “what they have read online and social media,” and that they have provided no evidence, even when themselves moving for summary judgment, to support their theory of civil conspiracy. (*Id.* at 13–15.) Further, UMGI and Interscope assert that Mr. May should have been aware that Plaintiffs’ claims were both legally and factually frivolous, not only from basic research and due diligence, but also from explicit explanations provided to Mr. May by counsel for both UMGI and Interscope. (*Id.* at 16–18.)

Plaintiffs filed an Opposition to the Second Rule 11 Sanctions Motion. (ECF No. 265.) Plaintiffs argue that sanctions are not warranted herein, because their conspiracy claims are legally sound and have “undeniable, overwhelming evidence in the Plaintiffs’ favor.” (ECF No. 265 at 2.) Plaintiffs assert two new legal arguments herein. First, Plaintiffs rely on *Hyman v. Borack & Assocs., P.A.*, No. 8:12-cv-1088-T-23TGW, 2012 WL 6778491, at \*1 (M.D. Fla. Dec. 17, 2012), *report and recommendation adopted*, No. 8:12-cv-1088-T-23TGW, 2013 WL 68534, at \*1 (M.D. Fla. Jan. 4, 2023), for the proposition that “merely weak” arguments and evidence are insufficient to render Rule 11 sanctions appropriate. (*Id.* at 3.) Notwithstanding that argument, Plaintiffs contend that their “claims in this Case are not weak nor insufficient [and they] believe they will prevail in a Jury trial based on the evidence submitted and presented, the Agreement between the parties and the reasons stated herein.” (*Id.*)

Second, Plaintiffs cite *Walters v. Blankenship*, 931 So. 2d 137, 141 (Fla. 5th DCA 2006) for the proposition that “an alternative basis for a civil conspiracy claim exists where the plaintiff can show some ‘peculiar power of coercion’ possessed by the conspirators by virtue of their combination, which an individual acting alone does not possess.” (ECF No. 265 at 16 (citing *Walters*, 931 So. 2d at 140) (emphasis in original)). Plaintiffs maintain that there was an underlying

“tort or wrong” but seem to also argue that even without an underlying tort or wrong, UMGI and Interscope’s purported conspiracy with Kirk and BDBE can be shown exclusively through their “peculiar power of coercion,” because “DaBaby alone does not possess the resources, the power or the influence to do such a marketing scheme alone,” and “[h]e needs the support of BDBE, himself, his attackers and UMG[I]/Interscope.” (*Id.* at 17.)

As to factual evidence supporting Plaintiffs’ conspiracy allegations, Plaintiffs cite to multiple documents that they fail to locate in the record: (1) “UMG[I]’s Public Prospectus,” which does not appear at any of the docket entries cited by Plaintiffs, (*see* ECF No. 265 at 5 (citing ECF Nos. 206 at 9 (which does not contain a “chart of UMG[I]’s Public Prospectus” as indicated); and 206 at 1 (which does not contain the “second paragraph of UMG[I]’s Public Prospectus” as indicated)); (2) the “Entertainment Income Agreement,” which is purportedly an agreement between Kirk and “Interscope/UMG[I],” which also does not appear at any of the docket entries cited by Plaintiffs, (*see* ECF No. 265 at 6 (citing ECF Nos. 230 at 5–6 (which does not exist, as ECF No. 230 is a one paragraph long Paperless Order); and 230 at 1 (same))); (3) a transcript of statements purportedly made by Kirk in an interview on “the Breakfast Club radio show/media outlet,” which also does not appear at the docket entry cited by Plaintiffs, (*see* ECF No. 265 at 7 (citing ECF No. 163 at 25 (which does not exist, as ECF No. 163 is an 8-page long motion for reconsideration))); and (4) UMGI and/or Interscope’s “Code of Conduct,” (with no citation to any such document) which Plaintiffs note “may not be used as evidence, as determined by this Court,” yet which is quoted (allegedly, as the Court cannot confirm the same without reference to the document) by Plaintiffs herein as evidence that a conspiracy existed. (*Id.* at 8.) Plaintiffs assert that the lack of further documentation is because “[e]very action by DaBaby and UMG[I]/Interscope is to conceal their conspiracy with their best efforts, yet, Plaintiffs continue to dismantle it with

every document, every publishing and more.” (ECF No. 265 at 18.) Plaintiffs accuse UMGI and Interscope of discovery violations, including refusal to produce “a single document” and “not answer[ing] any interrogatories in defiance of law and to avoid the truth.” (*Id.* at 11.) Finally, Plaintiffs argue that the best way to identify a conspiracy is to “[f]ollow the money,” yet Plaintiffs cite to no financial, or any other, documents to support that assertion. (*Id.* at 13.)

UMGI and Interscope filed a Reply in Support of the Second Rule 11 Sanctions Motion. (ECF No. 266.) In support of their argument that Plaintiffs’ claims were factually frivolous, UMGI and Interscope assert that Plaintiffs’ Opposition is devoid of accurate record citations. (*Id.* at 2.) In response to Plaintiffs’ allegation that UMGI and Interscope committed discovery violations to conceal evidence, UMGI and Interscope argue that they lodged only proper objections to discovery, and in any event, Plaintiffs failed to comply with the Court’s discovery procedures to remedy any purported discovery violations. (*Id.* at 9–10.) UMGI and Interscope note that Plaintiffs’ Opposition is devoid of any reference to Defendants’ arguments that the claims are legally frivolous, including the arguments that the Court lacks personal jurisdiction over UMGI and that Interscope is a non-judicial entity that was not served and cannot be sued. (*Id.* at 5.) Further, UMGI and Interscope argue that Plaintiffs conflate the theories of vicarious liability (which was not alleged in Plaintiffs’ Amended Complaint) and civil conspiracy (which was alleged, albeit insufficiently). (*Id.* at 6.) Finally, UMGI and Interscope distinguish Plaintiffs’ case law as both factually distinct and legally irrelevant. (*Id.* at 7–9.)

### **C. The 1927 Sanctions Motion**

At the conclusion of the trial, Defendant Kirk filed the 1927 Sanctions Motion, directed only at Mr. May and the Lions’ Den. (ECF No. 341.) Defendant Kirk argues that sanctions are proper under both 28 U.S.C. § 1927 and the Court’s inherent authority, because Mr. May’s conduct

immediately prior to and at trial exhibited a “repeated, constant, and flagrant disregard for the rules of evidence and this Court’s order[s],” which was done in bad faith and unreasonably multiplied the proceedings. (*Id.* at 2–3.) Defendant Kirk cites to multiple instances of allegedly bad faith conduct by Mr. May before trial, including: the delayed and unreasonable proposed edits to jury instructions (inserting his entire theory of facts into each instruction), which required Defendant Kirk to file unilateral jury instructions in violation of the Court’s Order; the repeated attempt to include a new therapist, who was already excluded; the litany of unauthenticated screenshots of social media posts and websites included in Plaintiffs’ exhibit list; and the improper designation of nearly all of a deposition, when less than one page was used at trial. (*Id.* at 5–8.) Additionally, Kirk cites to multiple instances of allegedly bad faith conduct by Mr. May at trial, including: the proposal of “improper and inflammatory proposed [voir dire] questions” (*e.g.*, “Do you care about value[s] and principals [sic]?” and “Are you pro[-]choice?”); the repeated attempts to admit exhibits that the Court had already ruled were inadmissible; and the repeated attempts to “back door” evidence into the trial that was unable to be authenticated. (*Id.* at 8–10.) Defendant Kirk argues that this conduct multiplied the proceedings, causing the trial to last four days when it should have been no more than two—and that attorneys’ fees are proper for the time spent defending against Mr. May’s unreasonable actions. (*Id.* at 10.)

Mr. May filed an Opposition to the 1927 Sanctions Motion. (ECF No. 344.) Mr. May argues that “Plaintiff[s] counsel arranged his whole life around complying with this Court[’]s rules, Local Rules, Orders, Requirements and more” and characterizes his many missteps as “mistakes” rather than bad faith actions. (*Id.* at 4–6.) Mr. May attempts to justify each of the actions identified by Defendant Kirk, including, for example the inclusion of the *voir dire* question “Do you believe in God?” stating that “[n]ot allowing the question, is arguable discrimination based on

religion against the Plaintiffs. For example, if someone is a satanist, they may approve of and appreciate violence against others.” (*Id.* at 14.) Mr. May then goes on to accuse Kirk’s counsel of acting in bad faith, including the allegations that Kirk’s counsel, Drew Findling, Esq., “stated in deposition that if he were Kirk, he would have attacked me [Mr. May],” and “yell[ed] in Court before the jury verdict ‘you are a disgrace’ many times and lung[ed] towards Plaintiffs[’] attorney to the point of him being restrained by Court personnel and Police attended the hearing behind Plaintiffs[’] counsel after that incident.” (*Id.* at 16.) Mr. May concludes by stating that the Court has already determined that the whole “lawsuit was not in bad faith” and “would not prejudice the opposing party,” and draws the comparison to “the Jury Verdict on defamation against Alex Jones awarding over 1 billion in fees for a social media post.” (*Id.* at 18–19.)

Defendant Kirk filed a Reply in Support of the 1927 Sanctions Motion. (ECF No. 350.) Therein, Defendant Kirk responds with further explanation as to each of Mr. May’s actions and how those actions multiplied the proceedings against Defendant Kirk. (*See id.*) Defendant Kirk takes particular issue with the accusations against his own counsel, stating “Attorney Drew Findling never stated he would attack Plaintiffs’ counsel in the deposition” and “[l]aw enforcement sat behind Plaintiffs’ counsel’s table near the end of trial because Plaintiff Carey was sitting in a federal courtroom with an active felony warrant and was taken into custody immediately after the jury began deliberations,” rather than to protect Mr. May from Kirk’s counsel, as Mr. May alleged in his Opposition. (*Id.* at 6.) Kirk argues that “Plaintiffs’ counsel flouted the Court’s evidentiary ruling, plain and simple,” time and time again, resulting in Kirk accruing unnecessarily high attorneys’ fees, the payment of which he contends is a proper sanction against Mr. May and the Lions’ Den. (*Id.* at 4, 9.)

#### **D. Supplemental Briefing**

Following the Rule 11 Hearing, without leave of Court, and after expressly informing the undersigned that no further argument or submission was necessary, Plaintiffs filed a Notice of Supplemental Authority Pursuant to Local Rule 7.8 In Support of Plaintiffs' Response to All Defendants' Motion for Sanctions (the "First Supplement"), (ECF No. 359.) Defendants Kirk and BDBE filed a Motion to Strike the First Supplement, (ECF No. 360), which the Court granted (ECF No. 393). Kirk and BDBE argue that "[r]ather than being supplemental authority, Plaintiffs' filing attempts to re-argue points that he made at the Rule 11 hearing on January 30, 2023," and that the arguments are "baseless, wholly irrelevant to the subject matter of the Rule 11 motions, and far outside the scope of a Notice of Supplemental Authority under Local Rule 7.8." (ECF No. 360 at 1–2.) Kirk and BDBE request that the Court strike the First Supplement. (*Id.* at 3.)

Defendants UMGI and Interscope filed a response asking the Court to disregard the First Supplement, (ECF No. 363). UMGI and Interscope similarly argue that the First Supplement fails to comply with Local Rule 7.8, "simply restates prior arguments and submissions to the Court," and "ignores the 200-word limitation found in Local Rule 7.8." (*Id.* at 1.) UMGI and Interscope also state, "[p]utting aside the Notice[']s procedural deficiencies, the Notice raises no pertinent or significant authorities," and "even if the Court were to consider the Notice, it does not alter the conclusion that Plaintiffs and their counsel are subject to Rule 11 Sanctions." (*Id.* at 2.)

Only days later, Plaintiffs filed yet another supplement, the Second Notice of Supplemental Authority Pursuant to Local Rule 7.8 In Support of Plaintiffs' Response to All Defendants' Motions for Sanctions (the "Second Supplement"), (ECF No. 365). Therein, Plaintiffs state that "[b]ad faith requires showing that no reasonable attorney in the same position would do the same actions," and then proceeds to list four improperly cited cases, seemingly for the proposition that



if other attorneys have filed “similar” cases, it cannot be unreasonable to do so in this action. (*Id.* at 1–2.) The Court is not able to identify the exact cases from Plaintiffs’ vague descriptions and will not endeavor to do so herein. (*See, e.g., id.* at 1 (“Case 2:2023cv00862: Plaintiff sued Brian Warner AKA Marilyn Manson, Record Label Interscope Music Publishing Inc and Nothing Records concerning child molestation in California” listing no caption, date, or court)).

Defendants UMGI and Interscope filed a Response to the Second Supplement. (ECF No. 366.) They argue that “[n]one of the citations” provided by Plaintiffs “are to actual *authorities*. Rather, they are complaints that have been filed with no substantive rulings rendered.” (*Id.* at 1.) UMGI and Interscope add that “even if the allegations were successful, they are not analogous to Plaintiffs’ allegations,” and distinguish each citation provided. (*Id.* at 1–2.) UMGI and Interscope assert that in three out of four cases there is no conspiracy alleged, and in the fourth case there is a *criminal* conspiracy alleged to harm a victim rather than “a generic conspiracy to financially gain from publicity, like Plaintiffs allege here.” (*Id.*) Defendants Kirk and BDBE filed a Notice of Adoption of UMGI and Interscope’s Response to the Second Supplement. (ECF No. 367.)

### III. ANALYSIS

#### A. All Defendants Are Entitled to Rule 11 Sanctions Against Mr. May and the Lions’ Den in Connection with Plaintiffs’ Conspiracy Claims.

The First Rule 11 Sanctions Motion, (ECF No. 222), and the Second Rule 11 Sanctions Motion, (ECF No. 244), seek sanctions against Plaintiffs, Mr. May, and the Lions’ Den pursuant to Federal Rule of Civil Procedure 11. Rule 11 provides, in relevant part:

**(b) Representations to the Court.** By presenting to the court a pleading, written motion, or other paper--whether by signing, filing, submitting, or later advocating it--an attorney or unrepresented party certifies that to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;

- (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;
- (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

Fed. R. Civ. P. 11(b). Additionally, Rule 11(c)(1) provides that after the procedural notice requirements are met, an issue not in dispute here, “the court may impose an appropriate sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation.” Fed. R. Civ. P. 11(c)(1).

Although Rule 11 plainly empowers a court to sanction parties or counsel, it is an “extraordinary remedy, one to be exercised with extreme caution.” *Menendez v. Signature Consultants, LLC*, No. 11-cv-61534, 2011 WL 6179727, at \*1 (S.D. Fla. Dec. 13, 2011). Indeed, “Rule 11 is intended to deter claims with *no* factual or legal basis at all; creative claims, coupled even with ambiguous or inconsequential facts, may merit dismissal, but not punishment.” *Davis v. Carl*, 906 F.2d 533, 538 (11th Cir. 1990) (emphasis in original); *see also Malgeri v. Vitamins Because LLC*, No. 19-cv-22702, 2022 WL 17593133, at \*1 (S.D. Fla. Sept. 30, 2022) (quoting *Davis*, 906 F.2d at 538). “Rule 11 sanctions are proper when a party files a pleading: (1) for an improper purpose; (2) based on a legal theory that has no reasonable chance of success; or (3) that has no reasonable factual basis.” *Matthiesen v. Matthiesen*, No. 16-cv-20360, 2018 WL 1121538, at \*2 (S.D. Fla. Mar. 1, 2018) (citing *Lee v. Mid-State Land & Timber Co.*, 285 F. App’x 601, 608 (11th Cir. 2008)); *see also Gulisano v. Burlington, Inc.*, 34 F.4th 935, 942 (11th Cir. 2022) (same); *Worldwide Primates, Inc. v. McGreal*, 87 F.3d 1252, 1254 (11th Cir. 1996) (same). “The objective standard for testing conduct under Rule 11 is reasonableness under the circumstances and what

was reasonable to believe at the time the pleading was submitted.” *Baker v. Alderman*, 158 F.3d 516, 524 (11th Cir. 1998) (internal citation and quotation omitted).

“When deciding whether to impose sanctions under Rule 11, a district court must conduct a two-step inquiry, determining ‘(1) whether the party’s claims are objectively frivolous; and (2) whether the person who signed the pleadings should have been aware that they were frivolous.’” *Gulisano*, 34 F.4th at 942 (citing *Alderman*, 158 F.3d at 524). In determining whether to award Rule 11 sanctions against counsel, as opposed to the party, the Court should consider whether counsel “had to rely on a client for information as to the [relevant] facts.” *Donaldson v. Clark*, 819 F.2d 1551, 1556 (11th Cir. 1987) (reversing award of sanctions) (quoting Fed. R. Civ. P. 11, Advisory Note (1983 amend.)).

“Sanctions are warranted when a party exhibits a ‘deliberate indifference to obvious facts,’ but not when the party’s evidence to support a claim is ‘merely weak.’” *Riccard v. Prudential Ins. Co.*, 307 F.3d 1277, 1294 (11th Cir. 2002) (quoting *Alderman*, 158 F.3d at 524); *see also Bathazi v. U.S. Dep’t of Homeland Sec.*, 667 F. Supp. 2d 1375, 1378 (S.D. Fla. 2009) (holding that plaintiff’s counsel’s persistence in continuing to challenge the adjudication process in light of repeated jurisdictional dismissals constituted “deliberate indifference”). “A factual claim is frivolous if no reasonably competent attorney could conclude that it has a reasonable evidentiary basis.” *Thompson v. RelationServe Media, Inc.*, 610 F.3d 628, 665 (11th Cir. 2010) (citing *Davis*, 906 F.2d at 535–37). Where no evidence or only “patently frivolous” evidence is offered to support factual contentions, sanctions can be imposed. *See Davis*, 906 F.2d at 537. If, however, the evidence supporting the claim is reasonable, but simply “weak” or “self-serving,” sanctions cannot be imposed. *Id.* at 536. Additionally, “[i]f the attorney failed to make a reasonable inquiry, then

‘the court must impose sanctions despite the attorney’s good faith belief that the claims were sound.’” *Gulisano*, 34 F.4th at 942 (quoting *Worldwide Primates, Inc.*, 87 F.3d at 1254).

Further, continuing to relitigate and reargue unfavorable rulings may constitute sanctionable conduct. *See Langermann v. Dubbin*, No. 14-cv-22531, 2014 WL 11429282, at \*1 (S.D. Fla. Oct. 16, 2014) (finding that a plaintiff’s continuous filing of lawsuits and motions “that require the investment of court time and resources in [an] attempt to relitigate and reargue rulings that have been decided against him” constituted sanctionable conduct under Rule 11).

Given that the civil conspiracy counts, and the claims related to it, were objectively frivolous and that counsel should have been aware that they were frivolous when the action was filed, Rule 11 sanctions against Mr. May and the Lions’ Den are warranted. Specifically, Defendants UMGI and Interscope are entitled to Rule 11 sanctions in connection with all six claims against them because all claims are based on Plaintiffs’ theory of civil conspiracy—a theory that lacked any factual or legal basis. Defendant BDBE is entitled to Rule 11 sanctions in connection with all seven claims against it for the same reason. Additionally, Defendant Kirk is entitled to Rule 11 sanctions in connection with his defense of the civil conspiracy claim only.

#### **i. Plaintiffs’ Conspiracy Claims Were Frivolous.**

Rule 11(b)(3) provides that in presenting a filing to the Court, an attorney attests that “the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.” Fed. R. Civ. P. 11(b)(3). Rule 11(c) provides that sanctions are appropriate for a violation of this requirement, namely, “when a party files a pleading that has no reasonable factual basis.” *Worldwide Primates, Inc.*, 87 F.3d at 1254 (quoting *Jones v. Int’l Riding Helmets, Ltd.*, 49 F.3d 692, 694 (11th Cir. 1995)). As this Court has found, Plaintiffs’ civil conspiracy and related claims were frivolous because there was no factual support for the claims. Specifically, there was no

testimony or other evidence to support the claims. Indeed, even the facts as *alleged* were insufficient. Instead, Plaintiffs' action proceeded on the unfounded theory that because Defendants profit in some way from Kirk's music, anything Kirk does (presumably good or bad) is part of a conspiracy involving all Defendants. The Court first turns to an analysis of the facts, if any, to support the theory that Defendants were conspiring with each other.

First, Plaintiffs admitted in their depositions that it was only their "opinion" that a civil conspiracy existed. For example, at his deposition, Carey testified:

**Q.** [...] Is it your allegation that Jonathan Kirk conspired with Billion Dollar Baby Entertainment?

**A.** Yeah. I mean, **that's my opinion.** I mean, I think DaBaby does things for clout. I mean, I give you—I mean, I been doing this a long time, so, I mean, DaBaby is signed to Interscope. 50 Cent was signed to Interscope. DaBaby is like the new 50 Cent. Controversy sells.

(ECF No. 156-2 at 213:17–25 (emphasis added)).

**Q.** What evidence do you have that Universal Music had anything to do with putting together that strategy as you testify?

**A.** I mean, I mean, I have it to me. That's what I think is going on. I mean I don't think —

**Q.** It's your opinion?

**A.** **That's my opinion.** That's what I feel.

(ECF No. 156-2 at 235:20–236:1 (emphasis added)). Similarly, at his deposition, Anyadike testified:

**Q.** How do you know that there's this marketing strategy that you allege?

**A.** How do I know? Because the — because the — they are still up, you know. Songs are still up — songs are still up, videos are still up, visuals are still up. Like I said, it's the lack of anything being done.

**Q.** Is that — is that the lack of action?

**A.** Lack of action.

**Q.** Is that the extent — is that the extent of your firsthand knowledge of this marketing scheme that you allege?

**A.** Yes. Because what you allow is part of what you market; you understand? And if it's being publicized in the media, then you — then it's part of — it's part of your marketing strategy, you know? It's a strategy used to make money from this.

**Q.** So it's your opinion that there's this marketing strategy based on the inactions that you described; correct?

**A.** Yes.

(ECF No. 156-4 at 294:4–25.) In response to the instant Motions, Plaintiffs offered no other testimony to support their theory.

Second, there was no other evidence presented to support Plaintiffs' conspiracy claims. Plaintiffs attached thirty-seven exhibits to the Amended Complaint, consisting only of a performance agreement between Anyadike and Kirk that did not mention UMGI, Interscope, BDBE, or any allusion to a conspiracy, and screenshots of unrelated content that did not substantiate a conspiracy. (See ECF No. 121-1 (containing ten screenshots from Instagram, seven screenshots from YouTube, and the remaining screenshots from unidentified websites on unidentified dates)).

Moreover, neither Carey nor Anyadike alluded to any evidence at their depositions to support their conspiracy claims. For instance, Carey testified:

**Q.** [ . . . ] You allege that DaBaby, Universal Music in conjunction with their plotted of attack. So that's an incorrect statement according to your testimony today?

**A.** I mean, I do think they plot attacks because even after my event, what, he had five other attacks where he attacked five other people.

**Q.** And what evidence do you have that Universal Music plotted to attack you?

**A.** He keeps doing the same thing. Keeps attacking people.

**Q.** Uh-huh. But you have no evidence that anybody at Universal Music said, you know, this guy, Kenneth Carey, he'd be a good mark. Let's beat him up and pour apple juice on him, right?

**A.** No.

**Q.** You don't have any evidence to support that claim, correct?

**A.** No, but he's did it before.

**Q.** Excuse me. You don't have any evidence to support that claim, correct?

**A.** Correct.

(ECF No. 156-2 at 240:10–241:5.) Anyadike also testified:

**Q.** Okay. All right. If you would turn to page 4, paragraph 26. Tell me about any documentation that you have reviewed that shows that there is a marketing strategy between Universal, Interscope, and Jonathan Kirk.

**Mr. May:** Object to form.

**A.** You are asking me for the marketing strategy of another company?

**Q.** Yeah.

**A.** I don't have the marketing strategy of another company. I do know that companies people work for are responsible for their employees. And if their employees – if a company is making money off of somebody, they are responsible for how that person is being marketed, because that directly reflects that company. So if the marketing scheme that you are asking for is the negligence of not doing anything when these – when videos, songs, that portray violence is put on the web for everyone to see and has not been taken down, has not been censored or anything like that. **So no, I have not seen their documents. I have not seen their marketing scheme,** but I have seen their ability to not do anything about it.

(ECF No. 156-4 at 171:11–172:14 (emphasis added)).

Additionally, in various orders, the Court found that the underlying claims were patently insufficient. For example, in dismissing the claims against Defendants UMGI and Interscope for lack of personal jurisdiction and insufficient service, respectively, the Court found that “[t]he Amended Complaint [was] simply devoid of any allegations connecting UMGI to the physical altercation between Kirk and Carey,” and that “Plaintiffs’ speculative conspiracy allegations leap much too far and cannot form the basis for personal jurisdiction.” (ECF No. 272 at 8, 10.)

In granting summary judgment on all claims against Defendant BDBE, including the civil conspiracy count against Defendant Kirk, the Court found that

Plaintiffs’ [conspiracy] claims fail at the first element. Plaintiffs admit that Carey had no knowledge of an agreement between Defendants to engage in the purported scheme . . . Similarly, Anyadike’s testimony reflects that his only basis for alleging that there was a scheme is BDBE’s purported failure to censor or take down Kirk’s music and BDBE’s purported profiting from said music . . . Plaintiffs point to no other evidence on the record showing that Defendants had an agreement between them to commit an unlawful act. Summary judgment on Count V is thus granted in Defendants’ favor.

(ECF No. 279 at 18–19.) As to Counts II and III (assault and battery) against Defendant BDBE, the Court noted that “Plaintiffs fail to mention BDBE in their battery claim” and found that even under a theory of vicarious liability, “Plaintiffs’ contentions are nothing more than mere

speculation and conjecture and cannot withstand summary judgment.” (*Id.* at 14.) Additionally, the Court found,

Plaintiffs’ unsupported representations that “BDBE was part of the event by putting together the contract and more[,]” (Pls.’ Resp. ¶ 25), are insufficient to hold BDBE liable for Kirk’s intentional torts . . . Further, Plaintiffs provide no proof that Kirk and the alleged co-conspirators were even wearing a diamond chain associated with BDBE at the time of the incident. There is no proof that the photos Plaintiffs attach to their complaints of individuals with a diamond chain were taken on the day of the Incident. (*See* ECF No. 121-1 at 8). Nor is there evidence that this particular chain is a “BDBE chain,” as Plaintiffs posit.

(*Id.* at 14–15.)

As to the remaining counts against Defendant BDBE, the Court held that “[b]ecause the Court has found that Kirk is not liable as to Counts IV, VI, VII, and VIII, BDBE cannot be liable under a theory of vicarious liability.” (*Id.* at 29.) In the Court’s reasoning as to summary judgment for Kirk on Count IV (promissory estoppel), the Court found that “there is no evidence that Kirk made any promises to Carey,” and “Plaintiffs’ response to the motion for summary judgment is not evidence, and Plaintiffs have failed to cite to particular parts of materials on the record to support their contentions, even after being given a second chance to do so.” (*Id.* at 16–17.) On Count VI (defamation), the Court found: (1) as to the statements in the Police Report, “[u]nlike Plaintiffs’ allegations in the Amended Complaint, the allegedly defamatory statements made in the police report were attributed to Carey, not Kirk . . . Summary judgment is thus granted in Defendant’s favor as to the statements on the police report”; (2) as to the argument of defamation *per se*, “[b]ased on the face of the statements in Kirk’s songs, it is not apparent that the words of the publication relate to Plaintiffs”; and (3) as to the argument of defamation *per quod*, “Plaintiffs have failed to present evidence of actual, out of pocket losses they incurred as a result of the allegedly defamatory statements made against them.” (*Id.* at 21–24.) On Count VII (intentional infliction of emotional distress), the Court stated that it “agrees with Kirk that Plaintiffs’ claims



‘boil down to garden variety battery claims, with no serious injuries even alleged.’” (*Id.* at 25.) Finally, on Count VIII, the Court found, “Carey’s claim for civil theft also fails because there is simply no evidence of Carey’s damages,” and “[b]ecause Plaintiffs’ positions rest upon mere allegations and speculation, the Court finds that there is no genuine issue of material fact.” (*Id.* at 27–28.)

Rule 11 sanctions are proper herein because there was no factual support for the conspiracy claims. As to Mr. May and the Lions’ Den, it is a well-known principle that “an attorney must make a reasonable inquiry into both the legal and factual basis of a claim prior to filing suit.” *Worldwide Primates, Inc.*, 87 F.3d at 1255. Where an attorney “does not argue that he lacked the time to investigate the facts, that he was forced to rely solely on [a client] for information, or that he had to depend on forwarding counsel or another attorney,” or similar “extenuating circumstances, an attorney cannot simply rely on the conclusory representations of a client[.]” *Id.* Mr. May has presented no extenuating circumstances that would absolve him of his responsibility to inquire about a factual basis prior to asserting a claim such as civil conspiracy. Rather, he has maintained that there were “facts” and “evidence” even up to the time of the Rule 11 Hearing. Further, although the Court has discretion in deciding whether to order Rule 11 sanctions against Plaintiffs individually on this ground, it declines to do so. There is no evidence that Plaintiffs lied or fabricated facts, and indeed their deposition testimony shows that they did not have an understanding of the claims they were asserting. Nevertheless, counsel persisted in the frivolous action. As such, Rule 11 sanctions properly lie with Mr. May and the Lions’ Den, rather than with Plaintiffs individually.

In addition to there being no facts to support the allegations that Defendants UMGI, Interscope, and BDBE participated in any kind of conspiracy with Defendant Kirk, the legal theory

itself is also clearly untenable. Indeed, Plaintiffs' approach to liability is completely unsupported by law. Rule 11(b)(2) provides that in presenting a filing to the Court, an attorney attests that "the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law." Fed. R. Civ. P. 11(b)(2). Rule 11(c) provides that sanctions are appropriate for a violation of this requirement, namely, when a filing "is based on a legal theory that has no reasonable chance of success and that cannot be advanced as a reasonable argument to change existing law." *Gulisano*, 34 F.4th at 942 (quoting *Johnson v. 27th Ave. Caraf, Inc.*, 9 F.4th 1300, 1314 (11th Cir. 2021)).

Plaintiffs' civil conspiracy and related claims were legally frivolous because they are clearly barred by the intra-corporate conspiracy doctrine. All Defendants argue that the intra-corporate conspiracy doctrine bars Plaintiffs' theory of civil conspiracy because a corporation and its agents/employees cannot legally conspire with each other. (ECF Nos. 222 at 7; 244 at 17.) Plaintiffs do not address this argument in their Opposition briefs. (ECF Nos. 225; 265.)

The intra-corporate conspiracy doctrine provides that "acts of corporate agents are attributed to the corporation itself, thereby negating the multiplicity of actors necessary for the formation of a conspiracy." *Denney v. City of Albany*, 247 F.3d 1172, 1190 (11th Cir. 2001) (quoting *McAndrew v. Lockheed Martin Corp.*, 206 F.3d 1031, 1036 (11th Cir. 2000) (en banc)). "Simply put, under the doctrine, a corporation cannot conspire with its employees, and its employees, when acting in the scope of their employment, cannot conspire amongst themselves." *Id.*

Plaintiffs posited shifting theories of the relationship between the Defendants—but in all instances Plaintiffs alleged that Kirk was either an agent or employee of Defendants UMGI, Interscope, and BDBE. In the Amended Complaint, Plaintiffs alleged that "DaBaby [Kirk] is

signed by and owns solely Billion Dollar Baby Entertainment [BDBE].” (ECF No. 121 at 2.) Plaintiffs alleged that “[a]ll of the parties are *agents* as part of a large chain to [sic] goes from Universal to Interscope to BDBE to DaBaby to Co[-]conspirators.” (*Id.* at 9 (emphasis added)). Additionally, Plaintiffs alleged that “[t]he Co[-]conspirators are agents and work for DaBaby and BDBE.” (*Id.* at 22.) Then, at his deposition, Carey testified:

**Q.** So it’s your testimony that the people that committed the assault are employees of Billion Dollar Baby Entertainment?

**A.** Yes.

**Q.** So you believe – is it your testimony that they’re employees of Billion Dollar Baby Entertainment and Universal Music?

**A.** **They are employees of Billion Dollar Baby Entertainment, which is signed to Universal Music Group**, so, yes, they are employees of both of them.

**Q.** And what if Billion Dollar Baby Entertainment was a completely separate entity, would that change your testimony?

**A.** I mean, I don’t think they are a separate entity, but that would, yes.

**Q.** And if they were employees simply of Billion Dollar Baby Entertainment and not Universal Music, then you would agree with me that nobody from Universal Music was present at the assault, correct?

**A.** Besides Mr. Kirk, yes.

**Q.** And Mr. Kirk didn’t represent himself to you in any way as dealing on behalf of Universal Music, right?

**A.** No, **but that’s his employer**, so he’s in the commission of his employment, what he does. He’s an artist.

(ECF No. 156-2 at 230:1–231:1 (emphasis added)).

**Q.** And in those documents that have been introduced so far and in the text messages, there’s no reference to any marketing strategy that involves Universal or Interscope; is that fair to say?

**A.** Billion Dollar Baby Entertainment is a part of Universal.

**Q.** There’s no reference to Interscope or Universal in any of those documents, am I correct?

**A.** No, besides Billion Dollar Baby Entertainment.

(*Id.* at 130:2–11.) Additionally, Anyadike testified:

**Q.** [. . .] [W]ell, first of all, who’s an employee of – I missed that – of Universal or Interscope that’s involved here?

**A.** I believe DaBaby is – his record label or his deal is by Interscope. And under that, Interscope is UMG.

(ECF No. 156-4 at 173:24–174:4.)

Under any of the theories posited, Plaintiffs' civil conspiracy claim is based on the premise that Kirk is conspiring with BDBE (a company he solely owns), UMGI, and Interscope, yet simultaneously acting as an employee or agent of BDBE, UMGI, and Interscope. Plaintiffs' theory was clearly barred under the intra-corporate conspiracy doctrine. *See Hogan*, 817 F. App'x at 723 (affirming dismissal of a civil conspiracy claim as barred by the intra-corporate conspiracy doctrine). Not only did Mr. May fail to consider the intra-corporate conspiracy doctrine in formulating his claims, but he also failed to address it *at all* in his Oppositions to the First and Second Rule 11 Sanctions Motions when all Defendants asserted the argument. (*See* ECF Nos. 225; 265.) Further, Mr. May posited no argument to overcome or change the intra-corporate conspiracy doctrine, much less a reasonable one.

Indeed, the case law ultimately cited by Mr. May to support Plaintiffs' theory of civil conspiracy serves as evidence that Mr. May's claims were legally frivolous. In Plaintiffs' Opposition to the First Rule 11 Sanctions Motion, Mr. May primarily relied on *United States v. Lehtder-Rivas*, 955 F.2d 1510 (11th Cir. 1992)—a high-profile criminal case wherein multiple defendants were convicted of criminal conspiracy to import cocaine—which he referred to throughout the Opposition as “Noriega and Escobar” as an analogy to the instant action. (ECF No. 225 (referring to “Escobar” twelve times, “Noriega” nine times, and “Ledher” five times in a 10-page brief)). Mr. May attempts to draw comparisons between the cases throughout the Opposition, including, “[a]s an illustration, Noriega was the President of Panama and he appeared to be legit to many. It is the same with Universal, which is the biggest music company in the world,” and “[a]s an illustration, Noriega trafficked drugs, using many different people, through Miami into the United States. The drugs he trafficked hurt our country and its citizen[s]. Kirk and Universal/Interscope have hurt many American citizens like the Plaintiffs.” (*Id.* at 5.) In the same

Opposition, Mr. May also cited to the “case” of actor Will Smith slapping Chris Rock at the Academy Awards as a comparison to the instant case. (ECF No. 225 at 1, 4–5.) Mr. May cited this as a “non-conspiracy case,” for comparison, although it is not even a legal action. (*Id.*)

At the Rule 11 Hearing, when asked to provide legal authority to support Plaintiffs’ civil conspiracy claim, Mr. May again referenced “Escobar” and “Noriega” as a comparison to the instant action and for the proposition that the Court must look to the “motive, intent, and opportunity” of each coconspirator to understand the conspiracy. (*See* ECF No. 356.) Mr. May also provided citations to case law for the general proposition that vicarious liability—an entirely distinct legal theory—exists in Florida. (*Id.*) At the conclusion of the hearing, Mr. May even attempted to analogize the instant case to the tragic school shooting at Sandy Hook, an argument the Court did not entertain given its preposterous nature. (*Id.*) In short, as of the Rule 11 Hearing, the best that Mr. May could do was attempt to draw analogies to criminal conspiracies with no connection to anything that could even be said to resemble the case at hand. Citing what the elements of a conspiracy are, and then using extremely high-profile criminal cases as comparators, is not evidence nor does it support a theory that a conspiracy existed under these alleged facts.

After the Rule 11 Hearing (at which Mr. May noted that no further submissions were needed), Mr. May submitted *two* supplements, styled as “Notices of Authority.” (ECF Nos. 359, 365.) Putting aside the fact that neither filing was permitted by the Court or the Local Rules, the First Supplement contains only cherry-picked quotations from cases that have no factual similarities to the instant action. Indeed, Mr. May did not even attempt to draw any meaningful comparisons. *See, e.g., Cty. of Tuscaloosa v. Harcros Chemicals, Inc.*, 158 F.3d 548, 569 (11th Cir. 1998) (antitrust conspiracy claim wherein the Court stated that an antitrust conspiracy can be inferred by barriers to entry and other market conditions); *United States v. Anderson*, 747 F.3d 51

(2d Cir. 2014) (criminal case stemming from the Northern District of New York where the defendant was convicted of conspiracy and attempt to possess and distribute controlled substances including ecstasy); *Charles v. Fla. Foreclosure Placement Ctr., LLC*, 988 So. 2d 1157 (Fla. 3d DCA 2008) (homeowner alleged civil conspiracy claim against alleged foreclosure assistance company, title company, and mortgage broker, claiming she was defrauded out of the equity in her home). The Second Supplement contains a list of four cases that were *filed* in other courts but that have not yet been adjudicated. (ECF No. 365.) Even so, the cases lack proper citations such that it is unclear which filings, if any, Mr. May intends to reference as a comparator. (*Id.*) The case descriptions include: (1) “Plaintiff sued Brian Warner AKA Marilyn Manson, Record Label Interscope Music Publishing Inc and Nothing Records concerning child molestation in California”; (2) “Plaintiff sued Tremaine Neverson AKA Trey Songz, record label Atlantic Records Group LLC, and the manager case for a rape accusation in California. The Plaintiff alleges that Atlantic Records Group, LLC turned a blind eye despite the years of growing allegations against the singer”; (3) “The State of Nevada v Alvin Kamara for conspiracy to commit assault and battery in Clark County, Nevada where four men attacked one man and all were charged with conspiracy to commit assault and battery”; and (4) “Julia Misley V Defendant Doe 1 (Steven Tyler) and Defendant Doe 2-50 (music industry publishers and other) for sexual battery, sexual assault and IIED alleging that music industry labels and publishers are liable jointly and severally for acts of an artist.” (*Id.* at 1–2.) Mr. May does not provide the court, date, or status of any filing within the supplemental cases provided. (*Id.*)

In sum, the civil conspiracy claim, and the counts related thereto, had no factual or legal basis and do not present a reasonable argument to extend or change the law as it stands. *See, e.g., Gulisano*, 34 F. 4th at 943–44 (affirming the District Court’s award of Rule 11 sanctions against

an attorney where the argument “that ‘Burlington, Inc.’ was the fictitious name of BSI and BCFWC [. . .] was frivolous because there were no facts to support it,” and the attorney, “should have known that the motion . . . was frivolous because ‘even the most minimal investigation would have alerted’ him that there was no such entity as ‘Burlington, Inc.’”).

Thus, the First and Second Sanctions Motions are **GRANTED** as against Mr. May and the Lions’ Den only. Mr. May and the Lions’ Den will be assessed reasonable attorneys’ fees and costs accrued in connection with each Defendant’s defense of the civil conspiracy claim and the claims stemming therefrom (namely, Count V for civil conspiracy against Kirk, and all counts against BDBE, UMGI, and Interscope). The amount of attorneys’ fees will be determined by separate Order.

**B. Sanctions Are Not Warranted Under 28 U.S.C. § 1927, or Under the Inherent Power of the Court.**

Title 28, United States Code, Section 1927 provides that “[a]ny attorney . . . who so multiplies the proceedings in any case unreasonably or vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys’ fees reasonably incurred because of such conduct.” Under Section 1927, which must be “strictly construed,” sanctions may only be awarded when the following three factors are present: “(1) unreasonable and vexatious conduct; (2) such that the proceedings are multiplied; and (3) a dollar amount of sanctions that bears a financial nexus to the excess proceedings.” *Macort v. Prem, Inc.*, 208 F. App’x 781, 785–86 (11th Cir. 2006). Moreover, negligence is insufficient to warrant sanctions under Section 1927; rather, bad faith is required, such as “where an attorney knowingly or recklessly pursues a frivolous claim or engages in litigation tactics that needlessly obstruct the litigation of non-frivolous claims.” *Id.* If the Court finds that counsel’s actions in the case at bar did not multiply the proceedings, the Court need not consider the first component noted above, namely, whether counsel’s actions were

“unreasonable and vexatious.” See *Peterson v. BMI Refractories*, 124 F.3d 1386, 1396 (11th Cir. 1997) (noting that the court need not decide whether counsel’s actions were unreasonable and vexatious because counsel had not multiplied proceedings and, thus, Section 1927 sanctions were not warranted). To warrant Section 1927 sanctions, “something more than a lack of merit is required.” *Hudson v. Int’l Comput. Negots., Inc.*, 499 F.3d 1252, 1262 (11th Cir. 2007) (citation omitted).

To be sure, and as found above, Plaintiffs in this matter pursued frivolous claims. At least two of their claims, however, were not frivolous, and the issue of damages on those claims went to trial. On those two claims, the jury awarded \$100.00 to Plaintiff Anyadike. Damages sustained from Plaintiffs’ pursuit of the frivolous claims have been redressed by the Rule 11 Motions.

The issue now before the Court is whether Plaintiffs’ counsel multiplied the proceedings, and only if so, whether counsel’s actions were unreasonable and vexatious. The 1927 Sanctions Motion is limited, however, to trial conduct and certain “pretrial filings” including jury instructions, a motion to strike Plaintiffs’ Notice of Filing Joint Verdict Form, Plaintiffs’ witness list, Plaintiffs’ exhibit list, Plaintiffs’ deposition designations, and Plaintiffs’ proposed *voir dire* questions. (See ECF No. 341.) While much of Mr. May’s conduct throughout the proceedings, as outlined above, was clearly improper—the Court is not persuaded that the conduct *at issue* multiplied the proceedings in any meaningful way. As to trial conduct, while Defendant Kirk notes that Mr. May was admonished during the trial for improper questioning, he fails to show that absent such questioning the trial would have lasted only two days, as opposed to four. Further, the Court does not find that an additional day or two of trial would even be sufficient to make any further findings as to bad faith. Similarly, as to pretrial conduct, while Defendant Kirk correctly notes that Plaintiffs’ *voir dire* questions were inappropriate, for example, he does not show how



the filing of those questions multiplied any proceedings, as the Court did not allow Mr. May to ask any of the questions at issue. Additionally, while Mr. May improperly filed a Notice of Filing Joint Verdict Form for all Parties, Defendant Kirk was only one of four Defendants who jointly moved to strike the Notice through a brief Motion to Strike. As a whole, the Court finds that the pretrial and trial conduct identified did not unreasonably and vexatious multiply the proceedings such that sanctions are warranted under 28 U.S.C. § 1927.

Likewise, although the Court has an “inherent power to sanction attorneys or parties to a case,” the Court finds that further monetary sanctions are not warranted. *Kleiman v. Wright*, No. 18-cv-80176, 2020 WL 3451682, at \*17 (S.D. Fla. June 24, 2020). Indeed, “[b]ecause of their very potency, inherent powers must be exercised with restraint and discretion.” *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44 (1991).

Plaintiffs’ counsel, Mr. May, displayed a flagrant disregard for the rules that govern litigation in our District. The repeated failures to abide by the Local Rules, the Federal Rules of Civil Procedure, and the Federal Rules of Evidence, were noted by the Court on several occasions. In addition, counsel has little to no appreciation for the concept that claims must be supported by evidence, and that legal arguments must be supported by existing law or by good faith arguments to extend existing law. There is clearly a disconnect between what counsel deems to be proper arguments before the Court and what actually are proper arguments before the Court. Counsel’s proposed *voir dire* questions alone left the Court wondering whether he was seriously intending to have jurors answer questions related to their religious and political beliefs, as if those questions could have any relevance to the damages for assault and battery claims. Sanctioning counsel any further, however, would serve little purpose.


Rather, counsel's conduct causes the Court to seriously question whether Mr. May should be appearing before any Court in our District or State. As such, the Court will refer Mr. May to the District's Grievance committee to determine whether he should be permitted to practice in our District. Further, given the nature and frequency of Mr. May's actions, the Court will refer Mr. May to the Florida Bar to assess any remaining issues of competency to practice law in Florida.

#### IV. CONCLUSION

Based on the foregoing, it is hereby **ORDERD** and **ADJUDGED** that:

1. The First Rule 11 Sanctions Motion, (ECF No. 222) is **GRANTED** as against Mr. May and the Lions' Den and **DENIED** as against Plaintiffs individually.
2. The Second Rule 11 Sanctions Motion, (ECF No. 244), is **GRANTED** as against Mr. May and the Lions' Den and **DENIED** as against Plaintiffs individually.
3. Attorneys' fees shall be awarded against Mr. May and the Lions' Den, to Defendants UMGI, Interscope, BDBE, and Kirk, as outlined above.
4. However, before the Court can award attorneys' fees, it needs additional information. Accordingly, Defendants **SHALL** file an affidavit detailing the number of hours expended as a result of Plaintiffs' counsel's sanctioned conduct. The affidavit should include Defendants' counsel's hourly rate. Defendants **SHALL** file the affidavit **on or before March 10, 2025**.
5. The 1927 Sanctions Motion, (ECF No. 341), is **DENIED**, as outlined above.

**DONE AND ORDERED** in Chambers at Miami, Florida, this 13 day of February 2025.

  
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JOSE E. MARTINEZ  
UNITED STATES DISTRICT JUDGE

Copies provided to:  
All Counsel of Record

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

**Case Number: 21-20408-CIV-MARTINEZ**

KENNETH CAREY and STEVE ANYADIKE

Plaintiffs,

v.

JONATHAN KIRK,

Defendant.

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**ORDER ON PLAINTIFFS' MOTION TO RECUSE**

**THIS CAUSE** came before the Court on Plaintiffs' Motion to Recuse the Honorable Judge Jose E. Martinez (the "Motion"). (ECF No. 398). Plaintiff moves to disqualify the undersigned under 28 U.S.C. 445(a) and (b)(1). (*Id.*) After careful consideration, the Court denies Plaintiffs' Motion.

Plaintiff argues that the Court's imposition of sanctions against Plaintiffs' counsel and statements made during trial over two years ago "demonstrates a clear bias and prejudice against the Plaintiff and/or counsel, creating the appearance of impropriety and undermining the integrity of the judicial process." (Mot. at 2). Plaintiff's Motion is completely devoid of citations to caselaw or the record, other than the nine pages where Plaintiffs copied and pasted random portions of the trial transcript. (Mot. at 4–12).

Under 28 U.S.C. § 455, a judge must "disqualify himself in any proceeding in which his impartiality might reasonably be questioned" or when the judge "has personal bias or prejudice concerning a party." 28 U.S.C. § 455(a), (b)(1). "Under § 455, the standard is whether an objective, fully informed lay observer would entertain significant doubt about the judge's impartiality." *Christo v. Padgett*, 223 F.3d 1324, 1333 (11th Cir. 2000). Allegations of bias under § 455 must be "personal as opposed to judicial in nature." *United States v. Meester*, 762 F.2d 867, 884 (11th Cir. 1985). Bias is personal if it "stem[s] from an extra-judicial source and result[s] in an opinion on the merits on some basis other than what the judge learned from his participation in the case." *United States v. Sims*, 845 F.2d 1564, 1570 (11th Cir. 1988) (quoting *Meester*, 762 F.2d at 884).

With these principles in mind, the Motion must be denied. Plaintiffs argue that the Court's order sanctioning Plaintiff's counsel was "without a proper factual or legal basis." (Mot. at 3). Not only do Plaintiffs fail to explain their argument, but the Court's 65-page Order sanctioning Plaintiffs' counsel details dozens of examples of Plaintiffs' counsel's behavior that warranted sanctions supported by citations to both caselaw and the record. (See ECF No. 396). Plaintiffs also argue that the Court's statements of frustration expressed at trial warrant recusal. (See Mot.). However, occasional expressions of frustrations with litigants and counsel are not grounds for recusal. See *Christo*, 223 F.3d at 1334 ("judicial remarks that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge") (quoting *Liteky v. United States*, 510 U.S. 540, 555 (1994)); *Hamm v. Members of Bd. of Regents*, 708 F.2d 647, 651 (11th Cir.1983) ("Neither a trial judge's comments on lack of evidence, rulings adverse to a party, nor friction between the court and counsel constitute pervasive bias.").

Plaintiff does not allege facts that would convince a reasonable person that bias actually exists. See *Christo*, 223 F.3d at 1333. The undersigned has no personal bias or prejudice concerning either party to this action and does not have a financial interest in the outcome. No objective, fully informed lay observer could entertain "significant doubt" about the undersigned's impartiality in this matter. *Id.*

For the foregoing reasons, it is **ORDERED AND ADJUDGED** that the Motion to Recuse, (ECF No. 398), is **DENIED**.

**DONE AND ORDERED** in Chambers at Miami, Florida, this 7 day of March 2025.

  
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 JOSE E. MARTINEZ  
 UNITED STATES DISTRICT JUDGE

Copies provided to:  
 All Counsel of Record

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

**Case Number: 21-20408-CIV-MARTINEZ**

KENNETH CAREY and STEVE ANYADIKE

Plaintiffs,

v.

JONATHAN KIRK *et al.*,

Defendants.

\_\_\_\_\_ /

**ORDER ON ATTORNEYS' FEES**

**THIS CAUSE** came before the Court on the Court's Omnibus Order on Motions for Sanctions, (the "Order"). (ECF No. 396). The Court granted Defendants Jonathan Kirk's and Billion Dollar Baby Entertainment LLC's ("BDBE") Motion for Rule 11 Sanctions, (ECF No. 222), and Defendants Universal Music Group, Inc.'s ("UMGI") and Interscope Records' ("Interscope") Motion for Rule 11 Sanctions, (ECF No. 244), as to Plaintiff's Counsel, Jonathan May and the Lions' Den. (Order at 65). To allow the Court to calculate the appropriate attorneys' fees award amount, it ordered Defendants' counsel to "file an affidavit detailing the number of hours expended as a result of Plaintiffs' counsel's sanctioned conduct. The affidavit should include Defendants' counsel's hourly rate." (*Id.*). Defendants' counsel has since filed the requested affidavits and supporting billing records. (ECF Nos. 400, 401, 402, 406, 407, 408).

**I. LEGAL STANDARD**

Courts generally use the "lodestar" method to calculate attorneys' fee awards—the number of hours reasonably expended multiplied by a reasonable hourly rate. *See e.g., Dial HD, Inc. v. ClearOne Comms.*, 536 F. App'x. 927, 930 (11th Cir. 2013) (citing *Am. Civil Liberties Union of*

*Georgia v. Barnes*, 168 F.3d 423, 427 (11th Cir. 1999). A reasonable hourly rate is the “prevailing market rate in the relevant legal community for similar services by lawyers of reasonably comparable skills, experience, and reputation.” *Loranger v. Stierheim*, 10 F.3d 776, 781 (11th Cir. 1994) (quotation omitted). The Court is “itself an expert” on the reasonableness of hourly rates and “may consider its own knowledge and experience” on the topic. *Id.* (quotation omitted). Further, the fee applicant must provide the Court with detailed evidence about the reasonable hourly rate, as well as records to show the time spent on the different claims and the general subject matter of the time expenditures set out with particularity. *Barnes*, 168 F.3d at 427. After determining the lodestar amount, courts can “adjust the fee upward or downward, including [by considering] the important factor of the results obtained.” *Hensley*, 461 U.S. at 434 (quotation marks omitted).

## II. DISCUSSION

### A. Kirk’s and BDBE’s Counsel: Gray Robinson, P.A.

Scott L. Cagan, counsel for Kirk and BDBE, filed a declaration detailing his hourly rate, the hourly rates of paralegal Christine Rocco and first-year associate Sophie Labarge, and the number of hours Cagan, Rocco, and Labarge expended as a result of Plaintiffs’ counsel’s sanctioned conduct. (ECF No. 400-1). Cagan’s partner, “Brian Bieber, also provided support on this case, but in the exercising of [Cagan’s] billing judgment, [he] omitted all of [Bieber’s] time from this fee application.” (*Id.* ¶ 8). The declaration also includes details about the backgrounds, credentials, and experience of Cagan, Rocco, and Labarge. (*Id.* ¶¶ 2–4, 8). The declaration does not contain details about other attorneys in the relevant legal community (which in this case is South Florida) with skills, experience, and reputations reasonably comparable to Caga, Rocco, or Labarge. (*Id.*). But it does state that Cagan considers “these hourly rates are reasonable given [his]



experience, the complexity of the issues, and rates typically charged in the legal community for this type of work.” (*Id.* ¶ 7).

### **1. Hourly Rates**

Kirk and BDBE seek attorneys’ fees for time billed by Cagan at an hourly rate of \$575 prior to September 1, 2022, and \$645 after September 1, 2022; time billed by Rocco at an hourly rate of \$260 prior to September 1, 2022, and \$280 after September 1, 2022; and time billed by Labarge at an hourly rate of \$235. (ECF No. 400-1 ¶ 7–8). Having considered the information contained in the affidavit and the *Johnson* factors and in view of the Court’s own knowledge and experience as a practitioner in this District, *see Norman v. Hous. Auth. of City of Montgomery*, 836 F.2d 1292, 1303, (11th Cir. 1988), the Court finds the requested hourly rates are reasonable and similar to those awarded to similarly situated attorneys and paralegals within this District.<sup>1</sup> Accordingly, the Court finds it appropriate to award the requested hourly rates for Cagan, Rocco, and Labarge.

### **2. Reasonable Hours Expended**

Moving to the second step in the lodestar analysis, the Court must determine the number of hours reasonably expended on the litigation. *See Barnes*, 168 F.3d at 427. With no objection from Plaintiffs and based on the Court’s independent review of the billing records, the Court finds that counsel expended reasonable hours in defending all claims brought against BDBE. (*See* ECF

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<sup>1</sup> See, e.g., *Efron v. Candelario*, No. 22-CV-21452, 2025 WL 906127 (S.D. Fla. Feb. 10, 2025), report and recommendation adopted, No. 22-21452-CIV, 2025 WL 901541 (S.D. Fla. Mar. 25, 2025) (finding hourly rates of \$650 and \$575 for attorneys reasonable); *Sprint Communications, LLC v. Calabrese*, No. 18-CV-60788, 2025 WL 713048 (S.D. Fla. Feb. 20, 2025), report and recommendation adopted, No. 18-60788-CIV, 2025 WL 708130 (S.D. Fla. Mar. 5, 2025) (finding requested hourly rates from \$501–\$1077 for partners and \$280–\$295 for paralegals reasonable based on lack of objection and the Court’s independent judgment and expertise); *Toste v. Beach Club at Fontainebleau Condo. Ass’n, Inc.*, No. 1:20-CV-23771-KMM, 2025 WL 307238 (S.D. Fla. Jan. 9, 2025), report and recommendation adopted, No. 1:20-CV-23771-KMM, 2025 WL 304816 (S.D. Fla. Jan. 27, 2025) (finding an hourly rate of \$300 reasonable for an associate with one-and-a-half years of experience).

Nos. 400-1 and 406-1). As such, the Court will award attorneys' fees incurred by BDBE as follows:

- Scott L. Cagan – 337.5 hours x \$575/hour = \$194,062.50
- Scott L. Cagan – 6.1 hours x \$645/hour = \$3,934.50
- Sophie Labarge – 2.7 hours x \$235/hour = \$634.50
- Christine Rocco – 255.9 hours x \$260/hour = \$58,734.00
- Total: \$257,365.50

As for fees incurred by Kirk, Cagan notes that fees incurred defending the conspiracy claims against Kirk were intertwined with other claims Plaintiffs brought against him. (ECF No. 400-1 ¶ 13). As such, Cagan excluded from Kirk's fee application fees incurred defending Plaintiffs' claims for breach of contract and promissory estoppel (\$35,000), defending Plaintiff Anyadike's claims for assault and battery (\$45,000), and prosecuting Kirk's counterclaims against Plaintiffs (\$15,000). (*Id.* ¶ 14). As such, the Court will award Kirk's attorneys' fees in the amount of \$162,365.50.

**B. Kirk's Counsel: Findling Law Firm, P.C.**

Kirk's counsel from Findling Law Firm, Drew Findling and Zachary Kelehear, filed declarations that indicated their hourly rates and the attorneys' fees incurred by Kirk. (ECF Nos. 401-1 and 401-2). The declarations also include details about the backgrounds, credentials, and experience of Findling and Kelehear. (ECF Nos. 401-1 and 401-2). The declarations do not contain details about any other attorneys in the relevant legal community (which in this case is South Florida) with skills, experience, and reputations reasonably comparable to Findling and Kelehear. (*See id.*). But the declarations do state that Findling and Kelehear consider "these hourly rates are reasonable given my experience, the complexity of the issues, and rates typically charged in the legal community for this type of work." (*Id.* ¶ 7).



## 1. Hourly Rates

Kirk seeks attorneys' fees for time billed by Findling at an hourly rate of \$1,100 prior to January 1, 2023, and \$1,250 from January 1, 2023, forward, and time billed by Kelehear at an hourly rate of \$450 prior to January 1, 2023, and \$600 from January 1, 2023, forward. (ECF Nos. 401-1, 401-2 ¶ 7). Having considered the information contained in the affidavit and the *Johnson* factors and in view of the Court's own knowledge and experience as a practitioner in this District, *see Norman*, 836 F.2d at 1303, the Court finds the requested hourly rate for Kelehear is reasonable and similar to those awarded to similarly situated attorneys within this District.<sup>2</sup> However, the Court finds that the rate requested by Findling is higher than those awarded to similarly situated attorneys within this District.<sup>3</sup> The Court finds it appropriate to reduce Findling's hourly rate to \$1,000.

## 2. Reasonable Hours Expended

Based on the Court's independent review of the billing records, and with no objection from Plaintiffs, the Court finds that counsel expended reasonable hours in defending the conspiracy claims against Kirk. Findling and Kelehear note that fees incurred defending the conspiracy claims against Kirk were intertwined with other claims Plaintiffs brought against him. (*Id.* ¶ 9). As such, Findling excluded from Kirk's fee application fees incurred defending Plaintiffs' claims for breach of contract and promissory estoppel (\$22,000), defending Plaintiff Anyadike's claims for assault and battery (\$18,000), and prosecuting Kirk's counterclaims against Plaintiffs (\$11,000). Kelehear excluded from Kirk's fee application fees incurred defending Plaintiffs' claims for breach of contract and promissory estoppel (\$15,750), defending Plaintiff Anyadike's claims for assault and battery (\$11,250), and prosecuting Kirk's counterclaims against Plaintiffs (\$6,750). As such, the

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<sup>2</sup> See footnote 1.

<sup>3</sup> See footnote 1.

Court awards attorneys' fees to the Findling Law Firm as follows:

- Drew Findling – (143.5 hours x \$1,000/hour) - \$51,000 = \$92,500.00
- Zachary Kelehear – (278.6 hours x \$450/hour) - \$33,750 = \$91,620.00
- Zachary Kelehear – 21.7 hours x \$600/hour = \$13,020.00
- Total fees incurred – \$197,140.00

**C. UMGI's and Interscope's Counsel: Becker & Poliakoff, P.A.**

Kevin Markow, counsel for UMGI and Interscope, filed a declaration detailing his hourly rate and the hourly rates of his partner, Evan Berger, and former colleague, Darren Goldman, expended as a result of Plaintiffs' counsel's sanctioned conduct. (ECF No. 402-1). The declaration also includes details about the backgrounds, credentials, and experience of Markow, Berger, and Goldman. (*Id.* ¶¶ 3, 8–9, 12, 14).

**1. Hourly Rates**

In the declaration, Markow avers that his hourly rate was \$550, Berger's hourly rate was \$475, and Goldman's hourly rate was \$400 prior to January 1, 2022, and \$425 after January 1, 2022. (ECF No. 402-1 ¶¶ 10, 13, 15). Having considered the information contained in the declarations and the *Johnson* factors and in view of the Court's own knowledge and experience as a practitioner in this District, *see Norman*, 836 F.2d at 1303, the Court finds that the requested hourly rates are reasonable and similar to those awarded to similarly situated attorneys within this District.<sup>4</sup> Accordingly, the Court finds it appropriate to award the requested hourly rate for Markow, Berger, and Goldman.

**2. Reasonable Hours Expended**

Accordingly, with no objection from Plaintiffs and based on the Court's independent

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<sup>4</sup> See footnote 1.

review of the billing records, the Court finds that counsel expended reasonable hours in defending all claims brought against UMGI and Interscope. A review of the billing record indicates that fees were incurred as follows:

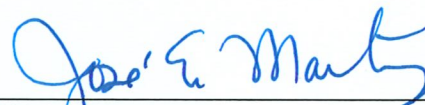
- Kevin Markow, 425.6 hours x \$550/hour = \$234,080.00
- Evan Berger, 91.3 hours x \$475/hour = \$43,367.50
- Darren Goldman, 78.6 hours x \$400/hour = \$31,440.00
- Darren Goldman, 138.1 hours x \$425/hour = \$58,692.50
- Total fees incurred: \$367,580.00

### **III. CONCLUSION**

For the reasons in the Court's Omnibus Order, (ECF No. 396), attorneys' fees are awarded against Jonathan May and the Lions' Den and to counsel for Defendants UMGI, Interscope, BDBE, and Kirk as follows:

1. GrayRobinson, P.A., Counsel for Billion Dollar Baby Entertainment LLC and Co-Counsel for Jonathan Kirk, is awarded a total of \$419,731.00 in attorneys' fees.
2. Findling Law Firm, Co-Counsel for Jonathan Kirk, is awarded a total of \$197,140.00 in attorneys' fees.
3. Becker & Poliakoff, P.A., Counsel for Universal Music Group, Inc. and Interscope Records, Inc., is awarded a total of \$367,580.00 in attorneys' fees.

**DONE AND ORDERED** in Chambers at Miami, Florida, this 21 day of April 2025.



JOSE E. MARTINEZ  
UNITED STATES DISTRICT JUDGE

Copies provided to:  
All Counsel of Record

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

In the Matter of the Application of, FROZEN  
MOMENTS, LLC,

*Petitioner,*

For an Order pursuant to Section 3102(c) of the Civil  
Practice Law and Rules to compel pre-action disclosure  
from:

UMG RECORDINGS, INC, and SPOTIFY USA INC.,

*Respondents.*

Index No.

**VERIFIED PETITION**

Petitioner, Frozen Moments, LLC (“Petitioner” or “Frozen Moments”), by and through its undersigned attorneys, respectfully petitions the Court, pursuant to New York Civil Practice Law and Rule (“CPLR”) 3102(c), for an Order granting limited pre-action disclosure from Respondents UMG Recordings, Inc. (“UMG”) and Spotify USA Inc. (“Spotify”) and directing the preservation of relevant evidence in the possession, custody, or control of UMG.

**NATURE OF THE DISPUTE**

1. In his memo to staff reflecting on highlights of 2021, the CEO of UMG, Lucian Grainge, remarked on it being “harder than ever for artists to break through the noise: *sixty thousand songs are added to Spotify every day*.”<sup>1</sup>

2. Spotify is the world’s most popular audio streaming subscription service.<sup>2</sup> As of the end of the third quarter of 2024, Spotify boasted more than 640 million monthly active users

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<sup>1</sup> Jem Aswad, *Read Universal Music Chief Lucian Grainge’s New Year’s Memo to Staff*, Variety (Jan. 12, 2022, 8:15 AM), <https://variety.com/2022/music/news/universal-music-lucian-grainges-new-years-memo-to-staff-1235152364/> [<https://perma.cc/8Q7U-92BD>].

<sup>2</sup> *About Spotify*, Spotify Newsroom, <https://newsroom.spotify.com/company-info/> [<https://perma.cc/H4XK-G647>] (last visited Nov. 20, 2024).

and 252 million subscribers.<sup>3</sup> Spotify pays music companies, like UMG, for the right to license songs so it can play them on its streaming and subscription platforms. In 2023 alone, Spotify paid more than \$9 billion in royalties to music labels and producers.<sup>4</sup> Hip-hop is one of the most popular genres on Spotify, amounting to nearly a quarter of all streams on Spotify globally in 2023.<sup>5</sup>

3. Spotify and UMG have a long-standing, symbiotic business relationship. As “one of Spotify’s earliest supporters,” UMG entered into a multi-year global license agreement with Spotify in 2020.<sup>6</sup> UMG and Spotify collaborate on strategic marketing campaigns and products and, in 2024, announced an expansion of their strategic partnership through which Spotify will “amplify music discovery and social interaction and enhance fan experiences across the platform for UMG’s family of artists and songwriters.”<sup>7</sup> Based on UMG’s financial reporting, Spotify paid UMG around \$2.28 *billion* in 2023, which amounted to 19 percent of UMG’s total revenues in 2023.<sup>8</sup>

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<sup>3</sup> Press Release, Spotify Reports Third Quarter 2024 Earnings, Spotify Newsroom (Nov. 12, 2024), <https://newsroom.spotify.com/2024-11-12/spotify-reports-third-quarter-2024-earnings/> [<https://perma.cc/G3KC-TLJD>].

<sup>4</sup> Glenn Peoples, *Spotify Paid \$9 Billion to Labels & Publishers in 2023*, Billboard (Feb. 8, 2024), <https://www.billboard.com/business/streaming/spotify-2023-royalties-payouts-9-billion-labels-publishers-1235603302/> [<https://perma.cc/7N6V-JVUV>].

<sup>5</sup> Press Release, Nearly a Quarter of All Streams on Spotify Are Hip-Hop. Spotify’s Global Editors Reflect on the Genre’s Growth, Spotify Newsroom (Aug. 10, 2023), <https://newsroom.spotify.com/2023-08-10/hip-hop-50-murals-new-york-atlanta-miami-los-angeles/> [<https://perma.cc/NZ9B-7B93>].

<sup>6</sup> Press Release, Spotify and Universal Music Group Announce Global, Multi-Year License Agreement, UMG (July 22, 2020), <https://www.universalmusic.com/spotify-and-universal-music-group-announce-global-multi-year-license-agreement-2/> [<https://perma.cc/75QW-27TK>].

<sup>7</sup> Press Release, Universal Music Group and Spotify Expand Strategic Partnership, UMG (Mar. 28, 2024), <https://www.universalmusic.com/universal-music-group-and-spotify-expand-strategic-relationship/> [<https://perma.cc/L9PP-JUTJ>].

<sup>8</sup> Tim Ingham, *On...the delicate power balance between Spotify and Universal Music Group (and why UMG might end up turning the screw on Spotify’s free tier)*, Music Business Worldwide (Aug. 6, 2024), <https://www.musicbusinessworldwide.com/power-balance-between-spotify-universal-music-group/> [<https://perma.cc/H9W9-YPXF>].

4. Streaming is essential to UMG's current bottom line and its future business strategy. In a report related to the third quarter of 2024, UMG noted a nearly 29 percent year-over-year decrease in downloads and other digital revenue because of "the continued format shift towards streaming" across the music industry.<sup>9</sup> UMG's long-term strategy relies on "[a]ccelerating the growth of, and monetization from, streaming and subscription."<sup>10</sup> In October 2024, UMG unveiled a new slogan—"Streaming 2.0"—which illustrates the importance UMG places on saturating the streaming market.<sup>11</sup>

5. In 2024, UMG did not rely on chance, or even ordinary business practices, to "break through the noise" on Spotify, and likely other music platforms. It instead launched a campaign to manipulate and saturate the streaming services and airwaves with a song, "Not Like Us," in order to make that song go viral, including by using "bots" and pay-to-play agreements.

6. UMG released "Not Like Us" (or the "Song") on May 4, 2024. Pursuant to various contractual rights, UMG (via its division Interscope Records ("Interscope")) has exclusive control over the licensing of the Song.

7. On information and belief, UMG charged Spotify licensing rates 30 percent lower than its usual licensing rates for "Not Like Us" in exchange for Spotify affirmatively recommending the Song to users who are searching for other unrelated songs and artists. Neither

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<sup>9</sup> Press Release, Universal Music Group N.V. Reports Financial Results For The Third Quarter And Nine Months Ended September 30, 2024, UMG (Oct. 31, 2024), <https://www.universalmusic.com/universal-music-group-n-v-reports-financial-results-for-the-third-quarter-and-nine-months-ended-september-30-2024/> [<https://perma.cc/7XJV-Q853>].

<sup>10</sup> Press Release, Universal Music Group N.V. Reports Financial Results for the Fourth Quarter and Full Year Ended December 31, 2023, UMG (Feb. 28, 2024), <https://www.universalmusic.com/universal-music-group-n-v-reports-financial-results-for-the-fourth-quarter-and-full-year-ended-december-31-2023/> [<https://perma.cc/MF4L-PBRA>].

<sup>11</sup> *Id.*; Ashley Carman, *Universal Music's Grand Streaming Vision Requires Cooperation*, Bloomberg (Sept. 19, 2024, 4:23 PM), <https://www.bloomberg.com/news/newsletters/2024-09-19/universal-music-s-grand-streaming-vision-requires-cooperation> [<https://perma.cc/JHJ9-S42N>].

UMG nor Spotify disclosed that Spotify had received compensation of any kind in exchange for recommending the Song. On information and belief, Spotify pays UMG licensing fees through the wires or mails.

8. UMG, directly or through Interscope, also conspired with and paid currently unknown parties to use “bots” to artificially inflate the spread of “Not Like Us” and deceive consumers into believing the Song was more popular than it was in reality. Bots are software programs designed to mimic human behavior to appear to be real social media accounts. One individual unknown to Petitioner revealed publicly on a popular podcast that Mr. Kendrick Lamar Duckworth’s “label” (i.e., Interscope) paid him via third parties to use “bots” to achieve 30,000,000 streams on Spotify in the first days of the release of “Not Like Us” with the goal of “jumpstarting” the Song’s spread and turning it into “a crazy hit” on the platform.<sup>12</sup> The whistleblower described Spotify as the easiest platform “to bot” because it does not, like other streaming platforms, have certain security measures “when it comes to bot protection.”<sup>13</sup> The whistleblower further revealed that, on May 6, 2024, an individual affiliated with Interscope sent him a payment of \$2,500 via the digital payments platform, Zelle, which is owned by a number of banks, and that he was promised another \$2,500 and a percentage of the Song’s total sales for this initial push.<sup>14</sup>

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<sup>12</sup> Jambisco Don (@JambiscoDon), *Kendrick Lamar EXPOSED by DJ Akademiks and HACKER Epic for BOT streams*, YouTube (June 18, 2024), <https://www.youtube.com/watch?si=PoazLqeHTyBePEiq&v=rcsW2wteW0c&feature=youtu.be> [<https://perma.cc/8QKB-MX9V>].

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*



9. On information and belief, UMG hired other unknown third parties to use “bots” to promote “Not Like Us” and also to inflate the streams of the “Not Like Us” music video (the “Video”), which UMG first published on July 4, 2024.

10. UMG appears to have used similar tactics with other streaming services. On information and belief, UMG paid, or approved payments to, Apple Inc. to have its voice-activated digital assistant “Siri” purposely misdirect users to “Not Like Us.”<sup>15</sup> Online sources reported that when users asked Siri to play the album “Certified Loverboy” by recording artist Aubrey Drake Graham d/b/a Drake, Siri instead played “Not Like Us,” which contains the lyric “certified pedophile,” an allegation against Drake.<sup>16</sup>

11. UMG engaged in similar pay-to-play schemes to increase the air play of “Not Like Us” on the radio. Petitioner has obtained information from a third party indicating that at least one UMG employee made payments to an independent radio promotor, serving as an intermediary, who had agreed to transfer those payments to certain radio stations and/or radio station employees. These radio stations subsequently played (or caused to be played) “Not Like Us” without disclosing that they had been paid to do so. This practice, known as “payola,” is prohibited by the Communications Act of 1934 (*see* 47 U.S.C. §§ 317, 508), and has been the subject of regulatory scrutiny by a number of Executive agencies.<sup>17</sup> In 2006, UMG agreed to pay \$12 million in a

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<sup>15</sup> See Armon Sadler, *Fans Discover Siri Plays Kendrick Lamar’s “Not Like Us” On Spotify When They Ask For Drake’s ‘Certified Lover Boy’*, VIBE (July 11, 2024, 2:14 PM), <https://www.vibe.com/news/entertainment/siri-not-like-us-spotify-certified-lover-boy-1234895147/> [<https://perma.cc/N9Y7-G5BA>].

<sup>16</sup> *Id.*

<sup>17</sup> Payola in the music industry remains a top priority for the federal government. For example, in January 2020, the Federal Communications Commission sent a letter to three music companies, including Universal Music Group, seeking prompt information regarding each company’s practices to prevent payola, any payola violations, and arrangements for promoting music on the radio. Letter from Comm’r of Fed. Comm. Comm’n to Sony Music Ent., Warner Music Grp. & Universal Music Grp. (Jan. 16, 2020), <https://docs.fcc.gov/public/attachments/DOC-361998A1.pdf>.



settlement with the New York Attorney General following an investigation involving accusations that UMG executives had used a broad array of “pay for play” tactics to secure radio airplay for music.<sup>18</sup> In connection with UMG’s settlement, then-New York attorney general Eliot Spitzer explained “Consumers have a right not to be misled about the way in which the music they hear on the radio is selected.”<sup>19</sup> He continued to say that “Pay-for-play makes a mockery of claims that only the ‘best’ or ‘most popular’ music is broadcast.”<sup>20</sup> Separately, in 2005, UMG was sued by two radio promotion companies alleging fraudulent pay-to-play practices.<sup>21</sup>

12. While historically payola has been thought of in terms of paying radio stations to play songs, in February 2020, the Federal Trade Commission released guidance stating that “by paying an influencer to pretend that their endorsement or review is untainted by a financial relationship, this is illegal payola.”<sup>22</sup> On information and belief, UMG employed a similar scheme by paying social media influencers to promote and endorse the Song and Video. For example, Petitioner understands that UMG paid the popular NFR Podcast—which has nearly 300,000 subscribers on YouTube<sup>23</sup> and over 330,000 followers on X<sup>24</sup>—to promote “Not Like Us” and its

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<sup>18</sup> Jeff Leeds, *Universal Music Settles Big Payola Case*, N.Y. Times (May 12, 2006), <https://www.nytimes.com/2006/05/12/business/12payola.html?smid=url-share> [<https://web.archive.org/web/20240131004539/https://www.nytimes.com/2006/05/12/business/12payola.html>].

<sup>19</sup> *Universal Music Group settles payola case*, NBC News (May 11, 2006, 12:00 PM), <https://www.nbcnews.com/id/wbna12740147> [<https://web.archive.org/web/20220501154735/https://www.nbcnews.com/id/wbna12740147>].

<sup>20</sup> *Id.*

<sup>21</sup> *UMG Sued For Fraud*, Pollstar (Apr. 28, 2005, 2:20 AM), <https://news.pollstar.com/2005/04/28/umg-sued-for-fraud/> [<https://perma.cc/6QH7-T8K2>].

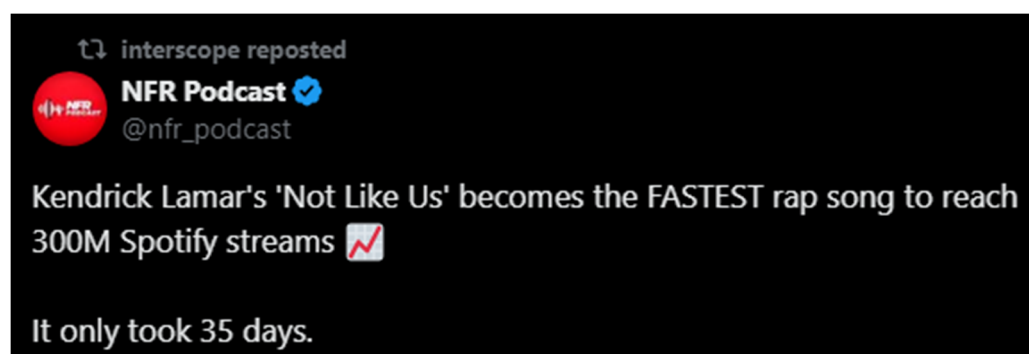
<sup>22</sup> Fed. Trade Comm’n, Comm’n File No. P204500, Statement Of Comm’r Rohit Chopra Regarding The Endorsement Guide Review (Feb, 12, 2020), [https://www.ftc.gov/system/files/documents/public\\_statements/1566445/p204500\\_-\\_endorsement\\_guides\\_reg\\_review\\_-\\_chopra\\_stmt.pdf](https://www.ftc.gov/system/files/documents/public_statements/1566445/p204500_-_endorsement_guides_reg_review_-_chopra_stmt.pdf) [<https://perma.cc/2W58-Y8SK>].

<sup>23</sup> NFR Podcast (@NFRPodcast), YouTube <https://www.youtube.com/c/nfrpodcast> [<https://perma.cc/P6F4-Q7U6>] (last visited Nov. 20, 2024).

<sup>24</sup> NFR Podcast (@nfr\_podcast), X, [https://x.com/nfr\\_podcast](https://x.com/nfr_podcast) (last visited Nov. 20, 2024).

Video without disclosing the payment. As part of its deal with UMG, the NFR Podcast published podcast episodes,<sup>25</sup> tweets,<sup>26</sup> and other content publicly about the Song. And in a sea-change for UMG's internal policy, UMG removed the Song's copyright restrictions on YouTube and Twitch, thereby "whitelisting" the Song (for the first time in UMG history), which further incentivized influencers to spread the Song.

13. UMG's scheme to ensure "Not Like Us" "broke through" on Spotify (and elsewhere) worked. "Not Like Us" broke Spotify records, as Interscope posted on its X account:<sup>27</sup>



<sup>25</sup> See NFR Podcast (@nfr\_podcast), X (May 4, 2024, 7:59 PM), [https://twitter.com/nfr\\_podcast/status/1786908506731262241](https://twitter.com/nfr_podcast/status/1786908506731262241) [<https://perma.cc/9Q3V-PHGF>]; NFR Podcast (@nfr\_podcast), X (June 12, 2024, 10:53 PM), [https://x.com/nfr\\_podcast/status/1801085351097704834](https://x.com/nfr_podcast/status/1801085351097704834) [<https://perma.cc/3PM3-ECGZ>]; NFR Podcast (@nfr\_podcast), X (July 4, 2024, 7:05 PM), [https://x.com/nfr\\_podcast/status/1809000553487143066](https://x.com/nfr_podcast/status/1809000553487143066) [<https://perma.cc/CS9U-782J>].

<sup>26</sup> See NFR Podcast (@NFRPodcast), *DRAKE & KENDRICK DROP NUKES*, YouTube (May 6, 2024), <https://www.youtube.com/watch?v=QIVau4fia2U> [<https://perma.cc/M74N-QZLT>]; NFR Podcast, *Our Final Thoughts on Drake v. Kendrick Lamar*, Spotify (May 14, 2024), <https://podcasters.spotify.com/pod/show/nfrpodcast/episodes/Our-Final-Thoughts-on-Drake-vs--Kendrick-Lamar-Battle-e2jl9jo> [<https://perma.cc/6PX4-DWNK>].

<sup>27</sup> Interscope (@interscope), X (June 9, 2024, 6:22 PM), <https://x.com/Interscope/status/1800258394382614977> [<https://perma.cc/4W9P-8N5N>]; Interscope (@interscope), X, <https://x.com/Interscope> [<https://perma.cc/3AX3-NRGH>] (last visited Nov. 20, 2024); Papa Keith, *Kendrick Lamar Continues To Break Spotify Records with "Not Like Us,"* 103.5 The Beat (June 10, 2024), <https://1035thebeat.iheart.com/featured/papa-keith/content/2024-06-10-kendrick-lamar-continues-to-break-spotify-records-with-not-like-us/> [<https://web.archive.org/web/20241120194639/https://1035thebeat.iheart.com/featured/papa-keith/content/2024-06-10-kendrick-lamar-continues-to-break-spotify-records-with-not-like-us/>].

14. To date, “Not Like Us” has almost *900 million* streams on Spotify<sup>28</sup> and holds the record for the biggest single day streams of a hip-hop song and the most streamed “diss track” in Spotify history.<sup>29</sup> “Not Like Us” has spent 27 weeks on Spotify’s City Chart for New York City, which ranks the weekly streaming popularity of songs by users in New York, New York.<sup>30</sup>

15. Within a week of its initial release, “Not Like Us” broke the record for the most streamed song in a seven-day period, with 96 million streams.<sup>31</sup> After UMG published the Video, “Not Like Us” returned to the No. 1 spot on the Billboard Hot 100 and, in the same week, the Song was streamed an additional 53.8 million times and played on the radio an additional 40 million times.<sup>32</sup> From July 4 to August 8, 2024, the Video ranked first on YouTube’s Weekly Top Music Videos chart.<sup>33</sup> On November 13, 2024, the iHeartRadio Leaderboard reported that “Not Like Us” was the second most popular song on the platform.<sup>34</sup> On New York radio, “Not Like Us” remains, as of the date of this filing, a top 40 hit on popular music and hip hop stations, including Z100, Power 105.1, and WQHT (97.1 FM, Hot 97).<sup>35</sup> From May 9, 2024 to August 15, 2024, the Song was among the Top 10 of all songs streamed in New York City.<sup>36</sup>

<sup>28</sup> Spotify Chart History – “Not Like Us,” Kworb.net, [https://kworb.net/spotify/track/6AI3ezQ4o3HUoP6Dhudph3.html#google\\_vignette](https://kworb.net/spotify/track/6AI3ezQ4o3HUoP6Dhudph3.html#google_vignette) (last visited Nov. 20, 2024).

<sup>29</sup> Sophie Caraan, *Kendrick Lamar’s “Not Like Us” Breaks Drake’s Spotify Record*, Hypebeast (May 8, 2024), <https://hypebeast.com/2024/5/kendrick-lamar-not-like-us-breaks-drake-spotify-record> [<https://web.archive.org/web/20241003184921/https://hypebeast.com/2024/5/kendrick-lamar-not-like-us-breaks-drake-spotify-record>]; Prezzy Brown, *Kendrick Lamar’s “Not Like Us” Becomes Most Streamed Diss Track On Spotify, Surpassing This Classic*, VIBE (Aug. 12, 2024 11:44 AM), <https://www.vibe.com/music/music-news/kendrick-lamar-not-like-us-most-streamed-diss-track-all-time-1234904668/> [<https://web.archive.org/web/20241008154105/https://www.vibe.com/music/music-news/kendrick-lamar-not-like-us-most-streamed-diss-track-all-time-1234904668/>]; Kendrick Lamar, *Not Like Us*, Spotify (May 4, 2024), <https://open.spotify.com/album/5JjnoGJyOxfSZUZtk2rRwZ> [<https://perma.cc/CBD9-AEP2>].

<sup>30</sup> Charts - New York City, Spotify (Nov. 14, 2024), <https://charts.spotify.com/charts/view/citytoptrack-newyorkcity-weekly/2024-11-14> (chart only available to Spotify users).

<sup>31</sup> Cedric Thornton, *Kendrick Lamar’s ‘Not Like Us’ Breaks Streaming Record, Passes Cardi B and Taylor Swift*, Black Enterprise (May 16, 2024), <https://www.blackenterprise.com/kendrick-lamar-not-like-us-streaming-record/> [<https://perma.cc/3PU3-WPDD>].

16. UMG touted the record-breaking success. On July 16, 2024, Interscope reposted on X that the Song had become “the best selling rap song of 2024 in the US.”<sup>37</sup> On July 24, 2024, UMG posted on its X account about the Song charting as the “most-streamed song” of the week.<sup>38</sup> On August 29, 2024, UMG posted on X with a link to a “Summer Hits 2024 playlist” by Spotify and the caption “Song of the Summer? UMG fam lands 4 out of 5 on @Spotify. ‘Birds of a Feather’ - @billieeilish[;] ‘HOT TO GO’ - @ChappellRoan[;] ‘Not Like Us’ - @KendrickLamar[;] ‘Espresso’ - @SabrinaAnnLynn.”<sup>39</sup>

17. UMG’s schemes to artificially inflate the popularity of “Not Like Us” were motivated, at least in part, by the desire of executives at Interscope to maximize their own profits. UMG executives have an annual incentive program pursuant to which they are rewarded for

<sup>32</sup> Gary Trust, *Kendrick Lamar’s ‘Not Like Us’ Returns to No. 1 on Billboard Hot 100*, Billboard (July 15, 2024), <https://www.billboard.com/lists/kendrick-lamar-not-like-us-number-one-second-week-hot-100/> [<https://perma.cc/8S56-42CT>].

<sup>33</sup> *Weekly Top Music Videos*, YouTube Charts, <https://charts.youtube.com/charts/TopVideos/us/weekly/20240822> (Aug. 22, 2024) [<https://perma.cc/ALX7-ZVDS>].

<sup>34</sup> *iHeartRadio Leaderboard – Songs With The Most Plays on iHeartRadio Stations*, iHeart Radio (Nov. 13, 2024), <https://www.iheart.com/playlist/iheartradio-leaderboard-312064750-2AL8dU5D7GquY5KGTcNwUm/> [<https://perma.cc/6UUX-M59D>].

<sup>35</sup> As of Nov. 16, 2024, the Song has spent at least 17 weeks on the city’s top radio stations’ Top 40 charts. See *TOP 40 - November 16, 2024*, z100 NY (Nov. 16, 2024) <https://z100.iheart.com/charts/top-40-238/november-16-2024/> [<https://perma.cc/2QAU-QE5L>]; *TOP 40 - November 16, 2024*, Power 105.1 (Nov. 16, 2024), <https://power1051.iheart.com/charts/top-40-238/november-16-2024/> [<https://perma.cc/6Y4W-Y3L2>]; Hot97 (@hot97), Instagram (May 4, 2024), <https://www.instagram.com/hot97/reel/C6kPFnpr8s5/?hl=en> (posting the full Recording on Hot97’s Instagram page). WQHT (97.1 FM, Hot 97) is owned and operated by MediaCo Holding Inc., which is headquartered in New York, New York.

<sup>36</sup> See *Charts - New York City*, Spotify (May 9, 2024), <https://charts.spotify.com/charts/view/citytoptrack-newyorkcity-weekly/2024-05-09>; *Charts - New York City*, Spotify (August 15, 2024), <https://charts.spotify.com/charts/view/citytoptrack-newyorkcity-weekly/2024-08-15> (charts only available for Spotify users).

<sup>37</sup> Interscope (@interscope), X (July 16, 2024, 12:32 PM), <https://x.com/Interscope/status/1813282022753988707> [<https://perma.cc/BB25-S2T9>].

<sup>38</sup> Universal Music Group (@umg), X (July 24, 2024, 1:13 PM), <https://perma.cc/MY9M-QVD9>.

<sup>39</sup> Universal Music Group (@umg), X (Aug. 29, 2024, 1:46 PM), <https://x.com/UMG/status/1829214002687381505> [<https://perma.cc/PJ99-44TD>].

meeting and surpassing sales and profits projections, among other metrics. The incentives are largely based on the specific UMG division, rather than the performance of UMG more generally. For example, the annual incentive or bonus of Interscope's CEO, John Janick, is based 90 percent on the financial success of Interscope and only 10 percent on the financial success of UMG generally. Thus, on information and belief, Mr. Janick and other executives at Interscope have been incentivized to maximize the financial success of Interscope through the promotion of "Not Like Us" and its revitalizing impact on the artist's prior recording catalog, including his first five studio albums, which are owned by Interscope.

18. Petitioner has received information that UMG has been taking steps in an apparent effort to conceal its schemes, including, but not limited to, by terminating employees associated with or perceived as having loyalty to Drake. Indeed, UMG has demonstrated that it has no interest in taking responsibility for its misconduct. Over the past several months, Drake has repeatedly sought to engage UMG in discussions to resolve the ongoing harm he has suffered as a result of UMG's actions. UMG refused to engage in negotiations, and insisted that UMG is not responsible for its own actions. Instead, UMG has pointed the finger at Mr. Duckworth, insisted that Drake should initiate legal action against Mr. Duckworth rather than UMG, and even threatened to bring its own legal claims against Mr. Duckworth if Drake were to pursue claims against UMG.

19. Streaming and licensing is a zero-sum game. Every time a song "breaks through," it means another artist does not. UMG's choice to saturate the music market with "Not Like Us" comes at the expense of its other artists, like Drake. As Drake is Petitioner's sole owner, and Petitioner owns the copyright to Drake's entire catalogue, Petitioner suffered economic harm as a result of UMG's scheme.

### **THE PARTIES**

20. Petitioner Frozen Moments, LLC, is a limited liability company registered in the State of Florida. Frozen Moments is an entity wholly owned by Drake through which Drake furnishes his recording services as a vocalist and musician and is the copyright holder of Drake's sound recordings, including music videos. As such, Petitioner competes with Interscope.

21. Respondent UMG is a wholly owned subsidiary of Universal Music Group N.V., a publicly-owned limited liability company incorporated under the laws of the Netherlands. UMG is a Delaware corporation, registered to do business in the State of New York. UMG has offices at 1755 Broadway, New York, New York, 10019 and 250 West 57th Street, New York, New York 10107. UMG has divisions including, but not limited to, Interscope, which represents Mr. Kendrick Lamar Duckworth, and Republic Records, which represents Drake. Interscope's publicity team operates out of the 1755 Broadway office.

22. Respondent Spotify USA Inc. is a Delaware corporation with headquarters in New York City at 4 World Trade Center, 150 Greenwich Street, New York, New York, 10017. Spotify is a digital music, podcast, and video service.

### **JURISDICTION AND VENUE**

23. This Court has personal jurisdiction over UMG pursuant to CPLR 302. UMG regularly transacts business within the State, including by doing business and entering into contracts with New York-based Spotify, licensing and promoting music to streaming and radio broadcasting services within the State, and supplying its music management and publicity services in the State. The events at issue, including UMG's licensing contract with Spotify and payments to New York-based radio stations to inflate the popularity of the Song, occurred within the State.

24. UMG also owns, uses, or possesses real property at its 1755 Broadway office, where it hosts offices for its catalog division and publishing arm, Universal Music Publishing

Group. UMG employs numerous individuals within the State, as its marketing, partnerships, media and properties, and publicity professionals groups operate out of its New York offices.

25. This Court has personal jurisdiction over Spotify pursuant to CPLR 302. Spotify regularly transacts business within the State, including by doing business and entering into contracts with paying and non-paying subscribers based in New York and promoting its streaming services within the State. The events at issue, including Spotify's licensing contract with UMG, occurred within the State. Spotify uses its 4 World Trade Center, 150 Greenwich Street office as its corporate headquarters in the United States and employs numerous individuals within the State.

26. Venue is proper pursuant to CPLR 503(c) because a foreign corporation authorized to transact business in the State shall be deemed a resident of the county in which its principal office is located. Additionally, pursuant to CPLR 503(a), a substantial part of the events or omissions giving rise to the claims occurred in the County of New York.

#### **PETITIONER REQUIRES PRE-ACTION DISCOVERY AND PRESERVATION**

27. Frozen Moments has commenced this special proceeding pursuant to CPLR 3102(c) to seek pre-action discovery to allow Petitioner to (1) identify appropriate defendants and frame a complaint for a claim under the Racketeer Influenced and Corrupt Organizations Act ("RICO"), and (2) identify appropriate defendants and frame a complaint for a claim under Section 349 of the New York General Business Law (the "NY Deceptive Business Act") and Section 350 and 350-a of the New York General Business Law (the "NY False Advertising Act").

28. **Civil RICO**: Petitioner has a viable cause of action for civil RICO, with predicate acts of wire fraud, mail fraud, and/or bribery for UMG's payments to unknown third parties in the form of reduced licensing fees to Spotify. However, Petitioner requires additional information in order to frame his complaint and satisfy the heightened Rule 9(b) pleading standard applicable to

complaints sounding in fraud. Specifically, Petitioner requires information about the method by which the third parties were paid in order to determine which underlying predicate act(s) to plead and requires information about which benefits were conferred upon UMG in exchange for the payments. Additionally, Petitioner lacks sufficient information to identify the third parties who acted in conspiracy with UMG.

29. **Deceptive Business Practices and False Advertising:** Petitioner has information that agents of UMG paid at least one third party to use bots to stream the Song on Spotify, and on information and belief, this practice extended to multiple third parties to artificially stream the Song and Video. UMG also gave financial benefits to Spotify and other unknown third parties to promote and play the Song and Video without disclosing those payments. UMG then touted the success of the Song and Video knowing the “success” was artificially inflated by its own manipulation. These practices harm consumers. They also violate the NY Deceptive Business Act and the NY False Advertising Act. Without the requested pre-litigation discovery, Petitioner lacks sufficient information to identify the known, but anonymous, third-party streamer and to identify any additional streamers whom UMG paid. Petitioner also lacks sufficient facts to frame the complaint regarding what was exchanged for UMG’s payments.

30. Petitioner seeks the following limited pre-action disclosure from UMG (the “UMG Requested Information”): (1) documents and communications sufficient to show the identities of all third parties that UMG, its agents, or anyone working on behalf of UMG/Interscope paid (without public disclosure) to promote, publish, or recommend the Song, its accompanying cover image (the “Image”), or Video, including but not limited to, radio stations, influencers, music platforms, and music publications, as well as the dates, methods, and amounts of those payments; (2) documents and communications sufficient to show the identities of all third parties that UMG,



its agents, or anyone working on behalf of UMG/Interscope paid to use bots or any other similar technology to stream the Song or Video, as well as the dates, methods, and amounts of those payments; and (3) documents and communications sufficient to show what the third parties agreed to provide and did provide in exchange for these payments.

31. Petitioner seeks the following limited pre-action disclosure from Spotify (the “Spotify Requested Information”): (1) documents and communications sufficient to show the dates, methods, and amounts of financial benefit, whether in the form of direct payment or reduced licensing fees, provided to Spotify by UMG/Interscope, its agents, or anyone working on its behalf in exchange for the promotion, publication, or recommendation of the Song on Spotify and (2) documents and communications sufficient to show what Spotify agreed to provide and did provide in exchange for any such benefits.

32. Petitioner has further commenced this special proceeding pursuant to CPLR 3102(c) to seek an order requiring UMG, including Interscope and all other divisions, as well as UMG’s directors, officers, and relevant employees, to preserve all documents and communications regarding the Song, Image, and Video during the pendency of any litigation that Petitioner commences against Respondent and/or any unknown third parties for the underlying causes of action discussed herein.<sup>40</sup> Petitioner expects that much of the relevant evidence will be in the form of messages on social media platforms, payment applications, and text messages (including, but not limited to, iMessage and WhatsApp), which may not be preserved in the usual course. Petitioner is aware that Senior executives at UMG regularly communicate for business through messaging platforms and applications.

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<sup>40</sup> UMG has been sanctioned on at least one occasion for discovery violations. *See ABKCO Music & Recs., Inc. v. Coda Publ'g, Ltd.*, No. 19 Civ. 11892 (KPF), 2022 WL 4536820 (S.D.N.Y. Sept. 28, 2022).

33. Exhibit A to the Verified Petition is a proposed subpoena *duces tecum* to UMG commanding UMG to produce the UMG Requested Information.

34. Exhibit B to the Verified Petition is a proposed subpoena *duces tecum* to Spotify commanding Spotify to produce the Spotify Requested Information.

35. Exhibit C to the Verified Petition is a Proposed Order, authorizing, pursuant to CPLR 3102(c), the issuance of subpoenas *duces tecum* in the form of the subpoenas attached as Exhibits A and B.

36. No previous application has been made for the relief requested herein.

WHEREFORE, Petitioner respectfully requests that the Court enter an order:

a. Pursuant to CPLR § 3102(c) compelling Respondent UMG to provide to Petitioner within 14 days of service on UMG by overnight mail a copy of an Order with Notice of Entry, documents and communications responsive to the requests in Exhibit A;

b. Pursuant to CPLR § 3102(c) compelling Respondent Spotify to provide to Petitioner within 14 days of service on Spotify by overnight mail a copy of an Order with Notice of Entry, documents and communications responsive to the requests in Exhibit B;

c. Pursuant to CPLR § 3102(c) compelling Respondent UMG to preserve all documents and communications regarding the Song, Image, and Video during the pendency of any litigation that Petitioner commences against Respondent and/or any unknown third parties for the underlying causes of action discussed herein.

d. Granting such other and further relief as the Court may deem just and proper.

November 25, 2024

Respectfully Submitted,

By: /s/ Michael J. Gottlieb

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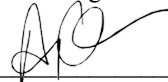
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**VERIFICATION**

Aubrey Drake Graham affirms the following to be true under the penalties of perjury, pursuant to Civil Practice Law and Rules (CPLR) 2106:

1. I am the corporate officer of the Petitioner Frozen Moments, LLC in this proceeding, and thus have personal knowledge of the facts herein.
2. I have read the foregoing petition and its factual contents are true to my personal knowledge, except as to those matters alleged therein to be upon information and belief, and as to those matters, I believe them to be true.

I affirm this 25<sup>th</sup> day of November, 2024, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.



\_\_\_\_\_  
Aubrey Drake Graham

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

|                       |   |                                  |
|-----------------------|---|----------------------------------|
| -----X                | : |                                  |
| AUBREY DRAKE GRAHAM,  | : |                                  |
|                       | : |                                  |
| Plaintiff,            | : |                                  |
|                       | : | Civil Action No. 1:25-cv-399-JAV |
| v.                    | : |                                  |
|                       | : | <b>Jury Trial Demanded</b>       |
| UMG RECORDINGS, INC., | : |                                  |
|                       | : |                                  |
| Defendant.            | : |                                  |
|                       | : |                                  |
| -----X                | : |                                  |

**AMENDED COMPLAINT**

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Plaintiff Aubrey Drake Graham (“Drake” or “Plaintiff”), through his attorneys, brings this Complaint against Defendant UMG Recordings, Inc. (“Defendant” or “UMG”).<sup>1</sup>

### **INTRODUCTION**

***“A single lie can destroy a reputation of integrity and . . . while it takes years to build a reputation, it can be ruined in five minutes.”***

– Sir Lucian Grainge, Chief Executive Officer of UMG, March 25, 2024

1. In the middle of the night on May 7, 2024, an armed group of assailants drove up to the Toronto house in which Drake and his family resided. Drake was inside. The car stopped in front of the residence, someone yelled “Fuck Drake,” and at least one gunman began to open fire. One bullet went through the security gate and hit Drake’s front door; another bullet struck and wounded a security guard, who was also one of Drake’s friends. While the car drove away, Drake and others in the house summoned help for the security guard and did everything possible to keep him alive. During the nearly thirty minutes it took for the ambulance to arrive, Drake and others labored to keep the man alive by applying pressure to the gunshot wound with towels. Blood was everywhere.

2. After the security guard arrived at the hospital, surgeons worked quickly to remove the bullet, stop the bleeding, and save his life. Though it took days for his condition to stabilize, thankfully, the security guard survived.

3. The very next day, May 8, 2024, a different intruder used his bare hands to dig a hole under the security fence surrounding Drake’s Toronto house. He managed to dig deep enough to squeeze through and enter Drake’s property. Fortunately, Drake’s home security guards caught

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<sup>1</sup> Throughout, references to UMG shall include any UMG employee, affiliate, agent, and anyone working on UMG’s behalf.



him before he was able to cause any physical harm, although the trespasser managed to yell racist slurs and threats against Drake before being escorted off the property.

4. On May 9, 2024, the very next day, another break-in attempt happened.

5. In the two decades leading up to May of 2024, although Drake was constantly in the public eye, nothing remotely like these events had ever happened to him or his family. But these events were not coincidental. They immediately followed, and were proximately caused by, UMG's actions leading up to and on May 4, 2024.

6. UMG is the "world's largest music company,"<sup>2</sup> and also the music company that has represented Drake for more than a decade. Yet, on May 4, 2024, UMG approved, published, and launched a campaign to create a viral hit out of a rap track that falsely accuses Drake of being a pedophile and calls for violent retribution against him. Even though UMG enriched itself and its shareholders by exploiting Drake's music for years, and knew that the salacious allegations against Drake were false, UMG chose corporate greed over the safety and well-being of its artists. In controversy, UMG saw an opportunity, seized it, and continued to fan the flames even after learning of the incitement to violence on May 7 and 8, along with the unrelenting vitriol towards Drake that has followed.

7. The song in question is "Not Like Us" (the "Recording") written and performed by Kendrick Lamar Duckworth (professionally known as Kendrick Lamar).<sup>3</sup> The Recording was intended to convey the specific, unmistakable, and false factual allegation that Drake is a criminal

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<sup>2</sup> Amended Complaint ¶ 16, *UMG Recordings, Inc. v. OpenDeal Inc.*, No. 21-cv-09358 (S.D.N.Y. Aug. 26, 2022), ECF No. 64.

<sup>3</sup> *Not Like Us* (Interscope Records 2024) [hereinafter "Recording"]. The full lyrics of the Recording are attached hereto as Exhibit A. The Recording was first made available for streaming on YouTube. See Kendrick Lamar (@kendricklamar), *Not Like Us*, YouTube (May 4, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew> [<https://perma.cc/6BL5-RGJY>].

pedophile, and to suggest vigilante justice as a response. The Recording is defamatory because its lyrics, its album image (the “Image”), and its music video (the “Video”) all advance the false and malicious narrative that Drake is a pedophile. The lyrics repeatedly accuse Drake of engaging in criminal acts, including by calling him a “certified pedophile[.]” and a “predator” who needs to be “placed on neighborhood watch.”<sup>4</sup> The Image was designed to reinforce, and in fact reinforces, that accusation by depicting Drake’s actual Toronto house covered in the icons that are known to be used by law enforcement (as well as public safety applications like Citizen) to identify child sex offenders’ residences online. The Video (created weeks after the song became a viral hit) was designed to reinforce the same false factual narrative by, for example, showing images associated with sex trafficking and juxtaposing the game of hopscotch with lyrics accusing Drake of “Tryna strike a chord and it’s probably A-Minor.”<sup>5</sup>

8. This lawsuit is *not* about the artist who created “Not Like Us.” It is, instead, entirely about UMG, the music company that decided to publish, promote, exploit, and monetize allegations that it understood were not only false, but dangerous. As UMG knows and has known at all relevant times, the Recording, Image, and Video’s allegations are unequivocally false. Drake is not a pedophile. Drake has never engaged in any acts that would require he be “placed on neighborhood watch.” Drake has never engaged in sexual relations with a minor. Drake has never been charged with, or convicted of, any criminal acts whatsoever.

9. Notwithstanding its knowledge that the allegations are fabricated, starting in May of 2024, UMG waged an unrelenting campaign to spread the Recording, Image, and Video

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<sup>4</sup> Recording, *supra* note 3, at 00:57-01:00, 02:11-02:15.

<sup>5</sup> *Not Like Us* at 01:43-01:50, YouTube (July 4, 2024), [https://www.youtube.com/watch?v=H58vbez\\_m4E](https://www.youtube.com/watch?v=H58vbez_m4E) [<https://perma.cc/BZ9F-S9PH>] [hereinafter the “Video”].

(together, the “Defamatory Material”) as widely as possible. UMG did so because it understood that the Recording’s inflammatory and shocking allegations were a gold mine. Spreading the Defamatory Material served multiple business purposes for UMG. First, the more people who listened to, streamed, watched, and downloaded the Defamatory Material, the more money UMG and its executives would make. Second, UMG’s Interscope Records (“Interscope”) owns Lamar’s entire back catalog of recorded music. The leadership of Interscope had every incentive to prove it could maximize Lamar’s sales after only recently persuading him to enter into his own direct license for a limited recording commitment of new music. Third, (in contrast with Lamar’s first direct deal), UMG’s contract with Drake was nearing fulfillment, and on information and belief, UMG anticipated that extending Drake’s contract would be costly. By devaluing Drake’s music and brand, UMG would gain leverage to force Drake to sign a new deal on terms more favorable to UMG.

10. UMG’s campaign was successful. The Recording cloaks cleverly dangerous lyrics behind a catchy beat and inviting hook. Capitalizing on those attributes, UMG used every tool at its disposal to ensure that the world would hear that Drake “like[s] ‘em young.”<sup>6</sup> Unlike any other song ever released by Kendrick Lamar, *this* song has been played many billions of times, and its false central message has calcified into accepted fact via social and legacy media channels broadcast in dozens of languages to (at minimum) hundreds of millions of people spanning the globe. It is not just fans of rap music who now believe that Drake is a “certified pedophile[,]” because it is not just fans of rap music who have been repeatedly exposed to the song’s lyrics. Instead, the Recording has become ubiquitous, in significant part because of UMG’s deliberate efforts designed to accomplish just that. UMG used its promotional resources and exclusive

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<sup>6</sup> Recording, *supra* note 3, at 00:40-00:42.

licensing rights to place the Recording on numerous nationally televised events, including but not limited to awards shows, national political events, and more.

11. But billions of plays and ubiquity were not enough for UMG. Long after UMG knew about the harm that “Not Like Us” had caused to Drake, and with full understanding that countless listeners have interpreted the song’s lyrics and imagery to convey assertions of fact, UMG made significant financial investments and leveraged its professional connections, via sophisticated and highly-organized publicity campaigns, to arrange for the Recording to be performed at one of the most significant (and viewed) cultural events of the year—the Super Bowl. The Recording was performed during the 2025 Super Bowl and broadcast to the largest audience for a Super Bowl halftime show ever, over 133 million people, including millions of children, and millions more who had *never* before heard the song or *any* of the songs that preceded it. It was the first, and will hopefully be the last, Super Bowl halftime show orchestrated to assassinate the character of another artist.

12. UMG is legally responsible for the release, publication,<sup>7</sup> and promotion of the Defamatory Material, including the foreseeable consequences of the same. UMG’s business is to “possess the exclusive rights” to reproduce, to distribute, and to license music, “including over the [i]nternet.”<sup>8</sup> Moreover, UMG retains the right to refuse to publish works based on content to which it objects, including material that UMG deems to be defamatory. In other words, it is only with UMG’s explicit approval that the Defamatory Material could have been released in the first

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<sup>7</sup> Throughout, this filing uses the terms “publish” and “publication” as understood within the defamation context. See PUBLISH, Black’s Law Dictionary (12th ed. 2024) (“1. To distribute copies (of a work) to the public. 2. To communicate (defamatory words) to someone other than the person defamed”). In the context of the music industry, these terms have a different meaning, which is not intended here.

<sup>8</sup> Complaint ¶ 15, *UMG Recordings, Inc. v. Vital Pharms., Inc.*, No. 21-cv-60914 (S.D. Fla. Apr. 28, 2021).

instance and later streamed, shared, performed publicly, and exploited by content creators on TikTok and Instagram.

13. UMG’s campaign went well beyond the traditional music company playbook—indeed, UMG has unleashed every weapon in its arsenal, including, on information and belief, certain practices that are unlawful. In a memorandum to staff reflecting on highlights of 2021, Sir Lucian Grainge remarked that it was “harder than ever for artists to break through the noise” as, for example, “*sixty thousand songs are added to Spotify every day.*” UMG made sure that “Not Like Us” broke through that noise. For one, UMG took the unprecedented step—contrary to its internal practices—to remove the Recording’s copyright restrictions on YouTube and Twitch, thereby “whitelisting” the Recording to ensure content creators would republish it broadly. On information and belief, UMG and its agents further put a thumb on the scale by covertly offering financial incentives to third parties to deceptively stream the Recording on streaming platforms, to play the Recording on the radio, and to otherwise promote and endorse the Defamatory Material, all without ever publicly disclosing the payments. These actions not only spread and further engrained the defamatory statements in the minds of the public, but deceived consumers and harmed Drake economically.

14. Predictably, millions of people who listened to the Recording, or saw the Image and Video, believed the Defamatory Material to be true. UMG had previously published Lamar’s song “Euphoria,” which was also widely understood to be targeted at Drake, and which stated, “don’t tell no lie about me and I won’t tell truths ‘bout you.” As voluminous public commentary confirms, the average listener or viewer has understood the Defamatory Material to reflect factual assertions about Drake, rather than art or hyperbole. Moreover, the lyrics of “Not Like Us” leave the unmistakable impression that they are based on additional facts not disclosed to the listener,

but that might be revealed at some future point in time. In the words of one commentator, the Recording's (false) lyrics have made it such that "everybody believe[s]" that Drake loves "touching children."

15. UMG's greed yielded real world consequences. As described above, it was just three days after UMG originally published the Recording and Image that Drake was targeted at his Toronto house by armed intruders in the 2024 equivalent of "Pizzagate." The online response was similarly violent and hateful. An avalanche of online hate speech has branded Drake as a sex offender and pedophile, among other epithets. Public commentary has repeated the (false) claims that Drake is a "pedo" and "sexual abuser on the level of Weinstein, Diddy, and Epstein" who "traffic[]s children" in shipping containers and harbors convicted "sex offenders" in his Toronto home. In direct response to UMG's publications, social media users called for the Federal Bureau of Investigation (FBI) to "to come at this point" and for Drake to be "locked up" and "behind bars."

16. The mob-like response to the Recording continues to unfold on- and off-line. At one point in time, flyers were plastered all over Toronto with a photo of Drake and a Canadian YouTuber who was sentenced to three years in prison for sexual assault with the words “Canadian sex predators gotta stick together.”



17. The public response re-intensified following the 2025 Grammys and Super Bowl, both of which featured the Defamatory Material. Each of these prestigious and high-exposure events introduced new listeners to the Recording, causing even more people to be duped into believing that Drake was a pedophile. Not only did streams of the Recording increase significantly following these two mega-cultural events, but threats against Drake and his family did as well.

18. With the palpable physical threat to Drake’s safety and the bombardment of online harassment, Drake fears for the safety and security of himself, his family, and his friends. After the attacks on his home, Drake pulled his son out of the elementary school he attended in Toronto due to safety concerns, and once school ended for the summer, Drake arranged for his son and

mother to leave Toronto entirely. Day to day, Drake continues to take steps to address persistent threats to his security.

19. The violence and vitriol directed at Drake was foreseeable. The Recording falsely accuses Drake of one of the most vile behaviors imaginable, and explicitly calls for retaliatory violence and retribution against him. The false “pedophile” accusation is a devastatingly effective method of assassinating someone’s character online. When spread virally, the accusation can destroy an individual’s reputation and brand in a matter of days. As one expert on conspiracy theories has explained: “There’s always been a certain amount of salaciousness in these conspiracy theories . . . [a]nd if it involves children, people immediately just lose their mind—even if these children don’t exist.”<sup>9</sup> If “you just put out the suggestion there, it grabs ahold in a way that is difficult to dislodge.”<sup>10</sup> That is exactly what the Recording accomplished.

20. UMG understands just how dangerous these kinds of false allegations are—indeed, when it comes to allegations against UMG and its executives, they have not hesitated to take legal action against their accusers. Just last year, UMG and Sir Grainge were accused, in their words, without “the slightest factual basis,” of aiding and abetting Sean “P. Diddy” Combs in criminal sexual acts.<sup>11</sup> Moving to dismiss the complaint against them, UMG and Sir Grainge argued that the accusations were “offensively false allegations of criminal behavior” that would be

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<sup>9</sup> Catherine Kim, *Pizzagate, QAnon and the ‘Epstein List’: Why the Far Right Is Obsessed with Sex Trafficking*, Politico (Jan. 9, 2024), <https://www.politico.com/news/magazine/2024/01/09/why-maga-is-obsessed-with-jeffrey-epstein-00134394> [<https://web.archive.org/web/20241209003125/https://www.politico.com/news/magazine/2024/01/09/why-maga-is-obsessed-with-jeffrey-epstein-00134394>].

<sup>10</sup> *Id.*

<sup>11</sup> Declaration of Donald S. Zakarin in Support of Motion to Dismiss the First Amended Complaint ¶ 3, *Jones v. Combs*, No. 1:24-cv-01457 (S.D.N.Y. Mar. 27, 2024), ECF No. 26.



“libelous per se” if not contained within a legal filing.<sup>12</sup> Sir Grainge called the allegations against him “knowingly and maliciously false and defamatory.”<sup>13</sup> Sir Grainge also explained that “*a single lie can destroy a reputation of integrity and . . . while it takes years to build a reputation, it can be ruined in five minutes.*”<sup>14</sup> Thus, recognizing that false allegations against *him* might interfere with *his* efforts “to lead an honorable personal and professional life,”<sup>15</sup> Sir Grainge promised to “pursue those who have made these outrageous allegations against [him].”<sup>16</sup>

21. In stark contrast, when Drake confronted UMG about its role in promoting allegations of sexual misconduct lacking “the slightest factual basis” against him, UMG refused to do *anything* to help. Instead, UMG *continued* to republish and promote the Defamatory Material, even after Drake had unequivocally denied the allegations in public and had communicated that in private to UMG. Drake informed UMG of the tangible harm that the publication and promotion of the Recording had caused him—including violence, threats, reputational and financial damage, and more. Yet UMG *still* chose money over the safety and well-being of its artists, notwithstanding its public commitment to “behaving honorably and with honesty,” and “setting the right tone—in all that we do.”<sup>17</sup> And UMG has tripled and quadrupled

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<sup>12</sup> *Id.* ¶¶ 18, 31, 66.

<sup>13</sup> Declaration of Sir Lucian Grainge in Support of Motion to Dismiss ¶ 24, *Jones v. Combs*, No. 1:24-cv-01457 (S.D.N.Y. Mar. 27, 2024), ECF No. 26-1.

<sup>14</sup> *Id.* (emphasis added).

<sup>15</sup> *Id.* ¶ 23.

<sup>16</sup> *Id.* ¶ 15.

<sup>17</sup> Universal Music Group, *Our Code of Conduct: Setting the Right Tone*, at 2 (2021), <https://dn8hzp56erqjx.cloudfront.net/pdf/pdf/2021-UMG-Code-of-Conduct.pdf> [<https://web.archive.org/web/20231113085616/https://dn8hzp56erqjx.cloudfront.net/pdf/pdf/2021-UMG-Code-of-Conduct.pdf>].

down on its defamation-for-profit strategy even after Drake filed this lawsuit, which detailed the harm to him and his family caused by UMG’s publication and promotional activities.

22. Many months prior to filing this litigation, Drake attempted to address these claims privately with UMG. Drake believed, per Sir Grainge, that UMG’s leadership should be held “accountable for the decisions we make and how we conduct ourselves.”<sup>18</sup> And UMG purports to care about threatening and abusive behavior—indeed, UMG’s Code of Conduct notes that “[h]arassment can take different forms, such as . . . speech that is threatening or abusive,” and declares that “violence, threats and physical intimidation are not tolerated at Universal Music” because “[w]e all share the responsibility to make health and safety a constant priority.”<sup>19</sup> Yet, in response to Drake’s concerns, UMG responded that Drake would face humiliation if he brought legal action—presuming that the public would be unable to understand UMG’s role in exploiting and profiting from this dispute. UMG’s posture, as the “world’s largest music company,” was that it is untouchable.

23. UMG’s response to Drake was especially perverse given that it is perfectly willing to sue to protect its own interests when it believes that doing so will protect its “property.”<sup>20</sup> UMG is “engaged in the business of acquiring, administering, licensing, exploiting and otherwise

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<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 10-11.

<sup>20</sup> By way of example: in 2022, UMG sued OpenDeal, Inc. for trademark infringement, among other claims, *UMG Recordings, Inc. v. OpenDeal Inc.*, No. 1:21-cv-09358 (S.D.N.Y. Nov. 12, 2021); in 2021, UMG sued Bang Energy for the unlicensed use of its songs in TikTok videos, *UMG Recordings, Inc. v. Vital Pharms., Inc.*, No. 21-cv-60914 (S.D. Fla. Apr. 28, 2021); in 2017, UMG sued Grande Communications Networks for infringement and copyright violations, *UMG Recordings, Inc. v. Grande Communications Networks LLC*, No. 1:17-cv-00365 (W.D. Tex. Apr. 21, 2017); in 2011, UMG sued Escape Media Group, Inc. for copyright infringement, *UMG Recording, Inc. v. Escape Media Group, Inc.*, No. 1:11-cv-08407 (S.D.N.Y. Nov. 18, 2011).

monetizing”<sup>21</sup> the music of its artists, including Drake, and it does not hesitate to file lawsuits when doing so suits its financial interests. This lawsuit is both necessary and appropriate because UMG has repeatedly defamed Drake while “exploiting” and “monetizing” his work.

24. With his own record label having waged a campaign against him, and refusing to address this as a business matter, Drake has been left with no choice but to seek legal redress against UMG. UMG has attempted to spin this Complaint as a rap beef gone legal, but this lawsuit is not about a war of words between artists. This lawsuit involves no claims against Kendrick Lamar or any other artist; instead, it is about UMG—the publisher and exclusive rights holder of Lamar’s music, as well as Drake’s—and its malicious decision to *publish and promote*, through both overt and covert means, false allegations about Drake that UMG knew were false, explosive, inflammatory, and certain to result in both vitriol and substantial harm to Drake’s reputation.

25. Notwithstanding a relationship spanning more than a decade, UMG intentionally sought to turn Drake into a pariah, a target for harassment, or worse. UMG did so not because it believes any of these false claims to be true, but instead because it would profit from damaging Drake’s reputation. Drake thus brings this action to hold UMG responsible for the actual and foreseeable harm he has suffered, and will continue to suffer, because of UMG’s choice to elevate profits over the well-being of its artists and the music-consuming public.

### **PARTIES**

26. **Plaintiff Aubrey Drake Graham**, a/k/a Drake, is a rapper, singer, songwriter, actor, entrepreneur, and philanthropist. Drake is a citizen of Texas.

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<sup>21</sup> Complaint ¶ 1, *UMG Recordings, Inc. v. Vital Pharms., Inc.*, No. 1:21-cv-60914 (S.D. Fla. Apr. 28, 2021).

27. **Defendant UMG Recordings, Inc.** is a wholly owned subsidiary of Universal Music Group N.V. (together with UMG, “Universal Music”), a public company formed under the laws of the Netherlands. UMG is a Delaware corporation with its headquarters in California, and thus it is a citizen of Delaware and California. UMG is registered to do business in New York and maintains an office in New York City at 1755 Broadway, New York, New York 10019. Indeed, several of UMG’s record label divisions are headquartered in New York.<sup>22</sup> Universal Music touts itself as “the world leader in music-based entertainment” which “produce[s], distribute[s] and promote[s] the most critically acclaimed and commercially successful music to delight and entertain fans around the world.”<sup>23</sup> UMG has recording contracts with some of the world’s biggest music stars, including Taylor Swift, Ariana Grande, Adele, and, relevant here, Drake and Kendrick Lamar. Drake has been signed under exclusive recording contracts controlled by UMG since 2009, which provide UMG with the exclusive right to license, sell, and promote his recordings.<sup>24</sup> UMG is engaged in the business of exploiting “recorded music, music publishing, merchandising, and audiovisual content,”<sup>25</sup> including through Republic Records (“Republic”), Capitol Records (“Capitol”), and Interscope, all of which are wholly owned divisions of UMG. As of 2024, Kendrick Lamar releases music from his independent label through an exclusive direct licensing agreement with UMG through Interscope. Universal Music also operates Universal Music

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<sup>22</sup> Complaint ¶ 7, *UMG Recording, Inc. v. Escape Media Group, Inc.*, No. 1:11-cv-08407 (S.D.N.Y. Nov. 18, 2011).

<sup>23</sup> *Overview*, Universal Music Group, <https://www.universalmusic.com/company/#organization> [<https://perma.cc/D2JD-YJPD>].

<sup>24</sup> *See* Mariel Concepcion, *Drake Signs To Young Money, Distribution By Universal Republic*, Billboard (June 20, 2009), <https://www.billboard.com/music/music-news/drake-signs-to-young-money-distribution-by-universal-republic-268244/> [<https://web.archive.org/web/20250114212221/https://www.billboard.com/music/music-news/drake-signs-to-young-money-distribution-by-universal-republic-268244/>].

<sup>25</sup> Universal Music Group, *Overview*, *supra* note 23.

Publishing Group (“UMPG”) as its music publishing and distribution arm. Both Drake and Kendrick Lamar’s music publishing rights are exclusively controlled by UMPG under songwriter agreements.

### **JURISDICTION AND VENUE**

28. This Court has jurisdiction over this action and Defendant pursuant to 28 U.S.C. § 1332(a)(1), as the matter in controversy exceeds \$75,000 exclusive of interests and costs and is between citizens of different states.

29. This Court may exercise personal jurisdiction over Defendant pursuant to § 302 of the New York Civil Practice Law and Rules because UMG transacts business within the state and owns, uses or possesses real property within the state. Further, this Court may exercise personal jurisdiction over Defendant pursuant to § 301 of the New York Civil Practice Law and Rules because UMG systematically and continuously conducts and solicits business within New York and has availed itself of the privileges of conducting business in the State of New York.

30. Venue is proper pursuant to 28 U.S.C. §§ 1391 (b) and (c) because a substantial part of the events or omissions by UMG giving rise to the claims occurred in this District, and because UMG is subject to personal jurisdiction in this District.

### **BACKGROUND**

31. Liability in this case is predicated on the Defamatory Material which UMG published and/or caused the publication of beginning on May 4, 2024, and continuing through the date of this filing. This background section provides facts and context about the parties and the events leading up to the initial publications.

**A. *Drake Is Internationally Recognized as a Multitalented Rap Superstar.***

32. Drake’s career spans two decades. While Drake first rose to fame in the early 2000s as the star of hit Canadian teen drama television series *Degrassi: The Next Generation*, the rapper “Drake” is now known worldwide.

33. Drake is one of the world’s best-selling music artists of all time. Some of Drake’s biggest hits include “Hotline Bling” and “One Dance.” Between 2010 and 2024, Drake released eight studio albums, with more than 170 million albums sold including 244 million singles sold. Drake has had 13 #1 hits on the Billboard Hot 100 chart (the “Billboard Hot 100”).

34. Drake’s success has been repeatedly celebrated by the music industry. Drake has been nominated for 55 Grammy Awards, and has won five, including most recently in 2023. Drake has also won 42 Billboard Music awards and in 2021, Drake accepted Billboard’s “Artist of the Decade” award. Drake proudly accepted the award with his young son, father, and members of his team by his side, dedicating the award to his son, friends, longtime collaborators, and peers.

35. Drake’s professional and entrepreneurial endeavors extend beyond music. In 2012, Drake founded the Canadian-based record label OVO Sound, which has signed artists including PartyNextDoor, Majid Jordan, Smiley, and Naomi Sharon.

36. Drake also uses the brand name October’s Very Own (“OVO”), represented by an owl, for his clothing brand. Far more than just “label merch,” the clothing brand has collaborated with Canada Goose, Canadian retailer Roots, Disney, the NCAA, the NFL, and Supreme. In addition to lucrative online sales, OVO operates several brick-and-mortar stores in Canada, the United States, and the United Kingdom.<sup>26</sup>

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<sup>26</sup> Stores, October’s Very Own, <https://us.octobersveryown.com/stores> [<https://perma.cc/2QPU-LLYW>].

37. Drake founded a multidisciplinary media production company, DreamCrew, which operates a management company, production house, and content studio. Through DreamCrew Entertainment, Drake has executive-produced award-winning documentary films, feature films, and hit television programs for FX, Hulu, Netflix, and HBO, including *Top Boy*, which has received awards from the British Academy Television Awards, and *Euphoria*, for which Drake received a Primetime Emmy Award nomination.

38. As a celebrity with global name recognition, Drake is regularly approached for collaborations, partnerships, and endorsement deals. In 2013, Drake became the global ambassador for Toronto's NBA team, the Raptors. Since then, Drake has inspired new alternate team jerseys, narrated team advertisements, hosted a "Drake Night" each season for several years, and pledged charitable contributions to refurbish community basketball courts and to support Canada Basketball, the country's national basketball federation. In 2019, the Raptors renamed their practice facility the "OVO Athletic Centre." Drake's partnership with the Raptors is significant to the team and the city, and President of the Toronto Raptors Masai Ujiri has said that "the Raptors' relationship with Drake has always ultimately been about celebrating this city and the people who make it unique. . . . We have something very special happening in Toronto, and Drake is a big part of that."<sup>27</sup>

39. Drake's philanthropic efforts have received almost as much attention and praise as his music. Drake has a "history of making generous donations" and going on "charitable spree[s]" in the communities where he shoots music videos and appears on tour.<sup>28</sup> Through his charitable

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<sup>27</sup> *Drake and the Raptors Partnership Continues To Expand*, NBA.com (Jan. 19, 2018), <https://www.nba.com/raptors/news/drake-raptors-partnership-continues-to-expand> [<https://perma.cc/Q2TH-CRFA>].

<sup>28</sup> Marissa G. Muller, *Drake Goes on \$175,000 Charity Spree Paying For Groceries and College Tuition For Total Strangers*, W Magazine (Feb. 7, 2018),

giving, Drake has supported public schools and nonprofit educational programs, community development organizations and homeless shelters, hurricane relief efforts, and various individuals in need, including college students, grieving mothers, patients in need of surgery, and fans in dire need of financial assistance. Drake also focuses on giving back to his community in Houston, Texas, including by providing much-needed financial assistance in the wake of Hurricane Harvey.

40. As UMG knows and has understood at all relevant times, Drake has never been indicted for, charged with, or convicted of committing any crimes whatsoever, much less sexual crimes, or any crimes against minors.

**B. *UMG Is a Music Industry Giant.***

41. In its own words, UMG is the “world leader in music entertainment.”<sup>29</sup> UMG is “engaged in the business of acquiring, administering, licensing, exploiting and otherwise monetizing a catalog of copyrights containing musical compositions and sound recordings.”<sup>30</sup> UMG “controls almost a third of the music people listen to in the developed world and a sizable portion in the developing world.”<sup>31</sup>

42. In the music industry, control over a particular single, album, or other collection of works is governed by various contracts, including traditional recording deals, and distribution, publishing, and licensing deals. In a traditional recording deal, a record label typically retains

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<https://www.wmagazine.com/story/drake-charity-donations-womens-shelter-groceries-tuition> [<https://perma.cc/P2FW-Y34L>].

<sup>29</sup> Universal Music Group, *Overview*, *supra* note 23.

<sup>30</sup> Complaint ¶ 1, *UMG Recordings, Inc. v. Vital Pharms., Inc.*, No. 1:21-cv-60914 (S.D. Fla. Apr. 28, 2021).

<sup>31</sup> Mike Kytka, *Universal Music Group: A Royalty on Global Music Consumption*, MoneyFlow Research (Sept. 22, 2022) <https://moneyflowinvesting.substack.com/p/universal-music-group-a-royalty-on> [<https://web.archive.org/web/20250112195037/https://moneyflowinvesting.substack.com/p/universal-music-group-a-royalty-on>].



exclusive rights to an artist and the artist's recordings, and the right to re-recording the compositions embodied therein for a specified period of time. The label pays an advance for the artist's recordings and royalties and finances the provision of services to the artist in areas such as production, promotions, marketing, and distribution. A distribution deal differs in that it generally allows an artist to retain ownership of his recordings and grants the record label the exclusive right to sell, license, and distribute the recordings in certain formats (e.g., digital audio and physical phonograph records) for a specified period of time. With a music publishing administration deal, the artist as a songwriter generally retains ownership of his musical compositions and pays a percentage of his music publishing revenues to a publisher to administer, promote, exploit, license, and protect use of his songs. A 360 deal, also known as a master contract, is the most comprehensive. It encompasses the traditional rights granted in a recording deal, but also provides the record label with control over, or a passive income stream from, merchandising, touring, endorsements and other ancillary ventures the artist may undertake.

43. Once Universal Music owns the recording, distribution, and/or publishing rights to a work, it exploits that ownership through licensing deals with third parties. "UMG licenses its music to hundreds of retailers around the world."<sup>32</sup> These licensing deals allow third parties to legally use a recording, a musical composition, or portions thereof. Universal Music has licensing agreements with all of the major platforms, including, but not limited to, iTunes, Amazon, Apple Music, Napster (formerly Rhapsody), and Spotify, as well as TikTok and Meta (including Facebook, Instagram, YouTube, WhatsApp, and Threads). In the event that a person or entity wants to use a song outside of one of the licensed platforms—for example, to play during a political rally or a sporting event—it has to request the right to do so from Universal Music, which holds

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<sup>32</sup> *Id.*

the synchronization contract. A third party cannot legally use Universal Music’s recordings or UMPG’s licensed content embodying those recordings in advertising, on a live stage, in film, on television, or on the radio without the explicit consent of Universal Music. Through its exclusive licensing rights, Universal Music wields incredible power to promote and popularize a song or performer. UMG “invest[s] significant amounts of money, time, and effort to . . . advertise, promote, sell, and distribute” the music it owns.<sup>33</sup>

44. Universal Music exercised this control in early 2024, when it pulled its songs from publication on TikTok over issues with the platform’s use of generative artificial intelligence.<sup>34</sup> Through copyright ownership, Universal Music can control the unlicensed use of its music, but it can also strategically waive or reduce the customary fees it charges for the licensing rights to its music to provide for the unrestricted spread of a song. This tactic, known as “whitelisting,” happens when a copyright holder, like Universal Music, permits a user or platform to use its content without charging fees or imposing other limitations. In the normal course, internet platforms operate automated content identification systems to block the unauthorized use of copyrighted material by their users. In whitelisting, these automated systems are turned off.

45. Universal Music says it “exist[s] to shape culture through the power of artistry” because music “is unique in its ability to inspire people”<sup>35</sup>—that power to shape culture and inspire

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<sup>33</sup> Complaint ¶ 6, *UMG Recordings, Inc. v. Grande Communications Networks LLC*, No. 1:17-cv-00365 (W.D. Tex. Apr. 21, 2017), ECF No. 1.

<sup>34</sup> See Glenn Peoples, *UMG’s TikTok Standoff Affects Over 60% of the Most Popular Songs*, Billboard Pro (Mar. 1, 2024), <https://www.billboard.com/pro/universal-music-tiktok-fight-affects-majority-most-popular-songs/> [<https://perma.cc/M7FD-5MNH>]; Todd Spangler, *TikTok Removes Songs from Taylor Swift, Drake and More After Universal Music Deal Termination*, Variety (Feb. 1, 2024), <https://variety.com/2024/digital/news/taylor-swift-drake-removed-tiktok-1235894245/> [<https://perma.cc/ZD7T-CWYG>].

<sup>35</sup> Universal Music Group, *Overview*, *supra* note 23.

people is apparent by the numbers. In its 2023 annual report, Universal Music boasts that it has a catalog of more than 220 artists and brands, 3.2 million recordings, and 4.5 million owned and administered titles.<sup>36</sup> At the end of 2023, Universal Music had an ownership interest in 61 of the Billboard Hot 100 tracks.<sup>37</sup> In Q1 2024, Billboard reported that UMG represented 33.9 percent of the record label market share.<sup>38</sup> On social media platforms alone, music owned by Universal Music was streamed 11 *trillion* times in 2023.<sup>39</sup>

46. UMG's size dwarves other music companies, and this "size gives it an advantage." UMG has "a physical presence in 200 geographic markets" which gives artists signed to UMG "a critical edge compared to peers at competing labels as the company can amplify the local success of an artist from one region to the rest of the world."<sup>40</sup>

47. UMG uses this size and dominance to convince artists to sign with its record labels. Because of streaming, "it is more of an uphill battle than ever before to capture the audience's attention amongst a sea of other songs."<sup>41</sup> UMG's market position, combined with the flood of content that hits streaming platforms every day, means that artists "depend on UMG to stand out

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<sup>36</sup> Universal Music Group, *Annual Report* at 9 (Mar. 28, 2024), <https://view.publitas.com/cfreport/umg-annual-report-2023/page/9> [<https://perma.cc/XJM3-WKVB>].

<sup>37</sup> Peoples, *supra* note 34.

<sup>38</sup> Dan Rys, *Record Label Market Share Q1 2024: Warner Records Posts Huge Gains While Universal Enters a New Era*, Billboard (Apr. 12, 2024), <https://www.billboard.com/business/record-labels/record-label-market-share-q1-2024-universal-warner-1235655068/> [<https://perma.cc/2ETX-7ESV>]; Press Release, *Universal Music Group N.V. Reports Financial Results for the First Quarter Ended March 31, 2024*, Universal Music Group (May 2, 2024), [https://assets.ctfassets.net/e66ejtqbaazg/614OYzS1StqrjuaCDprUYI/b291a4b4eaa4a4c13ab4ee7e28fb293c/Q1\\_2024\\_results\\_press\\_release.pdf](https://assets.ctfassets.net/e66ejtqbaazg/614OYzS1StqrjuaCDprUYI/b291a4b4eaa4a4c13ab4ee7e28fb293c/Q1_2024_results_press_release.pdf) [<https://perma.cc/X6L4-E3K2>].

<sup>39</sup> Universal Music Group, *Annual Report*, *supra* note 36, at 7.

<sup>40</sup> Kytka, *supra* note 31.

<sup>41</sup> *Id.*

from the crowd.”<sup>42</sup> Even established artists depend upon UMG to “maximize their commercial success through its world-class marketing, proprietary data analytics, global distribution network, and additional monetization opportunities.”<sup>43</sup> Artists sign with UMG, in sum, because “a UMG partnership” promises to support the artist’s music with “an experienced team of professionals incentivized to advance [one’s] career.”<sup>44</sup>

48. UMG’s executives are handsomely compensated for exploiting artistic works. UMG reports that its executive compensation is driven by its transition to more performance-based packages. UMG executives, including those at Interscope, have an annual incentive program through which they are rewarded for meeting and surpassing sales and profit projections, among other metrics. The incentives are largely based on the specific UMG division, rather than the performance of UMG more generally. For example, the annual incentive or bonus of Interscope’s CEO, John Janick, is based 90% on the financial success of Interscope and only 10% on the financial success of UMG generally.

49. This division-based incentive structure creates perverse incentives within UMG. Mr. Janick and other Interscope executives are incentivized to maximize the financial success of the Interscope labels without taking into account the impact on other UMG labels. For example, through the promotion of the Recording and its revitalizing impact on Kendrick Lamar’s entire recording catalog, including his first five studio albums, Interscope and Interscope executives benefit regardless of the effect on other UMG labels, like Republic, which represents Drake. In a June 2017 interview, Mr. Janick responded to a question about Sir Grainge’s encouragement of

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<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

competition between the UMG record labels by stating, “I love to compete – and I don’t like to lose.”<sup>45</sup>

50. UMG is fully aware that musical content, including song lyrics, can defame third parties, and that “artistic expression” is not free license to harm others. On information and belief, UMG’s standard longform exclusive recording contract includes a provision which permits UMG eliminate material which, in UMG’s judgment, constitutes defamation or libel.

**C. *UMG and Drake Have a Long Partnership.***

51. UMG began profiting from Drake’s musical recordings in 2009.<sup>46</sup> The parties extended their contract in 2022. After announcing the 2022 contract extension, Sir Grainge described Drake as one of the “biggest artists of today” and expressed that UMG “couldn’t be more excited about what lies ahead” for its relationship with Drake.<sup>47</sup> Through the contract extension, UMG profits from its exclusive right to exploit Drake’s music.

52. The contract between UMG and Drake is up for renegotiation this year. By the Spring of 2024, UMG understood that the rise of streaming platforms had “enhanced the bargaining power of artists. Established artists whose contracts are coming up for renewal are in an improved position to demand higher take rates due to the improvement in the visibility of cash

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<sup>45</sup> Tim Ingham, ‘I’m an entrepreneur... and I don’t like to lose’, Music Business Worldwide (June 20, 2017), <https://www.musicbusinessworldwide.com/john-janick-im-entrepreneur-dont-like-lose/> [<https://web.archive.org/web/20171007224803/https://www.musicbusinessworldwide.com/john-janick-im-entrepreneur-dont-like-lose/>].

<sup>46</sup> Concepcion, *supra* note 24.

<sup>47</sup> *Earnings Call Transcript – Universal Music Group N.V. (UMGNF) CEO Lucian Grainge on Q1 2022 Results*, Seeking Alpha (May 3, 2022), <https://seekingalpha.com/article/4506501-universal-music-group-nv-umgnf-ceo-lucian-grainge-on-q1-2022-results-earnings-call-transcript> [<https://web.archive.org/web/20221010054001/https://seekingalpha.com/article/4506501-universal-music-group-nv-umgnf-ceo-lucian-grainge-on-q1-2022-results-earnings-call-transcript>].

flows and risk reduction.”<sup>48</sup> And as described below, on information and belief, UMG was incentivized to act, and in fact did act, in a manner to reduce that bargaining leverage in advance of upcoming negotiations with Drake over contract renewal.

**D. *UMG Has Licensing and Publishing Rights over Kendrick Lamar’s Music.***

53. On information and belief, from 2012 through 2023, Kendrick Lamar was signed to an exclusive production company agreement with Top Dawg Entertainment which, in turn, furnished his exclusive recording services to the Aftermath Entertainment record imprint, a joint venture of Interscope. The sound recording copyrights to Kendrick Lamar’s first five studio albums are owned and controlled by Interscope. In 2023, having fulfilled his recording obligations to Top Dawg Entertainment and Aftermath Records, Kendrick Lamar signed a new short-term exclusive recording and licensing deal with UMG, through Interscope, and an exclusive publishing administration agreement with UMG, through UMPG. Through these contracts, UMG exclusively controls the release, publication, and licensing of all music products created by Kendrick Lamar during the term of the contract, including the Defamatory Material. On information and belief, Lamar signed a short-term deal with UMG to see if UMG could prove its value to him—to promote him more effectively than any other music company could—in a compressed timeframe.

54. If successful, Lamar would then continue his relationship with UMG through a new, longer-term contract. On information and belief, that long-term deal was consummated in December of 2024.

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<sup>48</sup> Kytka, *supra* note 31.

55. On information and belief, UMG’s contracts with Kendrick Lamar provide UMG the same right as in its standard longform exclusive recording contract to eliminate material which may constitute defamation or libel.

### **UMG PUBLISHES THE DEFAMATORY MATERIAL**

#### **A. *UMG Publishes the Recording and Begins to Defame Drake.***

56. On May 4, 2024, pursuant to its publication and licensing rights, UMG published the Recording for streaming on YouTube, YouTube Music, Spotify, Apple Music, Amazon Music, Pandora, iHeart Radio, Tidal, SoundCloud, Audiomack, Napster, Qobuz, Last.fm, and Deezer, and made the Recording available for purchase on Apple Music and Amazon Music.

57. When viewed on Spotify, Apple Music, Amazon Music, iHeart Radio, SoundCloud, and Deezer, the Recording includes the following language: “**exclusive license to Interscope Records,**” which is a division of UMG.

58. Since Defendant’s initial publication of the Recording, the Recording has been streamed globally more than 1.4 billion times on Spotify alone as of the date of this filing.<sup>49</sup>

59. The Recording repeatedly accuses Drake of engaging in criminal acts, including pedophilia and/or other acts that would require registering as a sex offender and of being registered as a sex offender.

60. Within the first minute, the Recording identifies Drake by name and states that Lamar has *heard* (albeit from undisclosed sources and concerning undisclosed individuals) that Drake has a predilection for underage women: “***Say, Drake, I hear you like ‘em young.***”<sup>50</sup> The

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<sup>49</sup> Spotify Chart History, *Not Like Us*, Kworb.net (last visited Apr. 16, 2025), <https://kworb.net/spotify/track/6AI3ezQ4o3HUoP6Dhudph3.html> [<https://web.archive.org/web/20250415024257/https://kworb.net/spotify/track/6AI3ezQ4o3HUoP6Dhudph3.html>].

<sup>50</sup> *Recording*, *supra* note 3, at 00:40-00:42 (emphasis added).

next line is a thinly veiled threat that Drake should be careful that he never ends up in prison, a place where child predators are notoriously the targets of violence: “*You better not ever go to cell block one.*”<sup>51</sup> The Recording continues to say that any woman who falls in love with Drake should be careful to “*hide*” her “*lil’ sister from him.*”<sup>52</sup>

61. Next, in a perverse reference to Drake’s 2021 album “Certified Lover Boy:” “*Certified Lover Boy? Certified pedophiles.*”<sup>53</sup> In a play on the dual meaning of minor—a person under the age of 18 and a musical scale—the Recording says that Drake is “*Tryna strike a chord and it’s probably A-Minor.*”<sup>54</sup> Later in the Recording, Lamar describes Drake as “*Malibu most wanted.*”<sup>55</sup> The Recording continues to say that Drake and the people in his circle need to be served with a “*subpoena*” because a “*predator*” moves “*in flocks*” and asserts that Drake’s name “*gotta be registered and placed on neighborhood watch.*”<sup>56</sup>

62. The Recording also repeatedly suggests that violence should be used against Drake because he is a pedophile. Like the sound of someone being beaten up, the Recording repeats “*wop, wop, wop, wop*” and then says Lamar will “*fuck ’em up.*”<sup>57</sup> Later, the Recording threatens that if Drake comes to Oakland, he will not make it out alive: “*I think that Oakland show gon’ be your last stop.*”<sup>58</sup> The Recording makes clear that justice will be served not through the legal system and/or commentary on social media, “*Fuck a caption,*” but through physical violence,

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<sup>51</sup> *Id.* at 00:42-00:45 (emphasis added).

<sup>52</sup> *Id.* at 00:45-00:50 (emphasis added).

<sup>53</sup> *Id.* at 00:57-01:00 (emphasis added).

<sup>54</sup> *Id.* at 01:06-01:14 (emphasis added).

<sup>55</sup> *Id.* at 01:40-01:42 (emphasis added).

<sup>56</sup> *Id.* at 02:11-02:15 (emphasis added).

<sup>57</sup> *Id.* at 00:57-01:02 (emphasis added).

<sup>58</sup> *Id.* at 01:25-01:28 (emphasis added).



*“want action, no accident, and I’m hands-on, He fuck around, get polished.”*<sup>59</sup> At the end of the Recording, the lyrics threateningly repeat: *“Hey, hey, hey, hey, run for your life, Hey, hey, hey, hey, run for your life.”*<sup>60</sup>

63. The Recording contains numerous additional statements that imply the existence of evidence to support the allegations against Drake. The Recording expressly represents that Lamar possesses additional undisclosed information about Drake, *“Rabbit hole is still deep, I can go further, I promise,”* and that the public will believe him: *“The audience not dumb, Shape the stories how you want, hey, Drake, they’re not slow.”*<sup>61</sup> The Recording continues by making reference to several Drake songs (“Family Matters” and “God’s Plan”) and accusing Drake of being a liar for denying allegations of criminality: *“The family matter, and the truth of the matter, It was God’s plan to show y’all the liar.”*<sup>62</sup> The Recording also makes a vulgar attack on Drake’s brand OVO: *“What OVO for? The ‘Other Vaginal Option’? Pussy”*<sup>63</sup> and *“Let me hear you say, ‘OV-hoe’ (OV-hoe), Say, ‘OV-hoe’ (OV-hoe).”*<sup>64</sup>

64. Furthering the Recording’s refrain that Drake is *“not like us,”* the Recording alludes to Drake’s Jewish heritage, saying that Drake is *“not a colleague”* but *“a fuckin’ colonizer.”*<sup>65</sup>

65. With the Recording, UMG also published an accompanying Image on May 4, 2024, to YouTube, YouTube Music, Spotify, Apple Music, Amazon Music, Pandora, iHeart Radio,

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<sup>59</sup> *Id.* at 01:57-02:01 (emphasis added).

<sup>60</sup> *Id.* at 03:50-03:54, 04:00-04:04 (emphasis added).

<sup>61</sup> *Id.* at 01:33-01:39 (emphasis added).

<sup>62</sup> *Id.* at 03:32-03:36 (emphasis added).

<sup>63</sup> *Id.* at 01:49-01:53 (emphasis added).

<sup>64</sup> *Id.* at 04:03-04:09 (emphasis added).

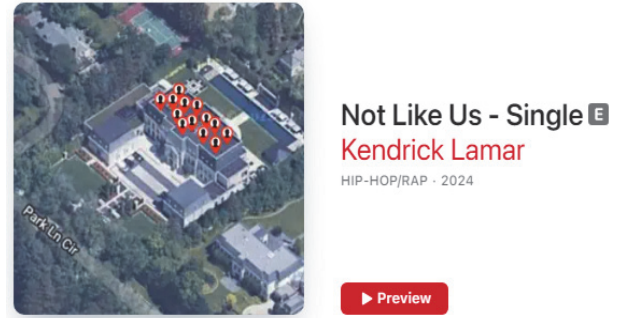
<sup>65</sup> *Id.* at 03:29-03:32 (emphasis added).

Tidal, SoundCloud, Audiomack, Napster, Qobuz, Last.fm, and Deezer, the UMPG website,<sup>66</sup> and Meta and TikTok.<sup>67</sup> Any person who views, listens to, or streams the Recording on one of these platforms can view the Image.

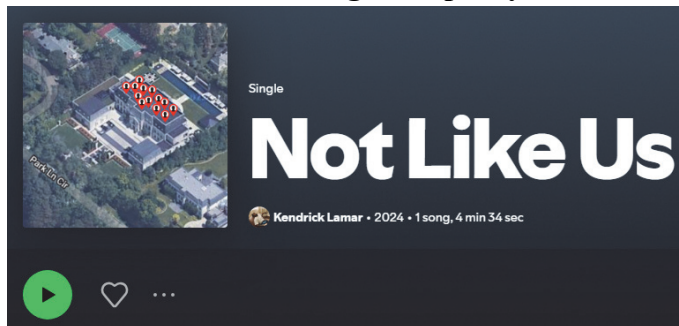
**Image on Google Images:**



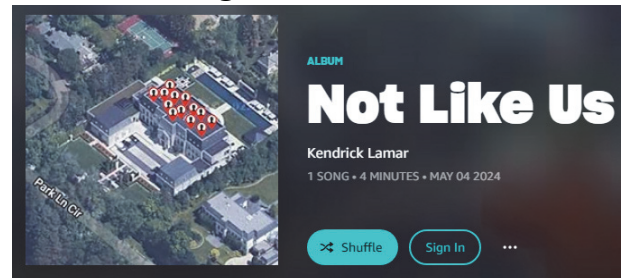
**Image on Apple Music:**



**Image on Spotify:**



**Image on Amazon Music:**



66. The Image features an aerial view of Drake's Toronto home, includes identifying information regarding the location of the home, and is covered in the icons used by law

<sup>66</sup> Song Details, *Not Like Us* by Kendrick Lamar, Universal Music Publishing Group, <https://www.umusicpub.com/us/Digital-Music-Library/song/547780/kendrick-lamar-not-like-us> [<https://perma.cc/UDS2-D9J7?type=image>].

<sup>67</sup> Kendrick Lamar | *Not Like Us* on Instagram, Instagram (May 4, 2024), <https://www.instagram.com/reels/audio/1182175136281886/?igsh=Z3pvOWdxNGRxb3Vw> (for use in Instagram users' Reels); Kendrick Lamar | *Not Like Us* | on TikTok, TikTok (May 4, 2024), <https://www.tiktok.com/t/ZTNvgJGCM/> (for use in TikTok users' videos).

enforcement and public safety applications like Citizen to identify child sex offenders and their residences on public registries.

67. As of the date of this filing, UMG's original publications of the Recording and Image remain available on the aforementioned platforms.

68. At all relevant times, UMG knew that the allegations in the Defamatory Material were baseless. And despite being able to contact Drake, at no point has UMG ever asked Drake or his representatives about whether the allegations in the Defamatory Material were true.

69. On information and belief, Sir Grainge and Mr. Janick were involved in the initial publication of the Recording and Image. Separately, on information and belief, Monte and Avery Lipman (Republic CEO and President, respectively) failed to prevent the publication.

**B. *The Defamatory Material Is False.***

70. The allegations against Drake are unequivocally false. Drake has never been charged with, indicted for, or convicted of any charges of sexual violence or assault, including, but not limited to, sexual violence against a minor. Nor has Drake ever engaged in an inappropriate romantic or sexual behavior with a minor.

71. The Recording provides no evidentiary support for any of its defamatory allegations. Instead, the Recording's allegations are based entirely on undisclosed fact, and expressly refers to such undisclosed facts as described above.

**C. *People Believe and Repeat the Allegations in the Recording and Image.***

72. The Recording's allegations about Drake were understood to be factual assertions against Drake from the moment UMG published it. Whatever generalities might be applied to hip hop tracks in the abstract plainly did not hold here, as evidenced by the commentary that appeared online, and in social and legacy media channels, as soon as UMG published the Recording and

Image. Countless posts and comments reveal a widespread public perception that the Recording and Image convey factual allegations against Drake.

73. As one user put it: **“This isnt a diss, it’s the truth.** The culture isnt just not fw [fucking with] with Drake, its correcting itself by kicking out these predators (Drake, Diddy etc).”<sup>68</sup> Another user wrote that the Recording is “telling the truth” about Drake being a “pedo.”<sup>69</sup> Another commenter posted “Drake has more than 800k dislikes on that song **cuz everybody believe he loves touching children** cuz we have evidence everywhere.”<sup>70</sup>

74. The fact that the allegations came packaged in rap lyrics did not dissuade listeners from erroneously believing the allegations to be true. For example:

- **“I LOVE THIS SONG!! We would have never known Drake is a whole pedophile if this information wasn’t exposed!,”**<sup>71</sup> and
- **“Respect and love you Kendrick for keeping it [100 emoji]. From your tone, anger, and passion behind your words there is no doubt on my end that Drake is indeed a pedophile.”**<sup>72</sup>

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<sup>68</sup> User @mrright8439, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (July 4, 2024), [https://www.youtube.com/watch?v=H58vbez\\_m4E&lc=Ugye0CflEuIQFc1WdCx4AaABAg](https://www.youtube.com/watch?v=H58vbez_m4E&lc=Ugye0CflEuIQFc1WdCx4AaABAg) [<https://perma.cc/Q2SH-PR7Q>] (emphasis added).

<sup>69</sup> User @kaioken8026, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 11, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=Ugx23-NZg6eB0Hspdt14AaABAg> [<https://perma.cc/39F6-26RR>].

<sup>70</sup> User @itzmglo892, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 7, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=Ugz5w9YjkanJST3x9KN4AaABAg.A37cQ9A2ziqA37jeqR4n-q> [<https://perma.cc/3LRV-FNB6>] (emphasis added).

<sup>71</sup> User @pareeshaslaughter6798, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 8, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgxjAPntCJymjhPSKUR4AaABAg> [<https://perma.cc/ZUW3-6DYQ>] (emphasis added).

<sup>72</sup> User @davidkwon1322, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 11, 2024), <https://www.youtube.com/watch?v=T6eK->

75. Moreover, any reasonable listener would have understood that Kendrick Lamar was claiming to know more information about Drake than he disclosed in the Recording's lyrics. The public noticed and commented on this unmistakable message.: "Bro just **exposed** drake of running with pedos n sex offenders. [I don't know,] **I don't think Kendrick is dumb to make false accusations**, I don't wanna assume without proof but shi ain't looking good for drake. **Like I feel like he still holding some shi back and ain't sayin everything he knows bout drake.**"<sup>73</sup> Others echoed:

- "I don't wanna be that guy but I never took Drake seriously, he's Canadian, he was in Degrassi that stuff makes it hard for me to take him seriously. I thought that's why Kendrick went after him. Now that it's more serious than just Drake being fake, I'm like wow if I knew all this I'd hate Drake too. This is check mate for Drake because how exactly do you respond to someone calling you a sociopath, a deadbeat and a pedo? **As for KL I just wanna know how he found out some of these things** and what took so long to call Drake out;"<sup>74</sup> and
- "This whole thing is beyond brutal at this point. Kendrick must truly fucking hate Drake for some reason. **Makes me inevitably think there might be real merit to the pedophile claims. Sorry Drake, Kendrick is literally making me think it.** Jesus christ, talk about winning a rap beef [laughing emojis]."<sup>75</sup>

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[2OQtew&lc=UgwRetHb\\_AixNVevbUp4AaABAg](https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgwRetHb_AixNVevbUp4AaABAg) [<https://perma.cc/72X5-2L9U>] (emphasis added).

<sup>73</sup> User @ZxZNebula, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 5, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=Ugy3GxrXDhB4FrdpL4l4AaABAg> [<https://perma.cc/5929-W5MN>] (emphasis added).

<sup>74</sup> User @miguelzurita3216, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 8, 2024), [https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgzepMW\\_ZmA-jpOZ4lp4AaABAg.A39Umhbxa2hA39oO8zdpS7](https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgzepMW_ZmA-jpOZ4lp4AaABAg.A39Umhbxa2hA39oO8zdpS7) [<https://perma.cc/X89T-2XU6>] (emphasis added).

<sup>75</sup> User @l1cockrellm, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (July 7, 2024), [https://www.youtube.com/watch?v=H58vbez\\_m4E&lc=UgxIuAXkpmfSycCn6wV4AaABAg.A5XwaGEIEB0A5\\_wDJFEk8J](https://www.youtube.com/watch?v=H58vbez_m4E&lc=UgxIuAXkpmfSycCn6wV4AaABAg.A5XwaGEIEB0A5_wDJFEk8J) [<https://perma.cc/VUT8-5875>] (emphasis added).

76. Many listeners focused on the line “*Rabbit hole is still deep, I can go further, I promise*,” as implying that the lyrics were based on undisclosed information. One user commented “‘Rabbit hole still deep I can go further I promise’ .....drake waves white flag ends beef. **I wonder what else he was scared about coming out? Hmmmmmm[.]**”<sup>76</sup> In response to the Super Bowl Performance in February 2025, one user commented: ‘Rabbit hole is still deep, I can go further, **I promise’ never doubt about this quote ever again[.]**”<sup>77</sup> Other users drew similar conclusions from the Recording’s words:

- “1:38 ‘rabbit hole is still deep i can go further i promise’ is WILDLY APPROPRIATE [laughing crying emoji] while feds slowly unfolding Diddy’s case and these sick fcks.”<sup>78</sup>
- “‘rabbit hole goes deep i can go further i promise’ he did NOT lie.”<sup>79</sup>
- “‘Rabbit hole still deep, i can go further!!! In the last diss and With everything kenny said No wonder all these things unfolding on drake now.”<sup>80</sup>

<sup>76</sup> User @chadwickmitchell7067, Comment, *Kendrick Lamar – Not Like Us*, YouTube (June 25, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=Ugyq0MQfTjoSr3brV354AaABAg> [<https://perma.cc/4KUE-VT69>].

<sup>77</sup> User @kaatzir, Comment, NFL (@NFL), *Kendrick Lamar's Apple Music Super Bowl Halftime Show*, YouTube (Feb. 10, 2025), [https://www.youtube.com/watch?v=KDorKy-13ak&google\\_comment\\_id=UgxA8pQJR7YG4d03L9R4AaABAg](https://www.youtube.com/watch?v=KDorKy-13ak&google_comment_id=UgxA8pQJR7YG4d03L9R4AaABAg) [<https://perma.cc/NW66-JNBZ>].

<sup>78</sup> User @PANIITAEeee, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (Oct. 18, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgzO24fbJ-ThOE8S67F4AaABAg> [<https://perma.cc/7NNC-N3FV>].

<sup>79</sup> User @Caesxr15, Comment, *Kendrick Lamar – Not Like Us*, YouTube (Sept. 12, 2024), [https://www.youtube.com/watch?v=H58vbez\\_m4E&google\\_comment\\_id=UgytBGnzzuOv7XMs2WB4AaABAg](https://www.youtube.com/watch?v=H58vbez_m4E&google_comment_id=UgytBGnzzuOv7XMs2WB4AaABAg) [<https://perma.cc/ZG5U-JE5F>].

<sup>80</sup> User @sauravpanwar5304, Comment, *Kendrick Lamar – Not Like Us*, YouTube (Nov. 30, 2024), [https://www.youtube.com/watch?v=H58vbez\\_m4E&google\\_comment\\_id=UgwincGLPc0KVTB4OPR4AaABAg](https://www.youtube.com/watch?v=H58vbez_m4E&google_comment_id=UgwincGLPc0KVTB4OPR4AaABAg) [<https://perma.cc/YV3E-TA5F>].



77. It is entirely unsurprising that the public interpreted the Recording’s lyrics as assertions of fact. On April 30, 2024, less than a week before the release of the Recording, UMG had released an earlier song by Kendrick Lamar (“Euphoria”) that threatened that he “won’t tell truths ’bout” Drake if Drake “don’t tell no lie about me,”<sup>81</sup> and ominously stated that he “know some shit” about Drake.<sup>82</sup> To the reasonable listener familiar with these lyrics, any future allegations levied by Lamar against Drake would be based in “truth” and undisclosed fact.

78. Moreover, the Image, which depicts Drake’s Toronto residence and 13 sexual predator icons, likewise caused viewers to believe the allegations against Drake. One user asked: “[w]ho are the 13 pedophiles at Park Lane Circle?? [eyes wide emoji] [eyes wide emoji]” demonstrating that they believed the Image to be accurately depicting who lived or spent time in the home.<sup>83</sup> Other users similarly remarked:

- “Just realized the **thumbnail is from the sexual predators app**,”<sup>84</sup>
- “Omg is that a sex offender map on drakes house;”<sup>85</sup>

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<sup>81</sup> Kendrick Lamar (@kendricklamar), *Euphoria*, at 00:51-00:54, YouTube (Apr. 30, 2024), <https://www.youtube.com/watch?v=NPqDIwWMtxg> [<https://perma.cc/E5NC-JC9B>].

<sup>82</sup> *Id.* at 03:02-03:05.

<sup>83</sup> User @Eagle252, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (July 21, 2024), [https://www.youtube.com/watch?v=H58vbez\\_m4E&lc=Ugw3GlxFm03VtNn8CmB4AaABAg](https://www.youtube.com/watch?v=H58vbez_m4E&lc=Ugw3GlxFm03VtNn8CmB4AaABAg) [<https://perma.cc/B5U9-HY44>] (emphasis added).

<sup>84</sup> User @mnmsaregood1, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 5, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=Ugx5fmeYbCAsOIjUV1F4AaABAg> [<https://perma.cc/F449-K7YE>] (emphasis added).

<sup>85</sup> User @pinkengineering (formerly @imcicily), Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 5, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgzH35b0IFiCS51IHJV4AaABAg> [<https://perma.cc/V2Z5-CR5F>].

- “NAH THAT MANY PEDOS IN ONE SPOT IS CRAZYYYYYYYYY DRAKE CANCELED;”<sup>86</sup>
- “**Drake housing a bunch of pedos** at his house [nervous laughing with sweat emoji];”<sup>87</sup>
- “Yoooooo Sex offenders have to register **Red means sexual assault against a minor. Drake has 13 of them living in his house?**”<sup>88</sup> and
- “**Drakes pedo mansion** those are the markers used to show pedos that live next to you kids.”<sup>89</sup>

79. People all over the internet also questioned why Drake had not yet been arrested and called for the police, the FBI, and the Central Intelligence Agency (CIA), as well as Child Protective Services (CPS), to investigate the statements in the Recording. In comments on UMG’s initial publications of the Defamatory Material to YouTube, users wrote:

- “The FBI needs to come at this point [laughing emoji];”<sup>90</sup>

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<sup>86</sup> User @Genil67, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 5, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=Ugy73wSHQ38O1YYo84x4AaABAg> [<https://perma.cc/9KDG-RXJW>] (emphasis added).

<sup>87</sup> User @Shakia-milog, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 17, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgwMgoIPSKsI516iTF94AaABAg.A3XNv8zVrnZA3XRS50IeSA> [<https://perma.cc/8NVP-UC9W>] (emphasis added).

<sup>88</sup> User @mothernature5828, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 6, 2024), [https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgxwdAg-d\\_sYmcG\\_0Id4AaABAg](https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgxwdAg-d_sYmcG_0Id4AaABAg) [<https://perma.cc/VK97-MP3D>] (emphasis added).

<sup>89</sup> User @supersayian193, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 7, 2024), [https://www.youtube.com/watch?v=T6eK-2OQtew&lc=Ugy\\_x-jK0HeBXZBeHCN4AaABAg.A39CQVU26nfA39Ce8tDLbA](https://www.youtube.com/watch?v=T6eK-2OQtew&lc=Ugy_x-jK0HeBXZBeHCN4AaABAg.A39CQVU26nfA39Ce8tDLbA) [<https://perma.cc/265S-BHE2>].

<sup>90</sup> User @WrestlingWarrior15, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 30, 2024), <https://perma.cc/WR5J-KX7G>.



- “hey kendrick don’t diss drake it’s waste of time **just call the cops** and snitching drake is pedophille so drake go to jail and you can win bye [thumbs up emoji];”<sup>91</sup>
- “Hide your children from Drake;”<sup>92</sup>
- “If what kendrick is saying is true, **drake needs to be locked up;**”<sup>93</sup>
- “Drake just need to be locked up;”<sup>94</sup>
- “Yo **Im about to call Child Proctective Services** because this is abuse;”<sup>95</sup>
- “Drakes #1 opp is child protected services;”<sup>96</sup>
- “**At this point, CIA and FBI need to step in;**”<sup>97</sup>

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<sup>91</sup> User @naive-u8f, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 6, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgzpsCFEw2wNtXO-mH54AaABAg> [<https://perma.cc/2X7B-UKHK>] (emphasis added).

<sup>92</sup> User @kevinryt4963, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 5, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=Ugwo7YQXyO6bZmAqW754AaABAg> [<https://perma.cc/CEU5-EKW5>].

<sup>93</sup> User @meowmeow1234meow, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 5, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgyiEogmH8Ko5jqUZfR4AaABAg> [<https://perma.cc/2ENM-4L28>] (emphasis added).

<sup>94</sup> User @saitherabbit, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 9, 2024), [https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgyC3ae8cvJNGi\\_Z7494AaABAg.A3C0TcZ0FxJA3C4-bWM6H-\[https://perma.cc/RZ38-GBY9\]](https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgyC3ae8cvJNGi_Z7494AaABAg.A3C0TcZ0FxJA3C4-bWM6H-[https://perma.cc/RZ38-GBY9]).

<sup>95</sup> User @loverunsdeep6382, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 5, 2024), [https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgxIrboluh\\_WN61Qn-54AaABAg](https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgxIrboluh_WN61Qn-54AaABAg) [<https://perma.cc/LHU9-KY2E>] (emphasis added).

<sup>96</sup> User @Ben10295, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (July 8, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=Ugz30tyV7Sul5LLOABN4AaABAg> [<https://perma.cc/8MCD-H4AK>].

<sup>97</sup> User @NnewidiewiChukwu, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 17, 2024), [https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgwGvIubOjB\\_ZqaYyF14AaABAg](https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgwGvIubOjB_ZqaYyF14AaABAg) [<https://perma.cc/DAE3-KMGJ>] (emphasis added).

- “I like the step this way step that way are we locked in, I picture drake getting locked behind bars;”<sup>98</sup>
- “Even nerds know if you’re messing with kids you don’t do good in jail;”<sup>99</sup> and
- “[E]veryone is dancing to drake being a pedo getting violated in prison.”<sup>100</sup>

80. Some comments went so far as to specifically reference Drake’s seven-year-old son by name: “It’s scary if what Kendrick said is true about Drake .. mother of Adonis, save your child;”<sup>101</sup> “Adonis gets to play with the trapped kids in Drakes mansion when he does good;”<sup>102</sup> “I don’t think Drake can even attempt to parent Adonis anymore [crying emoji];”<sup>103</sup> and in an especially vile post, “**I bet Drake touches Adonis too.**”<sup>104</sup>

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<sup>98</sup> User @jthe9eleven11, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 7, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgyDI-LWP-L6cq5HwiB4AaABAg> [<https://perma.cc/D66Y-M72Y>].

<sup>99</sup> User @randomforyoutube3215, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 7, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgwHQYlQsr1DeR8drm94AaABAg.A377Gd2IUF9A378s0FtOk0> [<https://perma.cc/KPK9-SAHX>].

<sup>100</sup> User @ImChickenLittle, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 8, 2024), [https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgzukLEOCNlaEbrb\\_Nd4AaABAg.A39hSm0r\\_5uA39hf9iwdiv](https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgzukLEOCNlaEbrb_Nd4AaABAg.A39hSm0r_5uA39hf9iwdiv) [<https://perma.cc/LSV3-7XTV>].

<sup>101</sup> User @Uh-no, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 8, 2024), <https://perma.cc/G6P2-MNZ8>.

<sup>102</sup> User @chillbloc, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 6, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgyWti6FnAy1qD851Tt4AaABAg> [<https://perma.cc/X88Y-8WXY>].

<sup>103</sup> User @DarthD13, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 8, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=Ugzbkut5VTQlho-wiG94AaABAg> [<https://perma.cc/9RQV-DFWQ>].

<sup>104</sup> User @a3lzv, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (June 1, 2024), <https://perma.cc/EB2G-ZUPN> (emphasis added).

81. Others compared Drake to infamous people who have actually been charged with and found guilty of sex crimes. In comments on UMG’s initial publication of the Recording and Image to YouTube, users commented, “[D]rake is a pedophile and sexual abuser on the level of Weinstein, Diddy, and Epstein”<sup>105</sup> and “people like Drake, [W]einstein and Epstein, using power and money to humiliate and terrorize and traffic and groom females and children.”<sup>106</sup>

82. Many posters turned to racial and religious slurs against Drake, who is mixed race and Jewish. For example, users on YouTube and X commented: “Its drake the that **pedojewboy**,”<sup>107</sup> and “Drakes jew protection pedo team will get him off.”<sup>108</sup>

83. And the harassment has not been limited to Drake. People with little to no affiliation with Drake have found themselves in the crosshairs. Comedian Tracy Morgan was subject to awful social media scrutiny after posting an Instagram photo of his adolescent daughter with Drake. Users commented “[D]rake should not be allowed to take pictures with girls,” “I think he likes them HS age,” “[h]e’s probably grooming her,” “Drake likes minors” and made references to the Defamatory Material through GIFs and quotations of the Recording’s lyrics.<sup>109</sup>

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<sup>105</sup> User @TheRealRyanMickens, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 8, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgzDjAlJPQtrc1E2Eqd4AaABAg> [<https://perma.cc/SS4F-Y8DZ>].

<sup>106</sup> User @ogekanvas, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 12, 2024), [https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgxKXmpopglRXFMYSWx4AaABAg.A3K\\_djsknWrA3L\\_48a7YKz](https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgxKXmpopglRXFMYSWx4AaABAg.A3K_djsknWrA3L_48a7YKz) [<https://perma.cc/8URW-9PEH>].

<sup>107</sup> User @drpuffnstuff5672, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 8, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgwUebwBrfII3ODMqqp4AaABAg.A3BSskE0bxYA3BUxB3n0HY> [<https://perma.cc/5KEM-T7AN>] (emphasis added).

<sup>108</sup> User @user-qk9he7se5w, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 25, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgxrlAwronL0IuGi3fx4AaABAg> [<https://perma.cc/AS6V-LEJA>].

<sup>109</sup> Tracy Morgan (@tracymorgan), Instagram (Feb. 11, 2025), <https://www.instagram.com/tracymorgan/p/DF9NJb4xbW0/> [<https://perma.cc/3QJN-KCB9>]

84. The public’s understanding was not limited to social media users. In a May 10, 2024 recording of the “It’s Been a Minute” show produced by National Public Radio (NPR), host Brittany Luse discussed the allegations in the Recording with NPR Music Reporter Sidney Madden and writer Tirhakah Love.<sup>110</sup> They understood the Recording to be linking Drake and his alleged criminal behavior to other famous figures who were revealed to the public as sexual predators and later convicted for their crimes, such as rapper R. Kelly.<sup>111</sup> Ms. Madden insinuated that the allegations could be true, commenting that so “much dirt has been unearthed.”<sup>112</sup> To Love, the allegations rose to the level of warranting an investigation:<sup>113</sup> because while this “sort of behavior” [meaning sexual violence] is “in our faces for a lot of different industries,” it is unusual for the allegations to come from “contemporaries.”<sup>114</sup> The podcast positioned the Recording as having the potential to be a tipping point for a #MeToo movement in the world of hip-hop.<sup>115</sup>

85. Luse explicitly asked her guests whether they considered the allegations in the Recording to be art or “cause for an actual criminal investigation.”<sup>116</sup> Ms. Madden answered by

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(comments from users @canadianbacon12, @chola\_nerd, @choosen\_184, and @rawdogggy1998 preserve offline).

<sup>110</sup> *Drake and Kendrick are beefing, but who pays? Plus, moms as our social safety net*, It’s Been a Minute, NPR (May 10, 2024), <https://www.npr.org/transcripts/1197956376?ft=nprml&f=1197956376> [<https://perma.cc/T8H2-5F59>].

<sup>111</sup> *Id.*

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

pointing to the trial of rapper Young Thug, who was recently criminally prosecuted in Georgia on RICO charges, in a case where the prosecution relied heavily on rap lyrics as evidence.<sup>117</sup>

86. Numerous articles were written exploring the meaning of the Recording's lyrics, including discussions of the purported factual basis for those lyrics.<sup>118</sup>

87. Other influencers suggested the possible truth of the allegations. During his set at a May 7, 2024 charity event, actor and comedian Seth Rogen commented on how Drake must feel now that “people are dancing” to a song that calls him a sexual predator.<sup>119</sup> Mr. Rogen said, “Could you imagine going to a club and seeing a room full of people dancing to a song about you being a pedophile? Especially if you were one? I don’t know if he is, but if he was, I assume that’d be a very alarming moment in your life. ‘Oh no, they’re on to me.’”<sup>120</sup>

88. Many comments turned violent and threatening, repeating the calls for violence against Drake in the Recording:

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<sup>117</sup> *Id.*

<sup>118</sup> See, e.g., Demi Phillips, *Kendrick Lamar “Not Like Us” Lyrical Breakdown*, Hot New Hip Hop (June 20, 2024), <https://www.hotnewhiphop.com/798807-kendrick-lamar-not-like-us-drake-lyrics> [<https://web.archive.org/web/20250228095930/https://www.hotnewhiphop.com/798807-kendrick-lamar-not-like-us-drake-lyrics>] (“Kendrick . . . continues with a series of accusations and metaphors that paint Drake as weak, untrustworthy, and worse, a predator.”); Jordan Rose, *Breaking Down All of the Ways Kendrick Lamar Attacked Drake on “Not Like Us”*, Complex (May 5, 2024), <https://www.complex.com/music/a/j-rose/breaking-down-the-ways-kendrick-lamar-dissed-drake> [<https://web.archive.org/web/20240901130224/https://www.complex.com/music/a/j-rose/breaking-down-the-ways-kendrick-lamar-dissed-drake>]; Miki Hellerbach, *Decoding Kendrick Lamar’s “Not Like Us” Video*, Complex (July 5, 2024), <https://www.complex.com/music/a/complex/kendrick-lamar-not-like-us-video-decoding-hidden-meanings> [<https://perma.cc/XWT8-CKN7>].

<sup>119</sup> Derrick Rossignol, *Seth Rogen Pinpoints The Moment Drake Officially Lost the Kendrick Lamar Beef and Marvels at How Crazy the Whole Thing Is*, Uproxx (May 8, 2024), <https://uproxx.com/music/seth-rogen-drake-kendrick-lamar-pedophile/> [<https://perma.cc/W9GP-QUUX>].

<sup>120</sup> *Id.*

- “Drake not going to be able to touchdown into Cali going forward. Somebody gonna Biggie Smalls him. Homies out here don’t tolerate pedophilia. Not even joking;”<sup>121</sup> and
- “[T]his is one of those situations where you kinda just gotta kill yourself if you’re drake.”<sup>122</sup>

89. That reasonable people would believe the allegations contained in the Defamatory material was entirely foreseeable. Allegations of pedophilia are a cultural lightning rod.

90. Less than a month after UMG published the Recording and Image, author Martin Vidal published an article titled “The Drake-Kendrick Rap Beef: A Case Study of Mob Psychology.”<sup>123</sup> Mr. Vidal explains that “mob mentality” is a psychological state that causes people to abandon nuance, label anyone who defends the accused as being guilty of the same actions of the accused, reward those who perpetuate their cause, and do bad in the name of doing good, even when accusations are made without supplying any evidence. Mr. Vidal concludes that the public reaction to the allegations against Drake were classic mob mentality, citing the shooting and other trespassing incidents, instances of vandalism at Drake’s OVO stores, and overwhelming negative public outcry.

91. Mr. Vidal explains that this mob mentality is why people can believe the allegations despite the fact that “Drake has never been accused of inappropriate behavior with a minor (or something similar, like grooming) by any underage or formerly underage person he’s interacted

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<sup>121</sup> User @photograffito, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 5, 2024), [https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgwhwswcQjXOw7c9t\\_d4AaABAg](https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgwhwswcQjXOw7c9t_d4AaABAg) [<https://perma.cc/XEH3-KMQH>].

<sup>122</sup> Kelly (@BoyYeetsWorld), X (June 19, 2024), <https://perma.cc/3JLZ-XTBQ>.

<sup>123</sup> Martin Vidal, *The Drake-Kendrick Rap Beef: A Case Study of Mob Psychology*, Medium (May 24, 2024), <https://medium.com/the-riff/the-drake-kendrick-rap-beef-a-case-study-of-mob-psychology-30d42b46b3a7> [<https://perma.cc/6H27-F2ZS>].

with, or their families, or their acquaintances, and just about every alleged victim of such has come out in defense of Drake.”

92. According to Mike Rothschild, an author and expert on conspiracy theories, accusations of pedophilia are particularly ripe for conspiracies.<sup>124</sup> He describes that allegations of child sexual abuse cause people to “immediately just lose their mind — even if these children don’t exist” and even “if you just put out the suggestion there, it grabs ahold in a way that is difficult to dislodge.”<sup>125</sup> Mr. Rothschild also notes that social media exacerbates conspiracy theories because the spread of information, or disinformation, can happen so much more rapidly than in the analog age.<sup>126</sup>

**D. *Drake Is the Target of Violence Almost Immediately.***

93. Not only did people believe the allegations in the Recording and the Image, some acted on them.

94. Within days after UMG’s initial publication of the Recording and Image, which depicted the location of Drake’s residence in Toronto, accused him of being a criminal pedophile, and called for violence against him, multiple strangers, including at least one armed with a deadly weapon, targeted Drake.

95. At 2:00 A.M. on May 7, 2024, a group of men drove by Drake’s Toronto residence, screamed “Fuck Drake,” and released at least two shots. One bullet went through the security fence and hit Drake’s front door. Another bullet hit and seriously wounded Drake’s security guard. Drake and others in the house rushed to the man’s aid, trying to keep him from bleeding out while

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<sup>124</sup> Kim, *supra* note 9.

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*



the ambulance came. The injuries he sustained were serious and, for two days, doctors were not sure if he would live.

96. The news quickly jumped on the story of the violent attack against Drake, with all the major news outlets publishing stories. For days news helicopters flew overhead the Toronto house. While no one from UMG ever reached out to Drake or any of his representatives to check on his well-being, UMG undoubtedly saw the press coverage of the attack.

97. Also on May 7, 2024, across the globe in London, United Kingdom, Drake's OVO clothing store was vandalized with graffiti that read: "They not like us." The graffiti was likely viewed by hundreds of Carnaby Street passersby before the glass window could be removed and millions online once the news broke.

98. On May 8, 2024, a different invader attempted to break in to Drake's property by using his bare hands to dig under the security gate. The invader slid under the fence and entered the property, screaming racist slurs and violent threats toward Drake. The invader was apprehended by security before making it to the house.

99. On May 9, 2024, there was *another* trespasser on Drake's Toronto property, this time the trespasser got into a physical altercation with Drake's security guards before being taken away by the police. The individual returned to Drake's property on May 11, 2024.<sup>127</sup>

100. These acts of violence against his residence, where Drake lives with his family, and against his business, are not normal. In all the years he has been a celebrity, nothing like the events of early May has ever happened to Drake before. After these attacks, Drake reasonably fears for the safety of his family, and himself, particularly at his Toronto property. Following the May 7,

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<sup>127</sup> Trent Fitzgerald, *Drake's Security Confronts the Same Intruder for Second Time at His Toronto Estate*, XXL Magazine (May 11, 2024), <https://www.xxlmag.com/drake-security-third-intruder-toronto-estate/> [<https://perma.cc/GK54-7LPA>].



2024 shooting, Drake temporarily pulled his seven-year-old son out of school and the Toronto area.

101. Drake lives his life differently since UMG published the Defamatory Material. Drake has increased his security team in Toronto and everywhere he goes.

**E. *Drake Publicly Denies the Defamatory Material.***

102. On May 5, 2024, just a day after UMG published the Recording and Image, Drake denied all of the allegations in a song called “The Heart Part 6.”<sup>128</sup> Drake explained that he has “never been with no one underage” and that his name is not on the “sex offender list.”<sup>129</sup>

103. Despite being able to contact Drake, UMG did not ask Drake or his representatives to discuss his denials of the allegations contained within the Defamatory Material.

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<sup>128</sup> Drake (@DrakeOfficial), *THE HEART PART 6 – DRAKE*, YouTube (May 5, 2024), <https://www.youtube.com/watch?v=HJeY-FXidDQ> [<https://perma.cc/K6P7-6YS5>].

<sup>129</sup> *Id.* at 02:18-02:19, 02:49-02:52.

104. Belief in the truth of Defamatory Material persisted in direct response to Drake's denial of the claims in "The Heart Part 6":<sup>130</sup>



**F. UMG Continues to Defame Drake by Publishing the "Not Like Us" Music Video.**

105. On July 4, 2024, two months after UMG initially published the Recording and Image, UMG published a "Not Like Us" music video on YouTube<sup>131</sup> and to users of Apple

<sup>130</sup> Sultan of SOLana.Wen (@ropexgang), X (May 6, 2024), <https://perma.cc/W7EU-TG53>; see also IAintGonCap (@IAintGonCap), X (May 5, 2024), <https://x.com/IAinGonCap/status/1787300175054049618> [<https://perma.cc/GT6T-2AYL>] ("Kendrick didn't lie about anything! You fed misinformation for him to expose you having a Fake Daughter but he still smoked and broke you down for being into Underage Girls, being addicted to pills, your camp having Sexual Assaults and also you having gambling problem which are ALL TRUE and One is Subjective the Gambling... Your Spiraling More and The Fart 6. Ain't it. #OVHO #MeetTheGrahams.").

<sup>131</sup> Video, *supra* note 5.

Music<sup>132</sup> and Tidal.<sup>133</sup> UMG did so with knowledge of the actual violence and online threats that ensued from its initial publication of the Recording, as well as its understanding that countless listeners had understood the Recording and Image to convey statements of fact.

**Video on YouTube:**



106. On YouTube, a watermark for Vevo LLC appears in the bottom right of the Video.<sup>134</sup> The YouTube caption for the Video lists a Vevo LLC URL, <http://vevo.ly/NcHpoC>.<sup>135</sup> Universal Music is a significant owner of Vevo LLC (“Vevo”), which is a privately held American multinational music video-hosting service. Universal Music uses Vevo to distribute video content to global platforms, such as YouTube and major television networks.

107. The Video depicts images bolstering the Recording’s defamatory allegations. For example, the lyrics “*Tryna strike a chord and it’s probably A-Minor*” are matched with an image

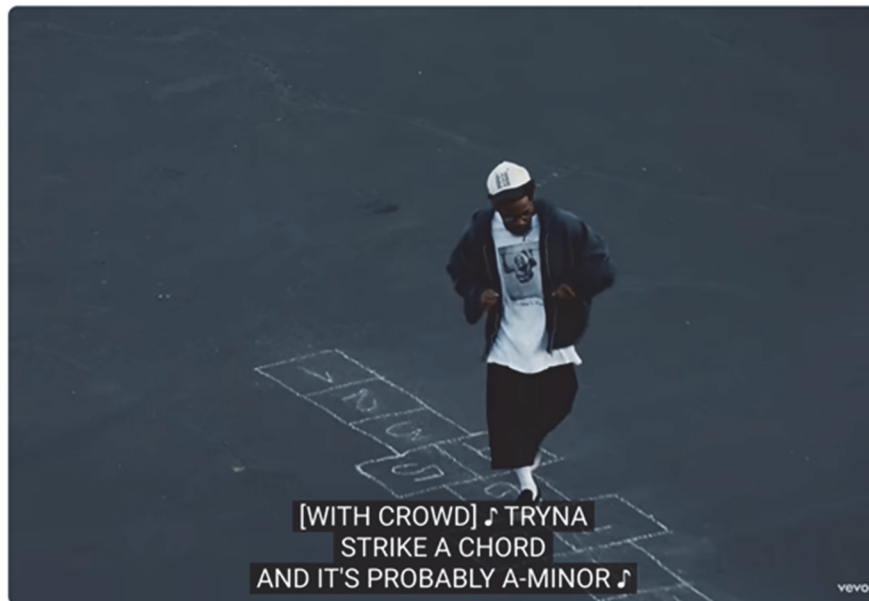
<sup>132</sup> Kendrick Lamar, *Not Like Us [Explicit]*, Kendrick Lamar, Apple Music (July 4, 2024), <https://music.apple.com/us/music-video/not-like-us/1755691074> [https://perma.cc/GR3L-PGWX].

<sup>133</sup> Kendrick Lamar, *Not Like Us*, TIDAL (July 4, 2024), <https://tidal.com/browse/video/373513584> [https://perma.cc/8AZN-X2K9].

<sup>134</sup> Video, *supra* note 5.

<sup>135</sup> *Id.*

of hopscotch, a popular playground game for children.<sup>136</sup> The imagery reinforces the drawn-out singing of the “*A-Minor*” lyric and the lie that Drake is a pedophile.



108. Kendrick Lamar is depicted in front of shipping containers with air-conditioning units inside. These images are associated with sex trafficking.



109. The Video also includes allusions to Drake’s OVO brand, which is represented by an owl. In combination with the lyrics “*Wop, wop, wop, wop, wop, Dot, fuck ‘em up,*” the Video

<sup>136</sup> *Id.* at 01:43-01:51.

shows Lamar beating an owl-shaped piñata with a bat.<sup>137</sup> During this scene, a caption appears at the bottom of the video that states: “DISCLAIMER: NO OVHOES WERE HARMED DURING THE MAKING OF THIS VIDEO.”



110. In its conclusion, the Video depicts a prolonged shot of a live owl in a cage.<sup>138</sup> The meaning is clear: Drake belongs behind bars.

111. Defendant’s initial publication of the Video on YouTube has been viewed more than 320 million times as of the date of this filing.<sup>139</sup> As of the date of this filing, UMG’s original publications of the Video remain available on the aforementioned platforms.

112. On information and belief, each of Sir Grainge, Mr. Janick, Mr. Monte Lipman, and Mr. Avery Lipman played a key role in the initial publication of the Video either in directing or approving the publication and/or failing to prevent its publication.

**G. *The Video Causes More People to Believe the Allegations Against Drake.***

113. Just as with the publication of the Recording and Image, as soon as UMG published the Video, people began expressing belief in the allegations against Drake. Posts reacting to the

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<sup>137</sup> *Id.* at 01:36-01:42.

<sup>138</sup> *Id.* at 05:04-05:20.

<sup>139</sup> *Id.*

Video, also numbering in at least the hundreds of thousands, are indistinguishable from those reacting to the Recording and Image.

114. Users again confirmed their belief in the allegations and that the allegations were based on some facts known by Lamar, but yet undisclosed to the public: “The caged owl. **Got me truly believing Kendrick know Drake going to prison possibly.**”<sup>140</sup> Others commented: “We have an anti-PDF anthem! About time. No justice for guys like Diddy, Epstein, and Drake and all the victims they cause much less the Johns.”<sup>141</sup> One user characterized Drake of being just another “Hollywood pedo[.]”<sup>142</sup>

115. Users made anti-Semitic remarks:

- “I’ll say it..... **Them jews are the colonizers.... That’s who Drake represent.....** We got to take our music back from those DEVILS.....;”<sup>143</sup>
- “**On a deeper level they not like us,. Understand Drake is a Kazarian Jew.** If you know the history you know that they stole the identity of the true biblical Semitic Israelites ‘US’ and are claiming to be Jewish people

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<sup>140</sup> User @Leonard\_Washington76, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (July 9, 2024), [https://www.youtube.com/watch?v=H58vbez\\_m4E&lc=UgzEwjZukwgo\\_GGHnqZ4AaABAg](https://www.youtube.com/watch?v=H58vbez_m4E&lc=UgzEwjZukwgo_GGHnqZ4AaABAg) [<https://perma.cc/22TH-TVE6>] (emphasis added).

<sup>141</sup> User @JacobChavez-pc2cm, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (July 7, 2024), [https://www.youtube.com/watch?v=H58vbez\\_m4E&lc=UgyNfScmqWKyAII9J6F4AaABAg](https://www.youtube.com/watch?v=H58vbez_m4E&lc=UgyNfScmqWKyAII9J6F4AaABAg) [<https://perma.cc/B9EL-FLRB>].

<sup>142</sup> Ace High (@AceHighAlbion), Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (July 20, 2024), [https://www.youtube.com/watch?v=H58vbez\\_m4E&lc=UgydWMZ9oZUKHgL3rZ4AaABAg](https://www.youtube.com/watch?v=H58vbez_m4E&lc=UgydWMZ9oZUKHgL3rZ4AaABAg) [<https://perma.cc/GB25-STV3>].

<sup>143</sup> User @MrJoeNobody, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (July 5, 2024), [https://www.youtube.com/watch?v=H58vbez\\_m4E&lc=UgyR8Ic30DarILMQ85d4AaABAg](https://www.youtube.com/watch?v=H58vbez_m4E&lc=UgyR8Ic30DarILMQ85d4AaABAg) [<https://perma.cc/8GV6-BFUK>] (emphasis added).



today.. So When Kendrick says your not a colleague your a colonizer it goes much deeper than rap.. IYKYK;”<sup>144</sup>

- “Stopped by Compton’s Tam’s #21 with the homie for some burgers and to call @Drake a jewish pedophile. You know I had to do it to em #NotLikeUs @kendricklamar Kek shoutout Rosecrans;”<sup>145</sup> and
- **“BROOOOO, DRAKE IS A COLOLNIZER BECAUSE HE IS JEWISHHHH.”**<sup>146</sup>

116. And users again threatened Drake’s safety in comments like: “Drake better come with secret service-type security if he plans on going through LA. And even then that might not be enough. They ‘Not Like Us’ [laughing emojis];”<sup>147</sup> and “Drake can never go to LA without secret service level security now.”<sup>148</sup>

117. The spewing of hate against Drake has not been limited to social media. The public has leveraged multiple other platforms to repeat the lies in the Defamatory Material. For example, users have edited the address that appears on Google Maps and Apple Maps at Drake’s Toronto address to read “pedophile lives here” and “he touches little girls.”

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<sup>144</sup> User @rogerhines1779, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (July 8, 2024), [https://www.youtube.com/watch?v=H58vbez\\_m4E&lc=UgyW\\_NBCk3\\_yN75K9Cl4AaABAg](https://www.youtube.com/watch?v=H58vbez_m4E&lc=UgyW_NBCk3_yN75K9Cl4AaABAg) [<https://perma.cc/E7VW-C3QU>] (emphasis added).

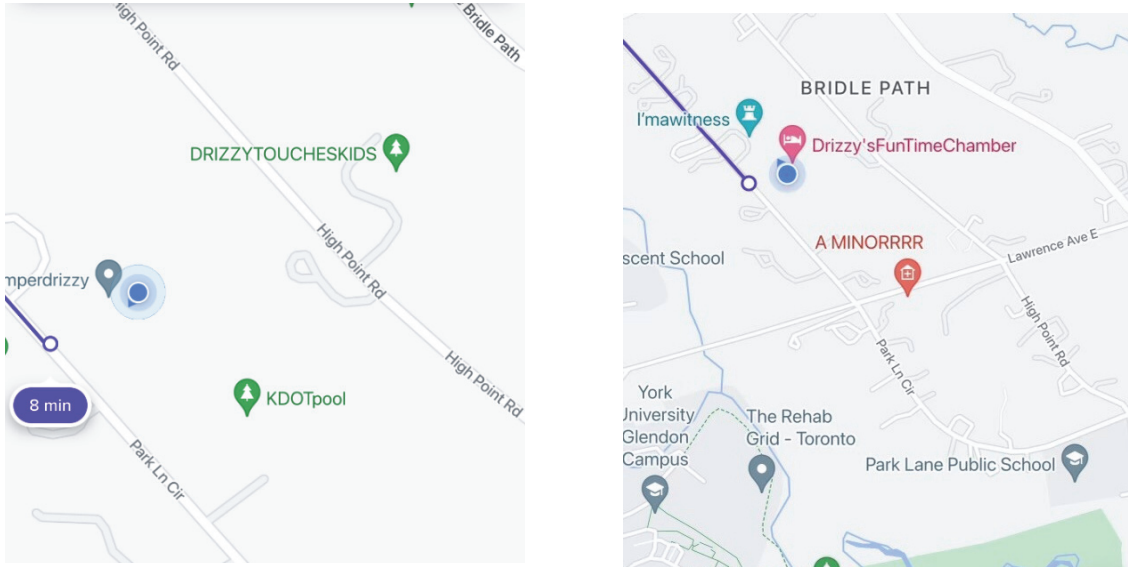
<sup>145</sup> spico blanco 2 electric boogaloo (@Cassius28865223), X (Aug. 4, 2024), <https://x.com/Cassius28865223/status/1820261511685881932> [<https://perma.cc/C2NN-WA9B>].

<sup>146</sup> User @CamLo-c9t, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (July 12, 2024), [https://www.youtube.com/watch?v=H58vbez\\_m4E&lc=UgyJ0puH2rTC07sfZil4AaABAg](https://www.youtube.com/watch?v=H58vbez_m4E&lc=UgyJ0puH2rTC07sfZil4AaABAg) [<https://perma.cc/TJ3Z-S2KY>] (emphasis added).

<sup>147</sup> User @Thx4everything\_117, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (July 5, 2024), [https://www.youtube.com/watch?v=H58vbez\\_m4E&lc=Ugzwaec5O4LuQwkI5OJ54AaABAg](https://www.youtube.com/watch?v=H58vbez_m4E&lc=Ugzwaec5O4LuQwkI5OJ54AaABAg) [<https://perma.cc/8Z4J-L3MP>].

<sup>148</sup> User @StacksOfLitty, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (July 4, 2024), [https://www.youtube.com/watch?v=H58vbez\\_m4E&lc=Ugzx3XCuiNJxajv-ybp4AaABAg](https://www.youtube.com/watch?v=H58vbez_m4E&lc=Ugzx3XCuiNJxajv-ybp4AaABAg) [<https://perma.cc/3D8Z-CUBD>].

118. In the summer of 2024, users updated the description of Drake's Toronto address in rideshare applications Uber and Lyft. Users have edited the address to read "**DRIZZYTOUCHESKIDS**," "**Drizzy'sFunTimeChamber**," and "**A MINORRRR**."



119. Following the public reaction to the Recording and Image, UMG understood that this kind of reaction to the Video was likely, if not inevitable.

**UMG PUBLISHED THE DEFAMATORY MATERIAL WITH KNOWLEDGE OF OR RECKLESS DISREGARD FOR ITS FALSITY AND KNOWLEDGE THAT IT WAS REASONABLY FORESEEABLE TO CAUSE DRAKE HARM**

120. UMG does not believe now, nor has it ever believed, that Drake is a pedophile, a sex offender, or otherwise a criminal. Defendant published, republished, and promoted the Defamatory Material knowing the allegations were not true or, at least, with reckless disregard for its falsity.

121. UMG also published and promoted the false allegations against Drake despite the inherent improbability of the allegations, reliable contrary information, and awareness that they were unsupported by any evidence, let alone reliable evidence. Further, UMG published and promoted the Video, and further republications and licensing of the Recording, with the knowledge



that millions of people already understood the Recording to assert statements of fact that Drake is a pedophile, that Lamar had represented he knew of undisclosed facts to support such statements, and that actual violence had occurred at Drake's Toronto residence immediately following the initial publication of the Recording.

122. As an initial matter, UMG has a financial interest in knowing any potential liabilities that Drake had or could have—including criminal charges or convictions. As laid out in UMG's Code of Conduct, UMG is "committed to human dignity," does not tolerate "human rights abuses such as child labor, slavery, human trafficking and unsafe or unfair work practices at our operations," and only conducts "business with partners, suppliers and customers who share our commitment to protecting human rights."<sup>149</sup> UMG would not have contracted with Drake in the first instance, nor would it have continued to maintain existing contracts, had it believed at any relevant time that any of the allegations in the Defamatory Material were true in any respect.

123. UMG understands, and as is easily confirmed through basic public records searches, that Drake had never been charged with, indicted for, or convicted of any charges of sexual violence or assault, including, but not limited to, sexual violence against a minor.

124. Furthermore, UMG has access to Drake and could have asked him directly about the veracity of the allegations at any point in time.

125. UMG also knew or should have known that by publishing the Defamatory Material, it was gambling with Drake's safety. Critically, in addition to accusing Drake of being a criminal pedophile, the Defamatory Material calls for violence against Drake and depicts his Toronto address. Incidents like 2016's Pizzagate show how accusing someone of being a pedophile and/or of committing crimes against children can quickly spin out of control into a viral conspiracy theory

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<sup>149</sup> Universal Music Group, *Our Code of Conduct*, *supra* note 17, at 12.

and acts of real physical violence. “Vigilante” actions against suspected pedophiles have notably increased in the last two years. A *New York Times* analysis of the phenomenon counted “more than 170 violent vigilante attacks by pedophile hunters since 2023.”<sup>150</sup> UMG directly knows what harms can arise from such “outrageous allegations” of “criminal activity.”<sup>151</sup> UMG and Sir Grainge were recently accused of aiding and abetting P. Diddy in committing heinous and widespread acts of sexual violence against minors. UMG and Sir Grainge acted swiftly to refute these allegations. In a court filing, Sir Grainge stated, “I do not take lightly being falsely and publicly accused of criminal activity, and as I said, I intend to pursue those who have made these outrageous allegations against me.”<sup>152</sup>

126. Despite having knowledge of the violence that occurred at Drake’s Toronto residence, as well as substantial online threats and vitriol directed at Drake, and notwithstanding having a direct line of communication to Drake, UMG did not discuss the Video with Drake prior to publishing it.

127. Despite having knowledge of nearly all of the harms Drake had suffered as a result of the publication of the Defamatory Material in the form of a retraction demand Drake sent to UMG, UMG continued to publish the Defamatory Material to new audiences around the world.

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<sup>150</sup> Aric Toler & Neil Bedi, *Online ‘Pedophile Hunters’ Are Growing More Violent – and Going Viral*, N.Y. Times (Mar. 26, 2025), <https://www.nytimes.com/interactive/2025/03/26/us/pedophile-hunting-violence.html> [<https://web.archive.org/web/20250402151449/https://www.nytimes.com/interactive/2025/03/26/us/pedophile-hunting-violence.html>].

<sup>151</sup> Declaration of Sir Lucian Grainge, *supra* note 13, at ¶ 15.

<sup>152</sup> *Id.*

**UMG ENGAGES IN A PUBLICITY CAMPAIGN TO ENSURE MAXIMUM SPREAD  
OF THE DEFAMATORY MATERIAL AND DECEIVE CONSUMERS**

128. Since the initial publications on May 4 and July 4, 2024, UMG has utilized every weapon in its arsenal to ensure that the Defamatory Material spread to the maximum extent possible around the world.

***A. UMG Used Social Media to Promote the Defamatory Material and Market the Recording's "Popularity" to Consumers.***

129. In the months since the initial publications, and for months after it understood the harms Drake had suffered as a result of the Defamatory Material, UMG repeatedly posted the Defamatory Material to its social media accounts, including Interscope and UMPG accounts. As of the date of this filing, UMG has a social media following of approximately 2.21 million on YouTube, 997,000 on Instagram, 713,900 on X, and 622,000 on Facebook.<sup>153</sup> As of the date of this filing, Interscope has a social media following of approximately 948,000 on YouTube, 769,000 on Instagram, and 557,000 on Facebook.

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<sup>153</sup> These estimated follower totals exclude the social media accounts of related UMG entities, affiliates, and subsidiaries.

130. On June 9, 2024, Interscope reposted a tweet bragging that “Kendrick Lamar’s ‘Not Like Us’ becomes the FASTEST rap song to reach 300M Spotify streams” in only “35 days.”<sup>154</sup> The post features the Image side by side with a photo of Kendrick Lamar.



<sup>154</sup> Interscope (@interscope), X (June 9, 2024), <https://x.com/Interscope/status/1800258394382614977> [<https://perma.cc/4W9P-8N5N>].

131. On June 20, 2024, UMG posted a carousel of photos and videos to its official Instagram account, of Lamar performing the Recording at the “Ken & Friends Pop Out” Juneteenth concert (the “Pop Out concert”) during which the Recording was played five times back-to-back. UMG captioned the post, “History was made. [fire emoji] cc: @kendricklamar”<sup>155</sup> and tagged Interscope. While Lamar performed many songs during the concert, UMG purposely chose to highlight the Recording and to describe it as “historic.”



<sup>155</sup> See Universal Music Group, (@universalmusicgroup), Instagram (June 20, 2024), [https://www.instagram.com/p/C8c2ni6RqtF/?img\\_index=1](https://www.instagram.com/p/C8c2ni6RqtF/?img_index=1) [<https://perma.cc/7WUU-WCTG>].

132. That same day, UMPG posted videos from the Pop Out concert on its official Instagram, which has hundreds of thousands of followers,<sup>156</sup> Facebook page,<sup>157</sup> and TikTok.<sup>158</sup> The Facebook post included the main “Not Like Us” refrain from the Recording,<sup>159</sup> while the Instagram and TikTok post published the “A-Minor” portion of the Recording.<sup>160</sup> On Instagram, UMPG captioned the video “THEY NOT LIKE US @KendrickLamar pops out with his debut performance of ‘Not Like Us’ at his Ken & Friends Pop Out Juneteenth concert in LA.”<sup>161</sup> Similarly, on TikTok, UMPG boasted that the “Crowd goes wild for #KendrickLamar’s debut performance of ‘Not Like Us’ at his Juneteenth ‘Pop Out’ concert at the Kia Forum in Los Angeles, CA.”<sup>162</sup>

133. Greg Marella, President of Promotion and Executive Vice President of Capital, another UMG label, promoted the Pop Out concert on his personal Instagram page with the same photo posted by UMG.<sup>163</sup>

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<sup>156</sup> Universal Music Publishing Group (@umpg), Instagram, <https://www.instagram.com/umpg/> (last visited Jan. 14, 2025).

<sup>157</sup> Universal Music Publishing Group, Facebook, <https://www.facebook.com/UMPG/> [<https://perma.cc/6RYD-J96F>].

<sup>158</sup> Universal Music Publishing Group, TikTok, <https://www.tiktok.com/@universalmusicpublishing> [<https://perma.cc/EUK7-Y3ND>].

<sup>159</sup> Universal Music Publishing Group, Facebook (June 20, 2024), <https://www.facebook.com/reel/1033017875019038> (last visited Jan. 14, 2025).

<sup>160</sup> Universal Music Publishing Group (@umpg), Instagram (June 20, 2024), <https://www.instagram.com/p/C8cwMUpvfCH/> [<https://perma.cc/6K74-X49H>]; Universal Music Publishing Group, TikTok (June 20, 2024), <https://www.tiktok.com/t/ZTNtE5UaY/> [<https://perma.cc/KQE2-FCUX>].

<sup>161</sup> Universal Music Publishing Group (@umpg), Instagram (June 20, 2024), <https://www.instagram.com/p/C8cwMUpvfCH/> [<https://perma.cc/6K74-X49H>].

<sup>162</sup> See Universal Music Publishing Group, TikTok (June 20, 2024), <https://www.tiktok.com/t/ZTNtE5UaY/> [<https://perma.cc/KQE2-FCUX>].

<sup>163</sup> Greg Marella (@gregmarella), Instagram (June 20, 2024), <https://perma.cc/YPL5-HHG9>.

134. On July 5, 2024, Interscope promoted the Video on its Instagram account.<sup>164</sup> The carousel included images and a short clip of the Video with the caption “Not Like Us. Out Now.”

135. On July 8, 2024, UMPG posted a GIF from the Video on its X account encouraging people to watch the Video: “TELL US: What was your favorite moment from @kendricklamar’s “Not Like Us” music video? [https://youtu.be/H58vbez\\_m4E](https://youtu.be/H58vbez_m4E).”<sup>165</sup>

136. On July 15, 2024, Interscope reposted two X posts, including one from Complex, regarding a fan’s creation of a “Not Like Us” video game.<sup>166</sup> The posts depict images from the video game which emulate the scene from the Video in which an owl-shaped piñata is beaten with a bat and ultimately destroyed. The posts together have 3.5 million views.

137. On July 16, 2024, Interscope reposted on X that the Recording had become “the bestselling rap song of 2024 in the US.”<sup>167</sup>

138. On July 24, 2024, UMG posted on its X account, about the Recording charting as the “most-streamed song” of the week.<sup>168</sup>

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<sup>164</sup> Interscope (@interscope), Instagram (July 5, 2024), [https://www.instagram.com/p/C9DhFTpS7yG/?img\\_index=1](https://www.instagram.com/p/C9DhFTpS7yG/?img_index=1) [<https://perma.cc/H6A2-YE2W>].

<sup>165</sup> Universal Music Publishing Group (@umpg), X (July 8, 2024), <https://x.com/UMPG/status/1810426132736438584> [<https://perma.cc/CLL2-CWJR>].

<sup>166</sup> See Interscope (@interscope), X (July 15, 2024), <https://x.com/Interscope/status/1813282352694743250> [<https://perma.cc/Q4QH-AYY9>]; Interscope (@interscope), X (July 15, 2024), <https://x.com/Interscope/status/1813281639277162682> [<https://perma.cc/6Q57-F97N>].

<sup>167</sup> Interscope (@interscope), X (July 16, 2024), <https://x.com/Interscope/status/1813282022753988707> [<https://perma.cc/BB25-S2T9>].

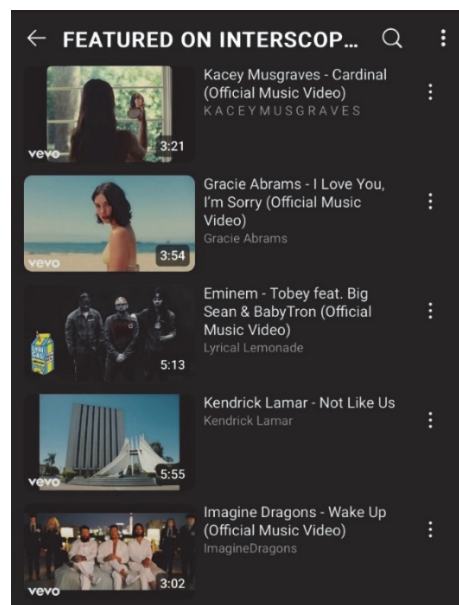
<sup>168</sup> Universal Music Group (@umg), X (July 24, 2024), <https://x.com/UMG/status/1816159700297343062> [<https://perma.cc/MY9M-QVD9>].



139. On August 29, 2024, UMG posted on X with a link to a Spotify “Summer Hits 2024 playlist” with a caption boasting that the Recording was a “Song of the Summer.”<sup>169</sup>

140. On September 23, 2024, UMG reposted a screenshot of the top 10 songs on the Billboard Hot 100 for the week of September 28, 2024, which ranked the Recording at #10.<sup>170</sup> UMG commented “8 out of 10 artists on the @billboard #Hot100 are part of the UMG fam!”<sup>171</sup>

141. On its YouTube Channel, Interscope curates playlists of recommended music videos for fans. As of the date of this filing, the Video is still featured on the label’s music video playlist.<sup>172</sup>



<sup>169</sup> Universal Music Group (@umg), X (Aug. 29, 2024), <https://x.com/UMG/status/1829214002687381505> [<https://perma.cc/PJ99-44TD>].

<sup>170</sup> UMG (@umg), X (Sept. 23, 2024), <https://x.com/UMG/status/1838307348537893293> [<https://perma.cc/XD6U-FNR3>].

<sup>171</sup> *Id.*

<sup>172</sup> Interscope Records (@InterscopeGeffenAM), “FEATURED ON INTERSCOPE” Playlist, YouTube, [https://www.youtube.com/playlist?list=PLJzLTReoSNQS698\\_Vhj1uLLiualhVrg3w](https://www.youtube.com/playlist?list=PLJzLTReoSNQS698_Vhj1uLLiualhVrg3w) [<https://perma.cc/D8VY-TPHG>].



142. On November 8, 2024, following an extensive publicity campaign launched and managed by UMG, the Recording Academy nominated the Recording for several Grammy Awards, including the top awards for Record of the Year, Song of the Year, Best Rap Performance, and Best Rap Song, and nominated the Video for Best Music Video.<sup>173</sup> At the time it undertook this promotional campaign on behalf of the Recording, UMG understood that winning any (let alone many) Grammy Awards would expose the Defamatory Material to new audiences, including potentially millions of new listeners, around the world, resulting in substantial additional harm to Drake.

143. Following the release of the nominations, Interscope posted on its Instagram “Congratulations to Kendrick Lamar for his 2025 GRAMMY® Award nominations!” with an image listing the Recording’s nominations.<sup>174</sup> UMG similarly posted on Instagram, with the caption “Here are this year’s UMG nominees for SONG OF THE YEAR at the #GRAMMYS: “Not Like Us” - @kendricklamar.”<sup>175</sup> And in a reel, UMG posted a portion of the Video on

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<sup>173</sup> Nina Frazier, *2025 GRAMMYS: See The OFFICIAL Full Nominations List*, Grammy.com (Nov. 8, 2024), <https://www.grammy.com/news/2025-grammys-nominations-full-winners-nominees-list> [<https://perma.cc/ME87-NSHZ>] (Music producer Dijon Isaiah McFarlane, known professionally as Mustard, also received a nomination for Producer of the Year, Non-Classical, for his work on the Recording).

<sup>174</sup> Interscope Records (@interscope), Instagram (Nov. 8, 2024), <https://www.instagram.com/p/DCIKBoBR9ja/> [<https://perma.cc/J5HZ-LAP8>].

<sup>175</sup> Universal Music Group (@universalmusicgroup), Instagram (Nov. 8, 2024), [https://www.instagram.com/p/DCHtaKxxtpx/?hl=en&img\\_index=1](https://www.instagram.com/p/DCHtaKxxtpx/?hl=en&img_index=1) [<https://perma.cc/R7UZ-PZTQ>].

Instagram with the caption “They not like @KendrickLamar! He’s just nabbed 7 #GRAMMY nominations.”<sup>176</sup> UMG posted the same clip on X.<sup>177</sup>

144. In December 2024, UMG again promoted the Defamatory Material’s success on the radio on social media when it posted on X, “Huge congrats to the UMG fam for landing the top 4 spots on @Billboard’s 100 Best Songs of 2024 list! [100 emoji] No. 1 @KendrickLamar – ‘Not Like Us.’”<sup>178</sup>

145. And following the Grammys, Interscope and UMG published celebratory posts about the success of the Recording on Instagram and X.<sup>179</sup>

146. On May 13, 2024, Ramon Alvarez-Smikle, Interscope’s Executive Vice President and Head of Digital Marketing, reposted an X post from “Billboard Charts” (@billboardcharts) showing the top ten “Hot 100” songs, among them Lamar’s “Not Like Us,” at first place.<sup>180</sup>

147. In a February 25, 2025 LinkedIn post, Jessica Staats, the Vice President of International Digital Strategy of Interscope, shared, “Big week for all of us on Team Kendrick!” and linked to a Billboard report on the Recording’s streaming milestones and placement on the Billboard Hot 100.<sup>181</sup>

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<sup>176</sup> Universal Music Group (@universalmusicgroup), Instagram (Nov. 8, 2024), <https://www.instagram.com/reel/DCHws9LRKIi/?hl=en> [<https://perma.cc/657C-D2CD>].

<sup>177</sup> Universal Music Group (@umg), X (Nov. 8, 2024), <https://x.com/UMG/status/1854958452860223524> [<https://perma.cc/6HA2-JTZJ>].

<sup>178</sup> Universal Music Group (@umg), X (Dec. 26, 2024), <https://x.com/UMG/status/1872338923935944851> [<https://perma.cc/97VU-7ELU>].

<sup>179</sup> Interscope Records (@interscope), Instagram (Feb. 3, 2025), [https://www.instagram.com/p/DFmd7r\\_RYFH/?hl=en](https://www.instagram.com/p/DFmd7r_RYFH/?hl=en); Universal Music Group (@umg), X (Feb. 3, 2025), <https://x.com/UMG/status/1886310085934084546> [<https://perma.cc/758M-KC93>].

<sup>180</sup> Mr. Alvarez-Smikle’s X account, <https://x.com/ramonsmikle>, has since been set to private. The reposted message has been preserved offline.

<sup>181</sup> Jessica Staat, Post, LinkedIn (Feb. 25, 2025), [https://www.linkedin.com/posts/jessica-staats-851b877\\_kendrick-lamars-not-like-us-scores-biggest-activity-7300206172358291458-](https://www.linkedin.com/posts/jessica-staats-851b877_kendrick-lamars-not-like-us-scores-biggest-activity-7300206172358291458-)

**B. *UMG Used its Ownership Interests to Promote the Defamatory Material.***

148. On information and belief, UMG used its stake in Complex,<sup>182</sup> a global youth entertainment network, to further promote the Defamatory Material. When UMG first acquired its stake in Complex, Mr. Janick commented that the “partnership will give our artists access to a dynamic network to deepen connections with superfans through unique collaborations and cultural moments.”<sup>183</sup>

149. Between May 5, 2024 and the date of this filing, Complex has published at least 70 articles about “Not Like Us” and posted about the Recording hundreds of times across its website and social media accounts.

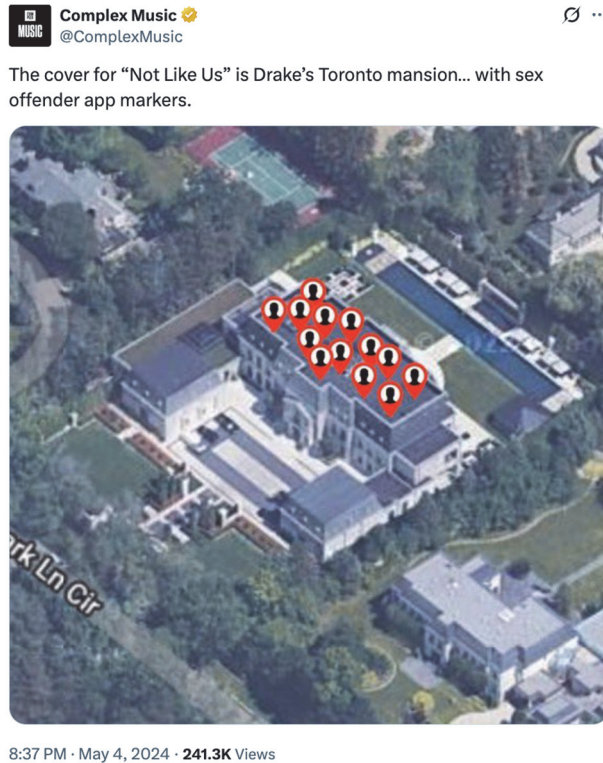
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[eYRv?utm\\_source=li\\_share&utm\\_content=feedcontent&utm\\_medium=g\\_dt\\_web&utm\\_campaign=copy](https://www.universalmusic.com/ntwrk-acquires-complex-to-build-next-generation-content-and-shopping-experience/) [<https://perma.cc/XZR7-2ZLJ>].

<sup>182</sup> Press Release, *NTWRK Acquires Complex to Build Next Generation Content and Shopping Experience*, Universal Music Grp. (Feb. 21, 2024), <https://www.universalmusic.com/ntwrk-acquires-complex-to-build-next-generation-content-and-shopping-experience/> [<https://perma.cc/RWX6-CH2W>].

<sup>183</sup> Tim Ingham, *Universal Music Group is acquiring a stake in Complex – via a takeover focused on ‘superfans’ and e-commerce*, Music Business Worldwide (Feb. 21, 2024), <https://www.musicbusinessworldwide.com/universal-music-group-acquiring-a-stake-in-complex-as-part-of-a-takeover-focused-on-superfans-and-e-commerce/#:~:text=UMG%20will%20become%20a%20strategic,of%20Complex%20and%20its%20networks> [<https://web.archive.org/web/20250417003315/https://www.musicbusinessworldwide.com/universal-music-group-acquiring-a-stake-in-complex-as-part-of-a-takeover-focused-on-superfans-and-e-commerce/>].

150. On May 4, 2024, Complex tweeted a photo of the Image and described its intended meaning as follows: “The Cover for ‘Not Like Us’ is Drake’s Toronto Mansion... with sex offender app markers.”<sup>184</sup>



151. On July 5, Complex published an article titled “Decoding Kendrick Lamar’s ‘Not Like Us’ Video” and another titled “Every Reference in Kendrick Lamar’s ‘Not Like Us’ Video.”<sup>185</sup> The articles describe in detail how the public should understand the allegations contained within the Defamatory Material.

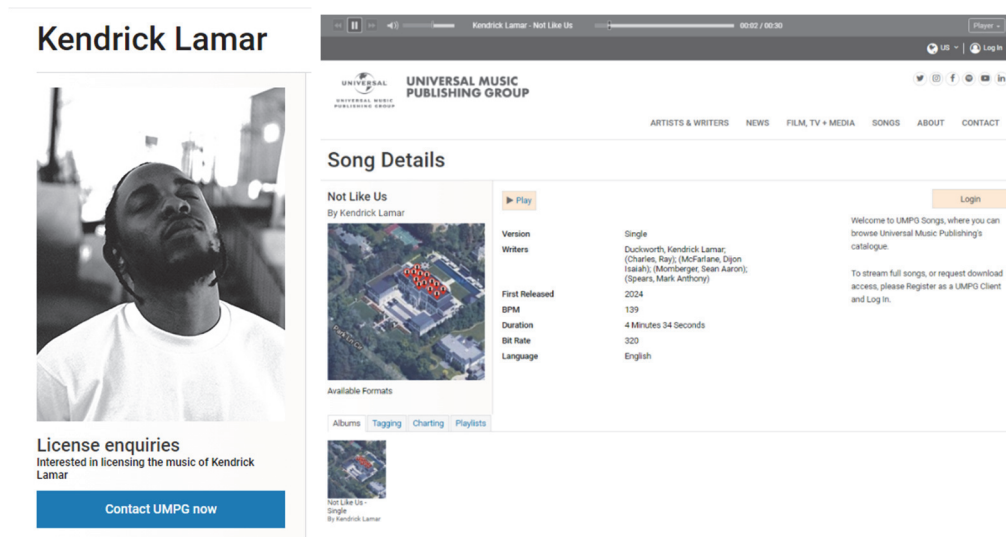
<sup>184</sup> Complex Music (@ComplexMusic), X (May 4, 2024), <https://x.com/ComplexMusic/status/1786918037045555626?lang=en> [<https://perma.cc/4UCU-88TH>].

<sup>185</sup> Hellerbach, *supra* note 118; Joe Price, *Every Reference in Kendrick Lamar’s “Not Like Us” Video*, Complex (July 5, 2024), <https://www.complex.com/music/a/backwoodsaltar/every-reference-not-like-us-video-kendrick-drake> [<https://perma.cc/W5N4-WRRH>].

152. On information and belief, Universal Music also used its ownership interest in Vevo to over-index the Video on the platform. Put differently, Vevo boosted the visibility of the Video relative to others in order to disproportionately increase its overall views, engagement, and performance on charts and at the expense of other artists and music.

**C. *UMG Granted Licenses to Promote the Defamatory Material.***

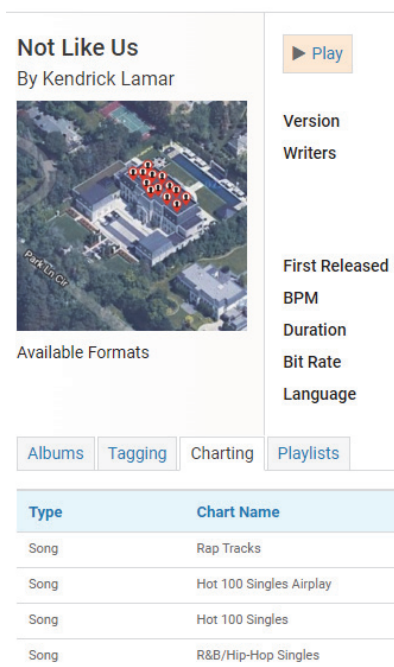
153. UMG also used its global publishing division, UMPG, to license the Defamatory Material for broader use and consumption. Since the Recording's release, UMPG has listed the Recording on its website for licensing on television and in film.<sup>186</sup>



<sup>186</sup> *Song Details – Not Like Us by Kendrick Lamar*, Universal Music Publishing Group, <https://www.umusicpub.com/us/Digital-Music-Library/song/547780/kendrick-lamar-not-like-us> [<https://perma.cc/UDS2-D9J7?type=image>]; *Kendrick Lamar*, Universal Music Publishing Group, <https://www.umusicpub.com/us/Artists/K/Kendrick-Lamar.aspx> [<https://perma.cc/VCH4-84TV?type=image>].

154. On the UMPG website, third parties seeking to license songs for audiovisual publications can filter by genre, chart-topping songs, and themed playlists. UMPG markets the Recording as having a “winning/achievement” “lyrical theme.”

155. UMG further promotes the Recording for licensing by listing its success on the music charts. For example, on UMPG’s website, a third party could search for songs in the Hot 100 Singles.



**Not Like Us**  
By Kendrick Lamar

Available Formats

▶ Play

Version  
Writers  
First Released  
BPM  
Duration  
Bit Rate  
Language

Albums Tagging Charting Playlists

| Type | Chart Name              |
|------|-------------------------|
| Song | Rap Tracks              |
| Song | Hot 100 Singles Airplay |
| Song | Hot 100 Singles         |
| Song | R&B/Hip-Hop Singles     |

156. UMG also curates themed playlists on UMPG’s website for marketing purposes. The Recording is currently featured on the “Winner’s Circle” playlist with 29 other songs that can be licensed.<sup>187</sup>

157. As a result of its marketing efforts, UMG has repeatedly licensed the Recording to be performed publicly and published on other platforms. For example, on June 19, 2024, the

<sup>187</sup> *Winner’s Circle Playlist*, Universal Music Publishing Group (Mar. 6, 2025), <https://www.umusicpub.com/us/Digital-Music-Library/playlist/72885/-winners-circle> (last visited Apr. 16, 2025).

Recording was performed five times in a row at the Pop Out concert in Inglewood, California<sup>188</sup> to a crowd of approximately 16,000 attendees<sup>189</sup> and a live stream of over 186,000 viewers on Amazon’s Prime Video and Twitch.<sup>190</sup> The livestream broke Amazon Music’s streaming record for the most minutes watched of any Amazon Music production ever across Prime Video and Twitch.<sup>191</sup> In the three days following the Pop Out concert, Kendrick Lamar received nearly 61 million combined official on-demand U.S. streams.<sup>192</sup> The Recording represented approximately 21 million of those combined streams—a 62% increase from the three-day period preceding the concert.<sup>193</sup> This republication on June 19, 2024, and its subsequent republication on streaming platforms, reached more than 21 million people, and could not have occurred without UMG’s explicit permission.

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<sup>188</sup> Michael Saponara, *Kendrick Lamar Performs Drake Diss Track ‘Not Like Us’ 5 Times Back-to-Back at Pop Out Concert*, Billboard News (June 20, 2024), <https://www.billboard.com/music/rb-hip-hop/kendrick-lamar-performs-not-like-us-five-times-la-show-1235714258/> [<https://perma.cc/D7FL-H9M8>].

<sup>189</sup> Taijuan Moorman, *Kendrick Lamar performs Drake diss ‘Not Like Us’ 5 times at Juneteenth ‘Pop Out’ concert*, USA Today (June 20, 2024), <https://www.usatoday.com/story/entertainment/music/2024/06/20/kendrick-lamar-concert-pop-out-ken-and-friends-livestream-juneteenth/74154407007/> [<https://perma.cc/Z55R-ZQJR>].

<sup>190</sup> Steven J. Horowitz, *Kendrick Lamar’s ‘The Pop Out – Ken and Friends’ Concert in Los Angeles to Stream Live on Amazon Music*, Variety (June 7, 2024), <https://variety.com/2024/music/news/kendrick-lamar-the-pop-out-ken-and-friends-livestream-amazon-music-1236029181/> [<https://perma.cc/DL6H-TA8U>].

<sup>191</sup> Sophie Caraan, *Amazon Music Releases Live Performance Video of Kendrick Lamar’s “Not Like Us”*, Hypebeast (June 21, 2024), <https://hypebeast.com/2024/6/kendrick-lamar-breaks-amazon-music-record-not-like-us-live-video-stream> [<https://perma.cc/8NN7-XDD5>].

<sup>192</sup> Andrew Unterberger, *Kendrick Lamar, Entire Black Hippy Crew and Mustard & Friends All Up in Streams After Juneteenth ‘Pop Out’ Concert*, Billboard (June 26, 2024), <https://www.billboard.com/music/chart-beat/kendrick-lamar-juneteenth-pop-out-not-like-us-trenidng-up-1235718243/> [<https://perma.cc/M76T-J64J>].

<sup>193</sup> *Id.*



158. UMG subsequently made the live performance of the Recording from the Pop Out concert available to be played on the radio.<sup>194</sup> And radio stations played it.

159. UMG has also leveraged its existing licensing agreements with TikTok and Meta to make the Recording and Video available to users of those platforms.<sup>195</sup> As of the date of this filing, the Recording had been used in over 2.1 million videos on TikTok. More than 170 TikTok posts using the Recording have been viewed at least 2 million times each, with many being viewed tens of millions of times.<sup>196</sup> In total, 183 popular TikTok posts have been viewed over 2 billion times.<sup>197</sup> And as of the date of this filing, the Recording has been used in over 1 million reels on Instagram.<sup>198</sup>

160. UMG also granted licenses for the Recording to be played at sporting events, award shows, and political rallies. The Recording has been played and broadcasted on television during coverage of games for the MLB, NBA, and WNBA. The Recording also played during the July

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<sup>194</sup> Bryson Paul, *California Radio Adds Live Version Of “Not Like Us” To Rotation*, Hot 97 (July 11, 2024), <https://www.hot97.com/news/california-radio-adds-live-version-of-not-like-us-to-rotation/> [<https://perma.cc/PW48-S8DM>].

<sup>195</sup> See Etan Vlessing, *Meta, Universal Music Group to Allow Users to Share Songs on WhatsApp*, Hollywood Reporter (Aug. 12, 2024), <https://www.hollywoodreporter.com/business/business-news/meta-universal-music-group-whatsapp-songs-1235972143/> [<https://perma.cc/87HH-EJH8>] (“As part of the agreement renewal, UMG artists and songwriters will receive a slice of advertising revenue from the use of licensed music on Meta creator posts.”); Etan Vlessing, *Universal Music Group CEO on New TikTok Deal: ‘Human Artistry Must Be Respected,’* Hollywood Reporter (May 2, 2024), <https://www.hollywoodreporter.com/business/business-news/universal-music-tiktok-deal-1235888711/> [<https://perma.cc/4CQX-VZBT>].

<sup>196</sup> See Exhibit B; see also *Not Like Us*, TikTok, <https://www.tiktok.com/music/Not-Like-Us-7365349431086401552> [<https://perma.cc/DQB8-LKP9>] (last visited Apr. 16, 2025).

<sup>197</sup> *Id.*

<sup>198</sup> *Reels Audio - Not Like Us*, Instagram Reels, <https://www.instagram.com/reels/audio/1182175136281886/not-like-us/> (last visited Apr. 16, 2025) (page also preserved offline).



2024 ESPY awards, an annual award ceremony that honors the top athletes and sports performances of the year.

161. During a July 20, 2024 campaign rally for Vice President Kamala Harris in Atlanta, Georgia, the DJ played the Recording to the live crowd. Video footage showing the crowd singing along to the lyrics “*Certified Lover Boy? Certified pedophiles*” and “*Tryna strike a chord and it’s probably A-minor*” quickly went viral on social media.<sup>199</sup>

162. The Recording also played during the highly anticipated roll call vote for President during the Democratic National Convention. The Recording blared in the United Center as California’s Governor Gavin Newsom cast the state’s delegates.<sup>200</sup> The convention was reportedly viewed by approximately 20 million people across 12 television networks.<sup>201</sup>

163. The Recording also became the postseason anthem for the Los Angeles Dodgers’ playoff run and eventual 2024 World Series victory. The Dodgers had featured the Recording in a hype video posted to their official YouTube page.<sup>202</sup>

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<sup>199</sup> See Top Christ Following Man of the Year (@santana\_abraxas), X (July 30, 2024), [https://x.com/santana\\_abraxas/status/1818426483586548080](https://x.com/santana_abraxas/status/1818426483586548080) [<https://perma.cc/7P4H-VVNZ>] (emphasis added).

<sup>200</sup> C. Mandler, *The DNC roll call featured a musical salute to each state. Here’s what your state chose*, NPR (Aug. 21, 2024, 10:06 AM), <https://www.npr.org/2024/08/21/g-s1-18188/democratic-national-convention-roll-call-music-state> [<https://web.archive.org/web/20241130003518/https://www.npr.org/2024/08/21/g-s1-18188/democratic-national-convention-roll-call-music-state>]; see also GreatLakesLiberal (@GreatLakes32nd), X (Aug. 20, 2024), <https://x.com/GreatLakes32nd/status/1826064516112585093> [<https://perma.cc/9Q2V-MBBN>].

<sup>201</sup> Selome Hailu, *Democratic National Convention Viewership Keeps Steady with 20.2 Million Viewers on Third Night*, Variety (Aug. 21, 2024), <https://variety.com/2024/tv/news/dnc-ratings-viewers-1236112994/> [<https://perma.cc/EQH3-4KBU>].

<sup>202</sup> See Cole Blake, *LA Dodgers Use Kendrick Lamar’s “Not Like Us” As Anthem For Postseason*, Hot New Hip Hop (Oct. 6, 2024), <https://www.hotnewhiphop.com/848710-la-dodgers-kendrick-lamars-not-like-us-anthem-postseason-hip-hop-news> [<https://perma.cc/D78R-6AKK>].

164. The Recording and Video were some of the biggest winners of the night at the 2025 Grammy Awards on February 2, 2025. On information and belief, UMG conferred benefits and leveraged existing business relationships to secure Grammy nominations (and eventually wins) for the Recording and Video. During the 2025 Grammy Awards, the Recording and Video won all five categories for which they were nominated: Record of the Year; Song of the Year; Best Rap Song; Best Music Video; and Best Rap Performance.<sup>203</sup> During the ceremony, defamatory portions of the Recording were played to the live audience and televised to over 15 million viewers.<sup>204</sup> The Recording could not have been played and broadcast during the award ceremony without UMG's consent. The original broadcast of the Grammys showed the audience singing along to the Recording, but in the video of the awards ceremony posted to the Grammys' YouTube page, that portion is excluded.<sup>205</sup> After the Recording won Record of the Year, Sir Grainge high-

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<sup>203</sup> Kaitlyn Huamani, *Kendrick Lamar's 'Not Like Us' wins song of the year, record of the year*, L.A. Times (Feb. 2, 2025, 8:33 PM), <https://www.latimes.com/entertainment-arts/music/story/2025-02-02/grammys-2025-kendrick-lamar-not-like-us-wins-controversy> [<https://perma.cc/4LMJ-T3MF>].

<sup>204</sup> Ethan Shanfeld, *Grammys Draw 15.4 Million Viewers on CBS, Down 9% From Last Year*, Variety (Feb. 4, 2025, 8:52 AM), <https://variety.com/2025/tv/news/grammys-ratings-2025-viewers-1236295409/> [<https://web.archive.org/web/20250227182602/https://variety.com/2025/tv/news/grammys-ratings-2025-viewers-1236295409/>]. After the Recording won Song of the Year, the Grammys broadcast played the Recording at 1:15-1:44. Upon the announcement that the Recording won Record of the Year, the Grammys broadcast played the Recording at 0:31-1:16. Both portions named Drake and, unlike during the Super Bowl halftime show, the word “pedophile” was not censored.

<sup>205</sup> Gabriel Bras Nevares, *Grammys Deletes Clip Of Crowd Singing Kendrick Lamar's 'Not Like Us' Amid Drake Lawsuit*, Hot New Hip Hop (Mar. 7, 2025), [https://www.hotnewhiphop.com/892143-grammys-deletes-clip-crowd-singing-kendrick-lamar-not-like-us-drake-lawsuit-hip-hop-news#google\\_vignette](https://www.hotnewhiphop.com/892143-grammys-deletes-clip-crowd-singing-kendrick-lamar-not-like-us-drake-lawsuit-hip-hop-news#google_vignette) [<https://perma.cc/K2CZ-YQXN>] (“Specifically, they deleted the portion in which the venue plays the song and the crowd sings along from their official YouTube coverage of the night.”); Recording Academy / GRAMMYs, *KENDRICK LAMAR Wins Song Of The Year For “NOT LIKE US” | 2025 GRAMMYs Acceptance Speech*, YouTube (Feb. 2, 2025), <https://www.youtube.com/watch?v=PqqAnsm4agc> [<https://perma.cc/3TCQ-YEKP>] (cutting Diane Ross's announcement of the winner, Lamar's walk to the stage, and the playing of the Recording); Recording Academy / GRAMMYs, *KENDRICK*

fived and hugged Lamar’s long-time executive producer and musical mentor, Andre Romell Young, known professionally as Dr. Dre, while the Recording played.<sup>206</sup> On the Grammys’ official YouTube page, the clip featuring this high-five does not contain the original audio of the Recording.<sup>207</sup>

165. Just a week later, on February 9, 2025, UMG facilitated a live performance of the Recording during the Apple Music Super Bowl LIX Halftime Show in New Orleans (the “Super Bowl Performance”). On information and belief, UMG conferred financial benefits on the parties in charge of the Super Bowl Performance and leveraged existing business relationships to secure the headliner-spot. As of this filing, the Super Bowl Performance is viewable in full on NFL.com as well as on the NFL’s YouTube account.<sup>208</sup>

166. UMG promoted the Super Bowl Performance on Interscope’s social media,<sup>209</sup> including by reposting advertisements by the NFL, Apple Music, and TouchTunes on X.<sup>210</sup> On

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*LAMAR Wins Record Of The Year For “NOT LIKE US” | 2025 GRAMMYS Acceptance Speech*, YouTube (Feb. 2, 2025), <https://www.youtube.com/watch?v=HtmXTNn2Rw> [<https://perma.cc/2NXL-LP73>] (cut from 0:17 to 0:18 removes the playing of the Recording, skipping from Miley Cyrus’s announcement of the winner to Lamar accepting the award on stage).

<sup>206</sup> Recording Academy / GRAMMYS, *DR. DRE Reacts To KENDRICK LAMAR’S WIN At The 2025 GRAMMYS*, YouTube (Feb. 2, 2025), <https://www.youtube.com/watch?v=OZLxju-WRwE> [<https://perma.cc/T92G-X8CC>] (Sir Grainge and Dr. Dre high-five at 0:09–0:11 and embrace at 0:32–0:40).

<sup>207</sup> *Id.*

<sup>208</sup> *Kendrick Lamar’s full Apple Music Super Bowl Halftime Show*, NFL.com, <https://www.nfl.com/videos/kendrick-lamar-s-full-apple-music-super-bowl-halftime-show> [<https://perma.cc/M27Q-5GR9>] (last visited Apr. 16, 2025); NFL (@NFL), *Kendrick Lamar’s Apple Music Super Bowl Halftime Show*, YouTube (Feb. 9, 2025), <https://www.youtube.com/watch?v=KDorKy-13ak> [<https://perma.cc/2G7L-ZVNF>]. As of the date of this filing, the post has 119,381,000 views.

<sup>209</sup> Interscope Records (@interscope), Instagram (Jan. 23, 2025), <https://www.instagram.com/reel/DfLtJnBRfW3/> (preserved offline).

<sup>210</sup> Interscope (@Interscope), X (Jan. 23, 2025), <https://x.com/Interscope/status/1882574353688342559> [<https://perma.cc/4J45-QWBG>]

TikTok, UMG posted “Kendrick Lamar Super Bowl LIX” with the Recording playing and the caption added, “February 2025 with the [goat emoji]!! #AppleMusicHalftime #KendrickLamar #SBLIX #NotLikeUs #SuperBowl.”<sup>211</sup>

167. The version of the Recording performed during the Super Bowl Performance was modified to exclude the word “pedophile,” but no other modifications were made. On information and belief, Kendrick Lamar would not have been permitted to perform during the Super Bowl Performance unless the word “pedophile” (in the phrase “certified pedophiles”) was omitted from the lyrics—that is because nearly everyone understands that it is defamatory to falsely brand someone a “certified pedophile.” On information and belief, the NFL, as well as the corporate entities responsible for the televised and streaming broadcasts of the Super Bowl Performance, all understood the words “certified pedophile” to be unacceptable in a broadcast to millions of listeners. Notwithstanding that apparent consensus, UMG continues to publish the Recording absent the censoring that even Kendrick Lamar deemed acceptable for the Super Bowl Performance.

168. The Super Bowl Performance, broadcast by Fox, was the most-watched Super Bowl Halftime Show of all time, with over 133.5 million viewers tuning in—more people than watched

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(reposting Apple Music (@AppleMusic)); Interscope (@Interscope), X (Feb. 6, 2025), <https://x.com/Interscope/status/1887712265375252894> [<https://perma.cc/CF9X-ADSL>] (reposting Apple Music (@AppleMusic)); Interscope (@Interscope), X (Feb. 7, 2025), <https://x.com/Interscope/status/1887954245028299000> [<https://perma.cc/7B3D-V6UJ>] (reposting NFL (@NFL)); Interscope (@Interscope), X (Feb. 7, 2025), <https://x.com/Interscope/status/1888055905616302273> [<https://perma.cc/8N9F-GK8H>] (reposting TouchTunes (@TouchTunes)); Interscope (@Interscope), X (Feb. 9, 2025), <https://x.com/Interscope/status/1888727714351263953> [<https://perma.cc/T3MQ-DZPM>] (reposting NFL (@NFL)); Universal Music Group (@UMG), X (Oct. 22, 2024, 5:00 PM), <https://x.com/UMG/status/1848831698152108331> [<https://perma.cc/KYE4-A4P8>].

<sup>211</sup> Universal Music (@universalmusicgroup), TikTok (Sept. 9, 2024), <https://www.tiktok.com/@universalmusicgroup/video/7412704939736190238> [<https://perma.cc/ELZ8-CMUD>].

the game itself.<sup>212</sup> According to an NFL post on X, the Super Bowl Performance online obtained: 810 million “impressions” and more than 3.65 billion “total global views,” including over 1.7 billion views from user-generated content;<sup>213</sup> over 100 million views on the @NFL TikTok account; the #1 rank of “most socially consumed” Apple Music Halftime Show” for the NFL; 5.7 million mentions on social media; the #1 rank for most-watched YouTube video in 28 countries; the #1 rank on YouTube’s “Top Trending” chart; and 50 million views on YouTube in the first 72 hours of publication.<sup>214</sup> Clips of the Super Bowl Performance in which Drake is referenced by name went viral as well, with three TikTok posts from the NFL’s account amassing a total of 188.3

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<sup>212</sup> Heran Mamo, *Kendrick Lamar’s 2025 Super Bowl Halftime Show Is Now the Most-Watched of All Time*, Billboard (Feb. 11, 2025), <https://www.billboard.com/music/rb-hip-hop/kendrick-lamar-2025-super-bowl-halftime-show-most-watched-all-time-1235899552/> [<https://web.archive.org/web/20250228100907/https://www.billboard.com/music/rb-hip-hop/kendrick-lamar-2025-super-bowl-halftime-show-most-watched-all-time-1235899552/>].

<sup>213</sup> The image of Lamar looking directly at the camera when he named Drake and stated that Drake “likes ’em young” during the Super Bowl Performance became a viral meme. See Cory Woodroof, *Kendrick Lamar smiling into the Super Bowl camera while saying Drake’s name turned into a meme*, USA Today (Feb. 9, 2025, 9:25 PM), <https://ftw.usatoday.com/story/entertainment/pop-culture/2025/02/09/kendrick-lamar-smiling-into-camera-drake-name-meme/78378885007/> [<https://web.archive.org/web/20250323044815/https://ftw.usatoday.com/story/entertainment/pop-culture/2025/02/09/kendrick-lamar-smiling-into-camera-drake-name-meme/78378885007/>].

In one instance, CBS Sports aired a reference to the meme during its March Madness coverage of Drake University. See Coach \$\$\$ (@\_BushaT), X (Mar. 20, 2025), [https://x.com/\\_BushaT/status/1902869130576814189](https://x.com/_BushaT/status/1902869130576814189) [<https://perma.cc/ZPU9-UCLL>].

<sup>214</sup> NFL (@NFL), X (Mar. 20, 2025), <https://x.com/NFL/status/1902778413469081640> [<https://perma.cc/7BPM-HCX4>].

million views.<sup>215</sup> Apple Music, sponsor of the Super Bowl Performance, posted “They not like us” 48 times in an X post shortly following the Super Bowl Performance.<sup>216</sup>

169. UMG sought out, negotiated for, greenlit, and promoted the Super Bowl Performance *after* the filing of this Complaint and after months of notice that the allegations in the Defamatory Material were false, that they were being believed as true by the public, and that they were causing harm to Drake.

170. The agreement to censor the word “pedophile” failed to cure the Super Bowl Performance of conveying the Recording’s central defamatory meaning. Instead, the Super Bowl Performance further solidified the public’s belief in the truth of the allegations against Drake:

- “how many people in the world didn’t know Drake was credibly accused of being a pedophile and now know;”<sup>217</sup>

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<sup>215</sup> NFL (@nfl), TikTok (Feb. 9, 2025), <https://www.tiktok.com/t/ZT2xoPk6u/> [<https://perma.cc/XKG2-CAVL>] (55 million views); NFL (@nfl), TikTok (Feb. 9, 2025), <https://www.tiktok.com/t/ZT2xoC52T/> [<https://perma.cc/6N2M-23R4>] (100 million views); NFL (@nfl), TikTok (Feb. 9, 2025), <https://www.tiktok.com/t/ZT2xokxU9/> [<https://perma.cc/P623-2P9X>] (33.3 million views).

<sup>216</sup> Apple Music (@AppleMusic), X (Feb. 9, 2025), <https://x.com/AppleMusic/status/1888764039804727557> [<https://perma.cc/P663-66WG>].

<sup>217</sup> Davis Mattek (@DavisMattek), X (Feb. 9, 2025), <https://x.com/DavisMattek/status/1888765439431303325> [<https://perma.cc/V9FV-YH5K>].

- “Kendrick just COOKED @Drake in front of the whole world and anybody who didn’t know that Drake is a CERTIFIED PEDOPHILE is probably now on google trying to understand why @kendricklamar said he likes em young [laughing emoji] #DrakeIsAPedophile;”<sup>218</sup> and
- “Last night before tens of millions, Kendrick Lamar lambasted pedophiles and called them all out in Hollywood[.] Love him or hate him. His message was unity. Rap may not be a favorable music genre for many **but his message shredded pedophiles like Drake** and more importantly excoriated “Puff” Diddy and Epstein, guilty of—child sex trafficking.”<sup>219</sup>

171. The Super Bowl Performance revitalized the public’s attention to the allegations against Drake. Once again members of the public renewed their outrage about Drake being a “known” pedophile:

- “THEY SHOULD START AN INVESTIGATION ON DRAKE ?!!!!!! LOOK HOW DIDDY AND JEFFREY EPSTEIN TURNED OUT;”<sup>220</sup>
- “But seriously tho is anyone actually going to investigate Drake?;”<sup>221</sup>

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<sup>218</sup> Nosey Heaux Live #SurvivingThePettys (@noseyheauxlive), X (Feb. 9, 2025), <https://x.com/noseyheauxlive/status/1888767265132208326> [<https://perma.cc/NV96-NBPG>].

<sup>219</sup> It’s Tiff (@TiffMoodNukes), X (Feb., 10, 2025), <https://x.com/TiffMoodNukes/status/1888969405280981466> [<https://perma.cc/VFZ6-BQWQ>] (emphasis added).

<sup>220</sup> User @josieperez5567, Comment, NFL (@NFL), *Kendrick Lamar’s Apple Music Super Bowl Halftime Show*, YouTube (Feb. 10, 2025), <https://www.youtube.com/watch?v=KDorKy-13ak&lc=UgzJcaYksb-86HSwjrJ4AaABAg> [<https://perma.cc/RU8U-UTE7>].

<sup>221</sup> User @RIPdixiecarter, Comment, NFL (@NFL), *Kendrick Lamar’s Apple Music Super Bowl Halftime Show*, YouTube (Feb. 10, 2025), <https://www.youtube.com/watch?v=KDorKy-13ak&lc=UgwZjNcAeRtWma3BRJh4AaABAg> [<https://perma.cc/74NM-G2RN>].



- Users again compared the allegations in the Defamatory Material to the actions of Epstein,<sup>222</sup> Weinstein,<sup>223</sup> and Diddy,<sup>224</sup> and
- Others called on Drake to commit suicide.<sup>225</sup>

<sup>222</sup> See, e.g., hardy boyz\ (@shawnmedesfan69), X (Feb. 20, 2025), <https://x.com/shawnmedesfan69/status/1892696929877794817> [<https://perma.cc/DSL2-SK4U>] (“Drake is a jew from the suburbs of Toronto. End of discussion. ‘Real niggas’ dont have bar mitzvahs. & real niggas definitely dont deal with underage girls. He has more in common with Epstein than any ‘real nigga’ on the planet [shrug emoji]”); User @HiHi-mhllu, Comment, NFL (@NFL), *Kendrick Lamar’s Apple Music Super Bowl Halftime Show*, YouTube (Feb. 11, 2025), <https://www.youtube.com/watch?v=KDorKy-13ak&lc=UgwBKfBp8lYoEguEsBR4AaABAg> [<https://perma.cc/H6EF-UAKT>] (“Drake needs to go hide at Epsteins island for the rest of his life now!! [laughing emoji]”).

<sup>223</sup> See, e.g., User @tiararoxeanne1318, Comment, NFL (@NFL), *Kendrick Lamar’s Apple Music Super Bowl Halftime Show*, YouTube (Feb. 10, 2025), <https://www.youtube.com/watch?v=KDorKy-13ak&lc=Ugw3awGdmEMxu94BTZ4AaABAg.AEMbTK7A1L0AEMsN10nE0B> [<https://perma.cc/P675-LAZT>] (“Drake dug his own grave by dating those underage girls. I hope people made songs about other predators like Harvey Weinstein, R Kelly, Bill Cosby, P. Diddy, etc. They are deserved to be humiliated.”).

<sup>224</sup> See, e.g., User @stephanieworkman8808, Comment, NFL (@NFL), *Kendrick Lamar’s Apple Music Super Bowl Halftime Show*, YouTube (Feb. 11, 2025), <https://www.youtube.com/watch?v=KDorKy-13ak&lc=Ugxt0CanFKesuNugHCh4AaABAg> [<https://perma.cc/K5LG-KDAX>] (“Drake is gonna be sitting next to Diddy”); User @cccgnosis7, Comment, NFL (@NFL), *Kendrick Lamar’s Apple Music Super Bowl Halftime Show*, YouTube (Feb. 11, 2025), <https://www.youtube.com/watch?v=KDorKy-13ak&lc=UgyOx6Fl3EHIAos9Ygt4AaABAg> [<https://perma.cc/N52M-Y3AN>] (“The new P Diddy [eyes emoji]”); User @Y2kALEX94, Comment, NFL (@NFL), *Kendrick Lamar’s Apple Music Super Bowl Halftime Show*, YouTube (Feb. 10, 2025), [https://www.youtube.com/watch?v=KDorKy-13ak&lc=Ugz77Ad\\_YCxULLS93n14AaABAg](https://www.youtube.com/watch?v=KDorKy-13ak&lc=Ugz77Ad_YCxULLS93n14AaABAg) [<https://perma.cc/4H2F-CCV9>] (“Drake can’t show his face anymore he is the new diddy”).

<sup>225</sup> See, e.g., BEAUTIFUL SPUR (@E4RTHG6NG), X (Feb. 9, 2025), <https://x.com/E4RTHG6NG/status/1888767254445088925> [<https://perma.cc/Q5Q6-RMF3>] (“the whole stadium saying ‘a minor’ is crazy, DRAKE KILL YOURSELF”); hero (@1thousandfaces\_), X (Feb. 9, 2025), [https://x.com/1thousandfaces\\_/status/1888764684263997756](https://x.com/1thousandfaces_/status/1888764684263997756) [<https://perma.cc/CPF2-JKQF>] (“SAY DRAKE I HEARD YOU LIKE EM YOUNG!!!! with the most evil grin imaginable oh that pedo is killing himself”); Ellie MYF (@lightningdallon), X (Feb. 9, 2025), <https://x.com/lightningdallon/status/1888765117317177828> [<https://perma.cc/G6AV-LV6J>] (“an entire super bowl crowd yelling ‘certified pedophile’ and ‘probably a minor’ so loud you can hear it through the screen after hearing the entire grammy’s sing it not even a week prior oh drake is going to kill himself”); Jay (@\_woodstein), X (Feb. 9, 2025), [https://x.com/\\_woodstein/status/1888765133998248418](https://x.com/_woodstein/status/1888765133998248418) [<https://perma.cc/7PAW-PNNY>] (“The



**D. *UMG Promoted the Defamatory Material Through Covert Means to Deceive Consumers.***

172. In addition to publishing, marketing, and licensing the Defamatory Material, on information and belief, UMG also put a thumb on the scale by providing covert financial incentives to third parties to further spread the lies against Drake.

173. On information and belief, UMG, directly or indirectly through its agents and making use of UMG resources, conspired with, paid, or caused payments to be made to unknown third parties to use “bots” to artificially inflate the spread of the Recording on Spotify. At minimum, UMG was aware that third parties were using bots to stream the Recording and turned a blind eye, despite having the power to stop such behavior. Bots are software programs designed to mimic human behavior to appear to be real social media accounts. The desire to jumpstart the Recording’s popularity is unsurprising because streams beget more streams. Songs identified as top-streamers land on “most popular” lists and playlists, which leads to more streams (and therefore more licensing requests, more purchases, more partnerships, and ultimately, more money).

174. “Fake” streams are a well-known problem across the music industry. In 2023, *The Financial Times* reported that experts estimated that as much as 10 percent of all music streams are “fake” or derived from bots and streaming farms,<sup>226</sup> where devices run services like Spotify and other streaming platforms on loop.<sup>227</sup> Universal Music, Spotify, and Apple Music, among

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whole crowd singing a minor is actual crazy work I would kill myself immediately if I was Drake”).

<sup>226</sup> For a video of what a streaming farm allegedly looks like, see Now This, TikTok (Apr. 5, 2024), <https://www.tiktok.com/@nowthis/video/7354493993964539178> [<https://perma.cc/5FV9-F5Z9>].

<sup>227</sup> Anna Nicolaou, *The incredible resilience of the music industry*, Financial Times (Sept. 8, 2023), <https://www.ft.com/content/b85ab5af-bd03-4da8-971a-316e7c7897dc> [<https://perma.cc/S6LP-R223>].

others, participated in a study at the request of the French parliament, which found that between 1 billion and 3 billion fake streams took place on popular music platforms in 2021.<sup>228</sup>

175. Publicly, Spotify has stated that it is aware of the issue of bots on its platform and is actively working to address it. In response to Drake’s pre-litigation filing in New York state court, Spotify explained that it “invests heavily in automated and manual reviews to prevent, detect, and mitigate the impact of artificial streaming on its platform.”<sup>229</sup> Recently, Chart Data, which reports on music news, reported that Spotify has been removing bottled streams from its platform over the last several months.<sup>230</sup>

176. In June 2024, one podcast host stated, “Not only do I not care that he [Kendrick Lamar] used bots, but I knew he did.”<sup>231</sup> In a podcast clip posted to his YouTube channel on June 23, 2024, he continued, “Ya’ll didn’t know that Kendrick used bots? You thought that this was

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<sup>228</sup> *Study: Stream Manipulation*, at 46, Ctr. Natl De La Musique (2021), [https://cnm.fr/wp-content/uploads/2023/01/2023\\_-CNM-\\_Manipulation-des-streams\\_ENG.pdf](https://cnm.fr/wp-content/uploads/2023/01/2023_-CNM-_Manipulation-des-streams_ENG.pdf) [<https://perma.cc/B8WH-7GCR>]; see also Morgan Meaker, *One Man’s Army of Streaming Bots Reveals a Whole Industry’s Problem*, *Wired* (Mar. 21, 2024), <https://www.wired.com/story/streaming-bots-spotify/> [<https://web.archive.org/web/20250114134159/https://www.wired.com/story/streaming-bots-spotify/>].

<sup>229</sup> See Spotify USA, Inc.’s Memorandum of Law in Opposition to Verified Petition at 5 n.5, *In the Matter of the Application of, FROZEN MOMENTS, LLC et al.*, Docket No. 161023/2024 (N.Y. Sup. Ct. Dec. 20, 2024). Spotify represented that it “found no evidence to substantiate” that bots streamed the Recording 30 million times in the days after initial publication.

<sup>230</sup> See Gabriel Bras Nevares, *Spotify Cracks Down On Botted Streams But Won’t Reveal Which Artists They Punished*, *Hot New Hip Hop* (Apr. 4, 2025), <https://www.hotnewhiphop.com/899717-spotify-botted-streams-wont-reveal-artists-punished-music-news> [<https://web.archive.org/web/20250416164117/https://www.hotnewhiphop.com/899717-spotify-botted-streams-wont-reveal-artists-punished-music-news>] (“According to *chart data*, [Spotify] removed ‘notable streaming volume’ from songs across all genres for the third month in a row, a consistent practice they began this February.”).

<sup>231</sup> Joe Budden TV (@joebuddentv), *Joe Budden Doesn’t Care That Kendrick Lamar Used Bots for ‘Not Like Us’*, at 2:08–2:40, YouTube (June 23, 2024), <https://www.youtube.com/watch?v=3B8Smb3nJrc> [<https://perma.cc/XFC6-CLJD>].

just the first time miraculously that a Drake record ever had more dislikes than likes? Or you ‘didn’t know’ that that was bots. Bots to me was a part of how you win the war versus Drake.”

177. Other users online exposed the “marketing” of the Recording through bots and payments to influencers following Plaintiff’s pre-action filings in New York and Texas state courts. In subsequently deleted posts on November 24, 2025, a social media user claimed to have knowledge of paid promotion of the Recording. In response to a comment on X that “Kendrick was buying promo,” the user responded, “Was?” The user continued that there was a “slow ass digital marketer paying to clown the suit” and that UMG would “push blame” to the digital marketer “once the suit takes place” after “let[ting] the paid promo fly for months lol[.]” In other deleted posts, the user claimed that “paid promo for pushing the lawsuit [Drake’s lawsuit against UMG]” was “already happening” and that the alleged digital marketer “is psychotic.”

178. Another social media user posted a video on X, claiming to demonstrate how to use a bot streamer for songs hosted on Spotify. In the post, the user claimed “[t]his is the Streaming Bot that UMG and Kendrick Lamar use to boost Not Like Us streams in the beef with Drake” and “I use to be a stream farmer but I’ve since retired.”<sup>232</sup>

179. On information and belief, UMG also provided financial incentives to streaming platforms to promote the Recording, including by charging Spotify lower than usual licensing rates for the Recording in exchange for Spotify affirmatively recommending the Recording to users who are searching for other unrelated songs and artists.<sup>233</sup>

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<sup>232</sup> Poetik Flakko (@FlakkoPoetik), X (Nov. 25, 2024), <https://x.com/FlakkoPoetik/status/1861208821302952313> [<https://perma.cc/VK7G-3RL8>].

<sup>233</sup> Spotify has denied that UMG charged Spotify “licensing rates 30 percent lower than its usual licensing rates,” but has not made any public statements regarding the veracity of allegations that UMG charged Spotify licensing rates at some other lower percentage or conferred financial benefits through some other mechanism. See Spotify USA, Inc.’s Memorandum of Law in

180. Third parties have documented strange recommendations in searches on Spotify. On July 3, 2024, a user posted a video on X of a man typing “Eminem” into Spotify’s search engine and the Recording appearing as a suggested search result.<sup>234</sup> The user captioned the post, “It doesn’t matter what you search on Spotify you’ll see ‘Not Like Us’ pop up. Spotify picked their side, and their algorithm is proof.”<sup>235</sup> Other users described similar experiences.<sup>236</sup> And since the initiation of this lawsuit, some Spotify users have raised concerns about the Recording appearing in results when searching for new releases by Drake or for other artists.<sup>237</sup> Relatedly, in the days following the release of Drake’s new album “Some Sexy Songs 4 U” on February 14, 2025, some users reported not being able to find the new release when searching on Spotify.<sup>238</sup>

181. Recommended songs, search results, and promoted playlists play a role in determining which music users will be exposed to and ultimately consume. An article discussing the harms of payola on music consumers describes that by including songs in suggested playlists, Spotify and other streaming services “represent to the listening public that the song has been

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Opposition to Verified Petition, *In the Matter of the Application of, FROZEN MOMENTS, LLC et al.*, Docket No. 161023/2024 (N.Y. Sup. Ct. Dec. 20, 2024).

<sup>234</sup> Keep6ixsolid (@keep6ixsolid), X (July 3, 2024), <https://x.com/keep6ixsolid/status/1808529064673837434> [<https://perma.cc/N4GE-NKJC>].

<sup>235</sup> *Id.*

<sup>236</sup> Dom (@Underrated\_Dom), X (July 3, 2024), [https://x.com/Underrated\\_Dom/status/1808662039352783355?mx=2](https://x.com/Underrated_Dom/status/1808662039352783355?mx=2) [<https://perma.cc/4CJV-Y6LD>].

<sup>237</sup> *See, e.g.,* Members (@OVomembers), X (Feb. 15, 2025), <https://x.com/OVomembers/status/1890773161873961078> [<https://perma.cc/4XZ4-66GQ>].

<sup>238</sup> *See, e.g.,* Badnis (@coolmike00), X (Feb. 15, 2025) <https://x.com/coolmike00/status/1890854402090492324> [<https://perma.cc/XQ9G-VKLR>].

chosen because it is uniquely aligned to that listener’s tastes or the playlist mood, and that the expert curator has judged the song to possess artistic excellence.”<sup>239</sup>

182. On information and belief, UMG employed a similar scheme by paying social media influencers to promote and endorse the Recording and Video. As just one example, Plaintiff understands that UMG paid, directly or indirectly, the popular NFR Podcast to promote the Recording and Video without disclosing the payment. As part of its deal with UMG, the NFR Podcast publicly published podcast episodes, tweets, and other content about the Recording.

183. On information and belief, UMG caused Apple Inc. to have its voice-activated digital assistant “Siri” purposely misdirect users requesting other songs to instead stream the Recording.<sup>240</sup> Online sources reported that when users asked Siri to play the album “Certified Loverboy” by Drake, Siri instead played the Recording.<sup>241</sup>

184. On information and belief, UMG also offered financial incentives, including direct payments and reduced licensing rates, to various third parties to promote the Recording on the radio. These financial benefits were never disclosed to consumers. According to confidential sources made known to Drake, certain UMG labels have engaged in pay-for-play arrangements with radio and streaming services to boost the popularity of specific songs.

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<sup>239</sup> Kasi Wautlet, *Playlists As Endorsements: An Argument for Continued Payola Regulation in the Internet Age*, 76 N.Y.U. ANN. SURV. AM. L. 821, 862 (2021); see also Christine Smith Burton, *‘Playola’ and Fraud on Digital Music Platforms: Why Legislative Action is Required to Save the Music Streaming Market*, 16 J. Bus. & Tech. L. 387, 390–92 (2021).

<sup>240</sup> See Armon Sadler, *Fans Discover Siri Plays Kendrick Lamar’s “Not Like Us” On Spotify When They Ask For Drake’s ‘Certified Lover Boy’*, VIBE (July 11, 2024), <https://www.vibe.com/news/entertainment/siri-not-like-us-spotify-certified-lover-boy-1234895147/> [<https://perma.cc/N9Y7-G5BA>].

<sup>241</sup> *Id.*

185. Drake has also received information that UMG engaged in a classic pay-for-play scheme by paying to increase the air play of the Recording on the radio, including radio stations in New York. Specifically, Drake has received information that at least one member of UMG's radio promotion team made payments to an independent radio promotor who agreed to transfer those payments to radio stations and/or radio station employees in exchange for those radio stations playing the Recording. On information and belief, this practice was more widespread than one member of the UMG radio promotion team. This "pay to play" practice, known as "payola," is prohibited by the Communications Act of 1934 (*see* 47 U.S.C. §§ 317, 508), and has been the subject of regulatory scrutiny by a number of Executive agencies.<sup>242</sup>

186. In 2006, UMG agreed to pay \$12 million in a settlement with the New York Attorney General following an investigation involving accusations that UMG executives had used a broad array of "pay for play" tactics to secure radio airplay for music.<sup>243</sup> In connection with UMG's settlement, the then-New York Attorney General explained, "Consumers have a right not to be misled about the way in which the music they hear on the radio is selected."<sup>244</sup> He continued:

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<sup>242</sup> Payola in the music industry remains a top priority for the federal government. For example, in January 2020, the Federal Communications Commission sent a letter to three music companies, including Universal Music Group, seeking prompt information regarding each company's practices to prevent payola, any payola violations, and arrangements for promoting music on the radio. Letter from Comm'r of Fed. Comm. Comm'n to Sony Music Ent., Warner Music Grp. & Universal Music Grp. (Jan. 16, 2020), <https://docs.fcc.gov/public/attachments/DOC-361998A1.pdf> [<https://web.archive.org/web/20250215152141/https://docs.fcc.gov/public/attachments/DOC-361998A1.pdf>].

<sup>243</sup> Jeff Leeds, *Universal Music Settles Big Payola Case*, N.Y. Times (May 12, 2006), <https://www.nytimes.com/2006/05/12/business/12payola.html?smid=url-share> [<https://web.archive.org/web/20240131004539/https://www.nytimes.com/2006/05/12/business/12payola.html>].

<sup>244</sup> *Universal Music Group settles payola case*, NBC News (May 11, 2006), <https://www.nbcnews.com/id/wbna12740147> [<https://web.archive.org/web/20220501154735/https://www.nbcnews.com/id/wbna12740147>].

“Pay-for-play makes a mockery of claims that only the ‘best’ or ‘most popular’ music is broadcast.”<sup>245</sup> Separately, in 2005, UMG was sued by two radio promotion companies alleging fraudulent pay-for-play practices.<sup>246</sup>

187. It remains an open secret within the music industry that power players, like UMG, are continuing to engage in payola. In November 2024, New York radio deejay FunkMaster Flex released an alleged pricelist for payola on radio stations: \$350,000 for pop radio, \$250,000 for “urban” radio, \$100,000 for a mix show, and \$3,000 to \$5,000 per song for local DJs.<sup>247</sup> Other whistleblowers in the music industry have similarly confirmed the use of widespread payola, with some claiming to have proof.

188. In February of this year, the Federal Communications Commission (“FCC”) released an enforcement advisory regarding “covert manipulation” of airplay on radio stations<sup>248</sup> following congressional interest in an alleged scheme of payola violations.<sup>249</sup> Later that month,

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<sup>245</sup> *Id.*

<sup>246</sup> *UMG Sued For Fraud*, Pollstar (Apr. 28, 2005), <https://news.pollstar.com/2005/04/28/umg-sued-for-fraud/> [<https://perma.cc/6QH7-T8K2>].

<sup>247</sup> Funk Flex !!!!! (@funkflex), X (Nov. 26, 2024), <https://x.com/funkflex/status/1861538244279836877> [<https://perma.cc/EMM7-4LDT>]; Demicia Inman, *Funkmaster Flex Claims “Drake Is 100% Right” About Payola Following Accusations Against UMG, Spotify, VIBE* (Nov. 27, 2024), <https://www.vibe.com/news/entertainment/funkmaster-flex-drake-right-about-payola-1234954728/> [<https://perma.cc/V7AP-Q76N>].

<sup>248</sup> *Covert Manipulation of Radio Airplay Based on Artist Participation in Promotions or Event Violates FCC Payola Rules*, FCC Enforcement Advisory, DA 25-104 (2025), <https://docs.fcc.gov/public/attachments/DA-25-104A1.pdf> [<https://web.archive.org/web/20250401024628/https://docs.fcc.gov/public/attachments/DA-25-104A1.pdf>].

<sup>249</sup> Letter from Marsha Blackburn, U.S. Senator, to Brendan Carr, Chairman, FCC (Jan. 30, 2025), <https://www.blackburn.senate.gov/services/files/76DB8D6E-EF84-4C26-BA17-B5194048D1DD> [<https://web.archive.org/web/20250308221215/https://www.blackburn.senate.gov/services/files/76DB8D6E-EF84-4C26-BA17-B5194048D1DD>].



the FCC sent iHeartMedia, Inc., a mass media company and owner of the iHeartRadio network, a demand for information about iHeart’s compliance with federal payola laws.<sup>250</sup> In the aftermath of the these FCC actions, certain commentators have speculated as to whether Spotify’s promotional practices will face similar regulatory scrutiny.<sup>251</sup>

**E. *UMG Took Other Unprecedented Steps to Promote the Defamatory Material.***

189. On May 4, 2024, UMG removed the Recording’s copyright restrictions on YouTube and Twitch, thereby “whitelisting” the Recording.<sup>252</sup> On information and belief, this action was directed by Interscope’s Executive Vice President and Head of Digital Marketing Ramon Alvarez-Smikle. This whitelisting was done purposely and with the full knowledge of UMG for the purpose of spreading the Recording, and its defamatory content, as broadly as possible and as quickly as possible.

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<sup>250</sup> Letter from Brendan Carr, Chairman, FCC, to Robert Pittman, Chairman and CEO, iHeartMedia, Inc. (Feb. 24, 2025), <https://docs.fcc.gov/public/attachments/DOC-409718A1.pdf> [<https://web.archive.org/web/20250313061623/https://docs.fcc.gov/public/attachments/DOC-409718A1.pdf>].

<sup>251</sup> Chris Castle, *FCC investigates iHeart for Payola. Is Spotify next?*, Hypebot (Fe. 27, 2025), <https://www.hypebot.com/hypebot/2025/02/fcc-investigates-iheart-for-payola-is-spotify-next.html> [<https://web.archive.org/web/20250316021409/https://www.hypebot.com/hypebot/2025/02/fcc-investigates-iheart-for-payola-is-spotify-next.html>] (originally published as Chris Castle, *iHeart Being Investigated for Payola: “That’s a nice rekud ya got thea, be a shame if sumpin happened to it...” Is Spotify next?*, Music Technology Policy (Feb. 26, 2025), <https://musictechpolicy.com/2025/02/26/iheart-being-investigated-for-payola-thats-a-nice-rekud-ya-got-thea-be-a-shame-if-sumpin-happened-to-it-is-spotify-next/>).

<sup>252</sup> Lavender Alexandria, *Kendrick Lamar Praised for Dropping Copyright Claims on Creators Discussing His New Songs, Hot New Hip Hop* (May 8, 2024), <https://www.hotnewhiphop.com/798941-kendrick-lamar-cupyright-claims-removed-hip-hop-news> [<https://web.archive.org/web/20240720095554/https://www.hotnewhiphop.com/798941-kendrick-lamar-cupyright-claims-removed-hip-hop-news>].



190. UMG has a formal ban on whitelisting and had never before whitelisted a song on any platform, to Plaintiff's knowledge. In and around June 2024, UMG reinstituted the copyright restrictions on the Recording.

191. The effect of whitelisting the Recording was massive and immediate. Able to play the Recording in full in their own videos and to profit from them, content creators rushed to republish the Recording in "reaction-videos." As just a few examples:

- The CartierFamily, whose YouTube channel has 1.51 million subscribers, posted a video depicting the Image and using the Recording.<sup>253</sup> As of the date of this filing, the video has 2.4 million views.



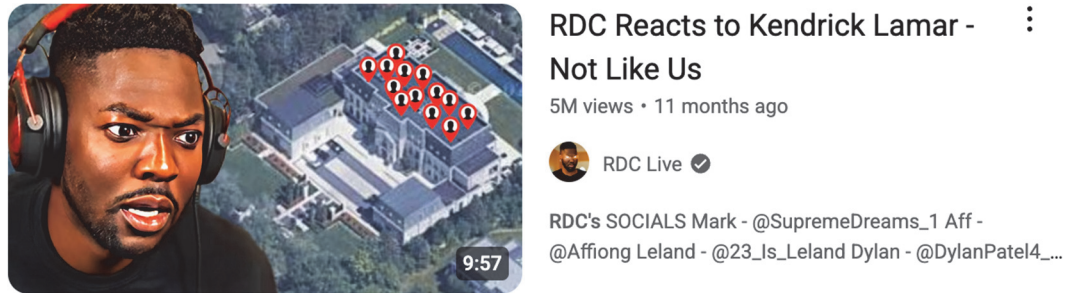
- Twitch streamer No Life Shaq posted a 14.5-minute clip of his reaction to the Recording on his YouTube channel, which has 4.84 million subscribers.<sup>254</sup> As of the date of this filing, the video has 5.9 million views.
- Youtuber Zias! posted a 15-minute video of his reaction to the Recording on his YouTube channel, which has 5 million subscribers.<sup>255</sup> As of the date of this filing, the video has 7.5 million views.

<sup>253</sup> CartierFamily (@TheOfficialCartierFamily), *KENDRICK LAMAR - Not Like Us (REACTION!!!)*, YouTube (May 4, 2024), <https://www.youtube.com/watch?v=6rsjobIbCtM> [<https://perma.cc/ESL8-LPYV>].

<sup>254</sup> No Life Shaq (@NoLifeShaq), *HE MADE A CLUB BANGER DISSTRACK! | KENDRICK LAMAR - Not Like Us (REACTION!!!)*, YouTube (May 4, 2024), <https://www.youtube.com/watch?v=Nyk1cTp7YUw> [<https://perma.cc/R6VL-A5UY>].

<sup>255</sup> ZIAS! (@zias7937), *KENDRICK LAMAR - NOT LIKE US REACTION*, YouTube (May 5, 2024), <https://www.youtube.com/watch?v=gNBE0Mcsp9k> [<https://perma.cc/JZ77-6KHZ>].

- On May 5, 2024, Twitch streamer RDC Gaming posted his reaction by depicting the Image and using the Recording.<sup>256</sup> As of the date of this filing, the video has over 5 million views.



- Twitch streamer Kai Cenat posted a 20-minute video of his reaction to the Recording on his YouTube channel, which has 12.5 million subscribers.<sup>257</sup> The video's thumbnail depicts the Image. As of the date of this filing, the video has over 10 million views.



192. These content creators could not have legally republished the Defamatory Material in full or profited from their reaction videos without UMG first whitelisting the Recording. Within days of UMG whitelisting the Recording, content-creators were thanking Lamar for lifting the copyright restrictions.<sup>258</sup>

<sup>256</sup> RDC Live (@RDCLive1), *RDC Reacts to Kendrick Lamar - Not Like Us*, YouTube (May 5, 2024), <https://www.youtube.com/watch?v=0Kb4xLyPYgw> [<https://perma.cc/8LAD-7UPU>].

<sup>257</sup> Kai Cenat Live (@KaiCenatLive), *Kai Cenat Reacts to Kendrick Lamar - Not Like Us*, YouTube (May 6, 2024), <https://www.youtube.com/watch?v=iVelBKQvzx4&t=1s> [<https://perma.cc/9PX8-7GBR>].

<sup>258</sup> Alexandria, *supra* note 252.

193. Reactors Kai Cenat,<sup>259</sup> No Life Shaq,<sup>260</sup> DJ Akademiks,<sup>261</sup> ImDontai,<sup>262</sup> and Jon Denton<sup>263</sup> have confirmed that UMG did not make efforts to copyright strike or otherwise demonetize their videos about the Recording in the initial days following its release.

**F. UMG's Media Campaign Successfully Spreads the Defamatory Material to Billions.**

194. UMG's campaign to spread the Defamatory Material was successful. On May 4, 2024, the Recording set a new record for the most single-day streams for a rap song in the U.S.—13 million in 24 hours.<sup>264</sup> Within the first week, the Recording debuted at No. 1 on the Billboard

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<sup>259</sup> KaiCenat, *ANOTHER DAY*, *ANOTHER STREAM*, at 39:45–57:00, Twitch (Jan. 16, 2025); <https://www.twitch.tv/videos/2355342706> [<https://perma.cc/9M6Q-9TC6>] (confirming that his videos about the Recording were monetized after its initial release).

<sup>260</sup> No Life Shaq (@NoLifeShaq), *THE BEEF IS OVER...SO KENDRICK LAMAR DID THIS!*, at 03:45–06:33, YouTube (May 7, 2024), <https://www.youtube.com/watch?v=7oNNr76bUqY> [<https://perma.cc/W57G-UWWA>].

<sup>261</sup> MoreZIAS (@MoreZias), *Zias & DJ Akademiks Talk About The Drake Lawsuit...*, at 09:39–11:15; 12:14–13:00, 13:52–14:20, YouTube (Jan. 16, 2025), <https://www.youtube.com/watch?v=Np04LBpFaco> [<https://perma.cc/7Z5V-N2XZ>]; HipHopPrints.com (@HipHopArtPrints), X (May 8, 2024), <https://x.com/HipHopArtPrints/status/1788058823258747324> [<https://perma.cc/ZU8K-XWRS>].

<sup>262</sup> ImStillDontai (@ImStillDontai.), *ImDontai Reacts To Drake Calling Kai RDC Shaq Zias & CF SELLOUTS*, at 06:21–06:51, YouTube (Jan. 16, 2025), <https://www.youtube.com/watch?v=4DR3it1i4n0> [<https://perma.cc/QS8P-XJPC>].

<sup>263</sup> Jon Denton (@JonDenton), X (May 6, 2024), <https://x.com/JonDenton/status/1787393525862023232> [<https://perma.cc/J3R6-EKFC>] (“Kendrick has just gone around and released all the automatic content claims on the reactions to his tracks (meaning we can actually earn a couple of quid on them going forward) No one has ever done that ever by the way.”).

<sup>264</sup> Perrin Kapur, *Kendrick Lamar's 'Not Like Us': All records broken so far*, Sportskeeda (May 15, 2024), <https://www.sportskeeda.com/us/music/kendrick-lamar-s-not-like-us-all-records-broken-far> [<https://web.archive.org/web/20240612184633/https://www.sportskeeda.com/us/music/kendrick-lamar-s-not-like-us-all-records-broken-far>].

Hot 100 list, with 70.9 million official streams and 5 million radio airplay audience impressions.<sup>265</sup>

Just one week later, the Recording broke the record for the most streamed song in a 7-day period—96 million streams.<sup>266</sup>

195. After UMG published the Video, the Recording returned to the No. 1 spot on the Billboard Hot 100.<sup>267</sup> In the week after the Video’s publication, the Recording was streamed an additional 53.8 million times and played on the radio an additional 40 million times.<sup>268</sup> And from July 4 to August 8, 2024, the Video ranked first on YouTube’s Weekly Top Music Videos chart.<sup>269</sup> On August 6, 2024, the Video earned an MTV Video Music Award nomination for Song of the Year.<sup>270</sup>

196. The Recording has maintained its popularity in the months since. On October 7, 2024, Billboard reported that the Recording had reached “45.4 million in total audience impressions” on radio with “15 nonconsecutive weeks in charge of the R&B/Hip-Hop Airplay

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<sup>265</sup> Gary Trust, *Kendrick Lamar’s ‘Not Like Us’ Blasts In at No. 1 on Billboard Hot 100*, Billboard (May 13, 2024), <https://www.billboard.com/lists/kendrick-lamar-not-like-us-hot-100-number-one-debut/not-like-us-no-1/> [<https://perma.cc/TLZ3-M2EY>].

<sup>266</sup> Cedric Thornton, *Kendrick Lamar’s ‘Not Like Us’ Breaks Streaming Record, Passes Cardi B and Taylor Swift*, Black Enterprise (May 16, 2024), <https://www.blackenterprise.com/kendrick-lamar-not-like-us-streaming-record/> [<https://perma.cc/3PU3-WPDD>].

<sup>267</sup> Gary Trust, *Kendrick Lamar’s ‘Not Like Us’ Returns to No. 1 on Billboard Hot 100*, Billboard (July 15, 2024), <https://www.billboard.com/lists/kendrick-lamar-not-like-us-number-one-second-week-hot-100/> [<https://perma.cc/8S56-42CT>].

<sup>268</sup> *Id.*

<sup>269</sup> *Weekly Top Music Videos*, YouTube Charts (Aug. 22, 2024), <https://charts.youtube.com/charts/TopVideos/us/weekly> [<https://perma.cc/ALX7-ZVDS>].

<sup>270</sup> Demicia Inman, *Kendrick Lamar’s “Not Like Us” Nominated for Song of the Year at 2024 VMAs*, VIBE (Aug. 6, 2024), <https://www.vibe.com/news/events/2024-vm-a-nominations-kendrick-lamar-1234903011/> [<https://perma.cc/R5YR-NUFX>].

list.”<sup>271</sup> And the Recording spent at least 24 weeks on the “Top 40” charts for New York-based stations Z100 and Power 105.1.<sup>272</sup>

197. *Rolling Stone* reflected that “with its catchy beat and incendiary lyrics labeling Drake a pedophile, Kendrick Lamar’s latest hit is arguably the biggest moment in music this year” and described the “vicious Drake diss” as “*inescapable*.”<sup>273</sup> *Pitchfork* called the lyric “*Certified Lover Boy? Certified pedophiles*” the “defining lyric of the decade so far.”<sup>274</sup>

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<sup>271</sup> Trevor Anderson, *Kendrick Lamar’s ‘Not Like Us’ Breaks Record for Most Weeks at No. 1 on Hot Rap Songs Chart*, *Billboard* (Oct. 7, 2024), <https://www.billboard.com/music/chart-beat/kendrick-lamar-not-like-us-number-1-record-rap-songs-chart-1235794635/> [<https://perma.cc/4XBV-SUQG>].

<sup>272</sup> See *TOP 40 – January 4, 2025*, z100 NY (Jan. 4, 2025), <https://z100.iheart.com/charts/top-40-238/january-4-2025/> [<https://web.archive.org/web/20250111163459/https://z100.iheart.com/charts/top-40-238/january-4-2025/>]; *Top 40 – January 4, 2025*, Power 105.1 (Jan. 4, 2025), <https://power1051.iheart.com/charts/top-40-238/january-4-2025/> [<https://web.archive.org/web/20250115203140/https://power1051.iheart.com/charts/top-40-238/january-4-2025/>]; *TOP 40 - November 16, 2024*, Power 105.1 (Nov. 16, 2024), <https://power1051.iheart.com/charts/top-40-238/november-16-2024/> [<https://perma.cc/6Y4W-Y3L2>].

<sup>273</sup> Ethan Millman, *What’s the Song of the Summer? Let’s Do the Math*, *Rolling Stone* (July 28, 2024), <https://www.rollingstone.com/music/music-lists/song-of-the-summer-1235061379/charli-xcx-360-1235063506/> [<https://perma.cc/79AH-KT63>] (emphasis added).

<sup>274</sup> *The 100 Best Songs of the 2020s So Far*, *Pitchfork* (Sept. 30, 2024), <https://pitchfork.com/features/lists-and-guides/the-100-best-songs-of-the-2020s-so-far/> [<https://web.archive.org/web/20250111164915/https://pitchfork.com/features/lists-and-guides/the-100-best-songs-of-the-2020s-so-far/>].

198. In the week following the Super Bowl Performance, the Recording again reached number one on Billboard’s top 100.<sup>275</sup> And in the hours after the Super Bowl Performance, the Recording’s streams increased by 430% on Spotify.<sup>276</sup>

199. The Defamatory Material has become ubiquitous—not just in the rap community, but in the community at large. **The Defamatory Material has been heard and/or viewed over 9 billion times.**

200. As just a few examples of the content’s broad reach, Joe Rogan discussed the Recording and allegations against Drake on his hugely popular podcast “The Joe Rogan Experience”<sup>277</sup> (with 14.5 million followers on Spotify alone as of March 2024)<sup>278</sup> as did NPR’s podcast “Pop Culture Happy Hour.”<sup>279</sup>

201. With every play, stream, listen, view, and mention, UMG has profited.

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<sup>275</sup> Ethan Millman, *Kendrick Lamar’s ‘Not Like Us’ Tops The Charts After Super Bowl Performance*, Rolling Stone (Feb. 18, 2025), <https://www.rollingstone.com/music/music-news/kendrick-lamars-not-like-us-tops-billboard-chart-after-super-bowl-performance-1235265765/> [<https://web.archive.org/web/20250221023148/https://www.rollingstone.com/music/music-news/kendrick-lamars-not-like-us-tops-billboard-chart-after-super-bowl-performance-1235265765/>].

<sup>276</sup> Jem Aswad, *Kendrick Lamar’s Streams for ‘Not Like Us’ Soar 430% on Spotify After Super Bowl Halftime Show*, Variety (Feb. 10, 2025, 7:51 AM), <https://variety.com/2025/digital/news/kendrick-lamar-not-like-us-streams-soar-spotify-super-bowl-halftime-1236302565/> [<https://web.archive.org/web/20250320122123/https://variety.com/2025/digital/news/kendrick-lamar-not-like-us-streams-soar-spotify-super-bowl-halftime-1236302565/>].

<sup>277</sup> #2146 – Deric Poston, *The Joe Rogan Experience*, Spotify (May 7, 2024), <https://open.spotify.com/episode/6grygvRaF8UnhlXXpIdxPf> [<https://perma.cc/G2QV-CZ4B>].

<sup>278</sup> Ashley Carman, *Spotify Reveals Joe Rogan’s Podcast Numbers*, Bloomberg (Mar. 21, 2024), <https://www.bloomberg.com/news/newsletters/2024-03-21/spotify-reveals-podcast-numbers-for-joe-rogan-alex-cooper-travis-kelce> [<https://perma.cc/F9P2-SSE6>].

<sup>279</sup> Pop Culture Happy Hour, *We process the explosive Drake-Kendrick beef*, NPR (May 9, 2024), <https://www.npr.org/transcripts/1197964460> [<https://perma.cc/JK9R-RGED>].



202. Of all the songs published during the rap beef, the Recording is the only one that “broke through the noise” and achieved cultural ubiquity.<sup>280</sup>

**UMG PROMOTED THE DEFAMATORY MATERIAL WITH KNOWLEDGE OF OR RECKLESS DISREGARD FOR ITS FALSITY AND KNOWLEDGE THAT IT WAS REASONABLY FORESEEABLE TO CAUSE DRAKE HARM**

203. Just as UMG knew that the allegations in the Defamatory Material were false at the time it first published the Recording, Image, and Video, *see supra* ¶¶ 120–26, UMG knew the allegations were false throughout its months-long campaign to promote the material, which continues through the date of this Complaint. UMG also promoted the Defamatory Material with full knowledge that Drake had already suffered significant harm and that additional harm to Drake was reasonably foreseeable.

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<sup>280</sup> See Drake, Push Ups (Apr. 19, 2024), Spotify, <https://open.spotify.com/track/3eh51r6rFWAlGQRIHx9QnQ> [<https://perma.cc/N25J-RXH3>] (listing over 191 million streams); Drake (@DrakeOfficial), Push Ups, YouTube (Apr. 19, 2024), <https://www.youtube.com/watch?v=HKH9p19PRLA> [<https://perma.cc/4MRV-P53H>] (over 27 million views); Kendrick Lamar, Euphoria (Interscope Records, Apr. 30, 2024), Spotify, <https://open.spotify.com/track/77DRzu7ERs0TX3roZcre7Q> [<https://perma.cc/GR8Q-C2NS>] (listing over 373 million streams); Kendrick Lamar (@kendricklamar), *Kendrick Lamar – euphoria*, YouTube (Apr. 30, 2024), <https://www.youtube.com/watch?v=NPqDIwWMtxg> [<https://perma.cc/S94F-BADK>] (over 73 million views); Drake, Family Matters (May 3, 2024), Spotify, <https://open.spotify.com/track/1wFFFzJ5EsKbBWZriAcubN> [<https://perma.cc/QEB9-W2C2>] (listing over 148 million streams); Drake (@DrakeOfficial), *DRAKE – FAMILY MATTERS*, YouTube (May 3, 2024), <https://www.youtube.com/watch?v=ZkXG3ZrXlbc> [<https://perma.cc/5ASR-LYNQ>] (over 45 million views); Kendrick Lamar, meet the grahams (Interscope Records, May 3, 2024), Spotify, <https://open.spotify.com/track/4S8PxReB1UiDR2F5x1lyIR> [<https://perma.cc/2Y95-KBTX>] (listing over 150 million streams); Kendrick Lamar (@kendricklamar), meet the grahams, YouTube (May 3, 2024), <https://www.youtube.com/watch?v=2QiF19Dc7D0> [<https://perma.cc/8C89-GC7J>] (over 46 million views); Drake (@DrakeOfficial), *THE HEART PART 6 – DRAKE*, YouTube (May 5, 2024), <https://www.youtube.com/watch?v=HJeY-FXidDQ> [<https://perma.cc/K6P7-6YS5>] (listing 25 million views). Stream and view count as of the date of this filing.

204. UMG's relentless promotional campaign is more egregious in light of the fact that Drake has specifically informed UMG, repeatedly, of the falsity of the allegations and the harm he is suffering as a result.

205. On July 24, 2024, Drake (via counsel) sent a letter to Universal Music's General Counsel and Head of Litigation about the Recording, which explained that the Defamatory Material "falsely accused" Drake "of engaging in criminal acts, including sex trafficking, pedophilia, and/or other acts that would require registering as a sex offender." The letter made clear that UMG's actions were causing Drake concrete and substantial harm and specifically referenced the armed attack on Drake's Toronto house on May 7, 2024. The letter demanded UMG preserve its records in the event litigation was necessary, and cautioned that "UMG's involvement in perpetuating a false, inflammatory, and dangerous conspiracy theory about one of its own artists is shocking, and tortious under a variety of laws of both Canada and the United States."

206. Following a telephone call between counsel for the parties on July 31, 2024, UMG sent a letter to Drake's representatives, in which UMG represented that it understood its preservation obligations and warned that it "would be improvident" of Drake "to pursue these claims against UMG."

207. On August 1, 2024, Drake sent UMG another letter again emphasizing the harm to Drake, as well as his businesses, that UMG was causing by continuing to promote the Defamatory Material. The letter demanded UMG issue a retraction and accept its responsibility in promoting and marketing the Defamatory Material.

208. UMG's actions did not change. After receiving two notices from Drake about the falsity of the allegations and a description of the severe harm he suffered as a result, UMG took



no steps to address the matter. To the contrary, UMG continued to promote and license the Defamatory Material, including through numerous social media posts boasting of the Recording's success, and negotiating and paying for the Recording to be nominated at the 2025 Grammys and played at the Super Bowl.<sup>281</sup>

209. Throughout the summer and fall, Drake attempted to resolve these claims privately with UMG without resorting to litigation. UMG's own Code of Conduct required corrective action on UMG's part—that code states that UMG is “committed to a nonviolent workplace,” and that “[h]arassment can take different forms, such as . . . speech that is threatening or abusive.”<sup>282</sup> In its workplace, UMG prioritizes “[a]voiding abusive conduct, including verbal abuse and physical conduct that another person would find threatening or humiliating.”<sup>283</sup> In his introductory comments to that Code of Conduct, Sir Grainge observes that integrity “means behaving honorably and with honesty. It means setting the right tone—in all that we do. We are accountable for the decisions we make and how we conduct ourselves.”<sup>284</sup> Drake expected that UMG would live by its own principles in responding to the abusive conduct, threats, and violence he had experienced.

210. Yet, after weeks of delay, UMG declined to do *anything* to assist Drake, including even going so far as refusing to agree to mediate with Drake. UMG instead insisted that it bore no responsibility for the harm Drake had suffered, and represented that if Drake sued UMG, UMG would respond by bringing claims against Kendrick Lamar, and intimated that Drake would face public ridicule for the perception that he had sued another rapper.

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<sup>281</sup> See *supra* ¶¶ 129–47, 164–69.

<sup>282</sup> Universal Music Group, *Our Code of Conduct*, *supra* note 17, at 10–11.

<sup>283</sup> *Id.*

<sup>284</sup> *Id.* at 2.

211. At no point during any of these discussions did UMG ever suggest that it believed the allegations against Drake to be truthful or accurate.

212. As of the date of this filing, UMG continues to promote and license the Defamatory Material notwithstanding its plain knowledge of both the falsity and concrete harm to Drake. As of the date of this filing, UMG has not retracted any of the Defamatory Material or issued any statements disclaiming the veracity of the Defamatory Material or apologizing to Drake for the harm it has caused.

213. UMG's actions were motivated, at least in part, by UMG's desire to best position itself in negotiations with Kendrick Lamar in 2024 and Drake in 2025. With respect to Lamar, on information and belief, UMG was incentivized to prove that it could maximize Lamar's sales—by any means necessary—after only being able to get him to sign a short-term exclusive contract. UMG wanted Lamar to see its value on an expedited timeframe in order to convince Lamar to re-sign exclusively and for a longer period of time. As to Drake, in 2024, his contract was nearing fulfillment. On information and belief, UMG anticipated that extending Drake's contract would come at a high cost to UMG; as such, it was incentivized to devalue Drake's music and brand in order to gain leverage in negotiations for an extension.

214. UMG's actions were also motivated by its executive incentive structure, which rewards Interscope executives, like Mr. Janick, for surpassing their division's annual projections, even if that success has a detrimental effect on an artist from another division, like Drake from Republic, and/or UMG overall.

215. On information and belief, Mr. Janick further was motivated to surpass Interscope's 2024 annual goals at the expense of Republic and Drake to position himself to be named as Sir Grainge's successor, a position for which Mr. Monte Lipman of Republic is also being considered.

**UMG CAUSED DRAKE SUBSTANTIAL HARM BY PUBLISHING AND  
PROMOTING THE DEFAMATORY MATERIAL**

216. UMG published or took part in publishing statements that assert or imply that Drake is a sex offender, pedophile, and sex trafficker, and engages in other sexual criminal acts that would require him to register as a sex offender. These claims are false and constitute defamation *per se*.

217. UMG's publications have caused Drake reputational, financial, physical, and emotional harm, and all of these harms were reasonably foreseeable.

218. The Economist and YouGov polled Americans about their views of Drake in August 2023 and in May 2024, shortly after the release of the Recording and Image. Drake's favorability rating dropped by 11% while his unfavorability rating rose 13%.<sup>285</sup>

219. As a public figure, Drake's reputation is paramount to his career and is directly related to his financial success. UMG's purposeful spread of the Defamatory Material unquestionably caused Drake reputational harm. Because of UMG's defamation, millions of people all over the world now associate Drake with pedophilia and sexual violence against children:

- "Every time I think of Aubrey now I just sing [']certified lover boy certified pdfil['] in my head,"<sup>286</sup>

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<sup>285</sup> David Montgomery, *Polls show Drake is losing his feud with Kendrick Lamar*, YouGov (May 16, 2024), <https://today.yougov.com/politics/articles/49451-polls-show-drake-is-losing-his-feud-with-kendrick-lamar> [<https://perma.cc/3D4A-3KG7>].

<sup>286</sup> User @deelaw, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (July 6, 2024), [https://www.youtube.com/watch?v=H58vbez\\_m4E&lc=UgysYam8wQR1iF1OOud4AaABAg](https://www.youtube.com/watch?v=H58vbez_m4E&lc=UgysYam8wQR1iF1OOud4AaABAg) [<https://perma.cc/FJL2-HUF4>].

- “Drake may or may not recover from this, but either way **shit’s never gonna be the same for him after this song**. He can’t escape from it, creepy pedo ass;”<sup>287</sup>
- “Dont think his rap career is dead, but enough questions have been asked so **there should be notable impact on his career . . .**;”<sup>288</sup>
- “What am I suppose to tell my kids when they ask me if these allegations are true? They did not even know Kendrick music well but identified a feeling in [K]endricks music that resonated with there truth. **These words are scathing to any listener. I got some decision’s to make after this because I can’t play drake in my car with this narrative floating around.** Dangerous;”<sup>289</sup>
- “I don’t wanna be that guy but I never took Drake seriously, he’s Canadian, he was in Degrassi that stuff makes it hard for me to take him seriously. I thought that’s why Kendrick went after him. Now that it’s more serious than just Drake being fake, **I’m like wow if I knew all this I’d hate Drake too.** This is check mate for Drake because how exactly do you respond to someone calling you a sociopath, a deadbeat and a pedo? **As for KL I just wanna know how he found out some of these things** and what took so long to call Drake out;”<sup>290</sup>
- “This whole thing is beyond brutal at this point. Kendrick must truly fucking hate Drake for some reason. **Makes me inevitably think there might be real merit to the pedophile claims. Sorry Drake, Kendrick is literally making**

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<sup>287</sup> User @johnnyrivras2619, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (July 5, 2024), [https://www.youtube.com/watch?v=H58vbez\\_m4E&lc=UgxAJNNJvj14aiD560B4AaABAg](https://www.youtube.com/watch?v=H58vbez_m4E&lc=UgxAJNNJvj14aiD560B4AaABAg) [<https://perma.cc/5XSN-KVfq>] (emphasis added).

<sup>288</sup> User @bg1251, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (July 6, 2024), [https://www.youtube.com/watch?v=H58vbez\\_m4E&lc=UgyC98eu0JPMQKG\\_dqN4AaABAg.A5VBBvesZLGA5XRyIMTpit](https://www.youtube.com/watch?v=H58vbez_m4E&lc=UgyC98eu0JPMQKG_dqN4AaABAg.A5VBBvesZLGA5XRyIMTpit) [<https://perma.cc/V2AQ-QT3P>] (emphasis added).

<sup>289</sup> User @Mesquite103, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 8, 2024), <https://www.youtube.com/watch?v=T6eK-2OQtew&lc=Ugx4tw7pScwTmxZRJgJ4AaABAg> [<https://perma.cc/9S4Q-RYNE>] (emphasis added).

<sup>290</sup> User @miguelzurita3216, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (May 8, 2024), [https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgzepMW\\_ZmA-jpOZ4lp4AaABAg.A39Umhbxa2hA39oO8zdpS7](https://www.youtube.com/watch?v=T6eK-2OQtew&lc=UgzepMW_ZmA-jpOZ4lp4AaABAg.A39Umhbxa2hA39oO8zdpS7) [<https://perma.cc/X89T-2XU6>] (emphasis added).

**me think it.** Jesus christ, talk about winning a rap beef [laughing emojis];”<sup>291</sup> and

- “Drake’s Funeral has lasted since March 2024, this the longest CELEBRATION EVER! [fire, eye, and mouth emojis] His fans will STILL DEFEND A PDF.[fire, laughing, and thumbs up emojis].”<sup>292</sup>

220. And because Drake’s reputation is closely related to that of the companies he owns, the reputation of Drake’s brand OVO has also been harmed. For example, when a collaboration with Disney was announced in February 2025, Instagram users commented: “Disney collab [skull emoji] yes little kids Aubrey is coming for you,” “Pdf Aubrey looking for new ways to reach the children,” and “child actor turned child lover.”<sup>293</sup>

221. This reputational harm caused Drake financial harm in an amount to be proven at trial. UMG knew or should have known that the statements it published about Drake would cause substantial harm as the statements are inflammatory, wrongfully impute criminal activity to him, and damage Drake in his trade. The Defamatory Material has so severely damaged Drake’s standing in his trade and community that undoing the reputational harm caused would require a massive, and expensive, corrective campaign. It is not just the fact that the false allegations have spread to millions around the globe, it is also the intensity with which people believe the allegations

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<sup>291</sup> User @11cockrellm, Comment, Kendrick Lamar (@kendricklamar), *Kendrick Lamar – Not Like Us*, YouTube (July 7, 2024), [https://www.youtube.com/watch?v=H58vbez\\_m4E&lc=UgxluAXkpmfSycCn6wV4AaABAg.A5XwaGEIEB0A5\\_wDJFEk8J](https://www.youtube.com/watch?v=H58vbez_m4E&lc=UgxluAXkpmfSycCn6wV4AaABAg.A5XwaGEIEB0A5_wDJFEk8J) [<https://perma.cc/VUT8-5875>] (emphasis added).

<sup>292</sup> User @ MariaHeredia-dw4id, Comment, NFL (@NFL), *Kendrick Lamar’s Apple Music Super Bowl Halftime Show*, YouTube (Feb. 10, 2025), <https://www.youtube.com/watch?v=KDorKy-13ak&lc=Ugwi7fkuw2Yg-WPQzQ94AaABAg> [<https://perma.cc/V4C7-FWSK>].

<sup>293</sup> October's Very Own (@octobersveryown), Instagram (Feb. 7, 2025), <https://www.instagram.com/p/DFxp-lyJMNQ/> [<https://perma.cc/RTA9-3LBR>] (comments from @whatslorenzodoin and @brooke\_\_725 preserved offline).

as evidenced by the events of May 7, 2024, and pervasive online commentary. Changing people's minds, particularly about deeply held beliefs, takes repeated messaging from trusted sources.

222. UMG knows and understands just how destructive false allegations of participating in criminal sex acts against minors can be. When UMG and Sir Grainge were accused of aiding and abetting P. Diddy's criminal sex acts in 2024, they moved to dismiss the complaint and called the accusations "offensively false allegations of criminal behavior" that would be "libelous *per se*" if not contained within a legal filing<sup>294</sup> and "knowingly and maliciously false and defamatory."<sup>295</sup>

223. In Sir Grainge's words, "a single lie can destroy a reputation of integrity and that while it takes years to build a reputation, it can be ruined in five minutes."<sup>296</sup>

224. UMG's conduct has also caused Drake physical and emotional harm, including alarm and annoyance. UMG's publication was the proximate cause of the violence against Drake in early May 2024 and the deluge of online hatred and threats. Following the physical violence in May 2024, Drake made lasting changes to his life, including increasing security for himself and his family anywhere they go. The threat of violence continues to weigh on Drake. With respect to his family, Drake temporarily took his son out of school and away from the Toronto area (along with Drake's mother) for security concerns. And to this day Drake experiences anxiety worrying about the physical safety of his seven-year-old son and mother.

225. The online harassment and repetition of the allegations have endured, and have been revitalized by UMG's persistent efforts to promote the Defamatory Material, including at the Grammys and Super Bowl. The overwhelming public commentary repeating the allegations

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<sup>294</sup> Declaration of Donald S. Zakarin, *supra* note 11, at ¶ 3.

<sup>295</sup> Declaration of Sir Lucian Grainge, *supra* note 13, at ¶ 24.

<sup>296</sup> *Id.*

against Drake, calling for intervention by the FBI and law enforcement, and spewing racist and hateful messages have caused Drake emotional distress, including in the forms of alarm and annoyance.

226. While UMG's initial publications and promotions of the Defamatory Material may have been motivated by legitimate business purposes, UMG ceased being legitimately motivated. UMG's actions had no legitimate purpose at least as of August 1, 2024, because all publications and promotions after that date were made following Drake's informing UMG about the harm the Defamatory Material was causing him and retraction demand.

**UMG DECEIVED THE PUBLIC AND CAUSED DRAKE HARM**

227. UMG's deceptive business practices, including providing undisclosed financial benefits to third parties to promote the Defamatory Material, were consumer oriented, deceived the public, and caused Drake financial harm.

228. As described above, UMG directly or indirectly through its agents and making use of UMG resources, conspired with, paid, or caused payments to be made to unknown third parties, including to use bots to stream the Recording. UMG then knowingly promoted the success of the Defamatory Material, and used that success to leverage more sales and deals. UMG never disclosed these payments to consumers.

229. These covert tactics caused Drake harm as both an artist and a music consumer. Stream manipulation, like UMG's purchase of fake streams on Spotify and other platforms, harms the artists, like Drake, who collect royalties through legitimate streams because when there is "a sharp increase in the number of streams recorded on a platform, without a proportional increase in the number of paying subscribers," there is a "drop in the unit value of a stream and therefore a

drop in the amount of royalties paid to rights-holders.”<sup>297</sup> Additionally, streaming platforms, like Spotify, use streaming data to proportionally allocate and disperse payments, which means streaming fraud diverts funds from artists whose songs are legitimately streamed by real consumers to those who use automation to falsely create the appearance of legitimate streaming.<sup>298</sup> Drake was also harmed as a music consumer. UMG’s covert promotional tactics and promotion of the success of the Defamatory Material based on those tactics deceived all consumers of music, including Drake.

**FIRST CLAIM**  
**(Defamation/Defamation *Per Se*)**

230. Plaintiff incorporates and re-alleges all preceding paragraphs as if fully set forth herein.

231. Plaintiff is a public figure.

232. UMG published, caused the publication of, participated in the publication of, and/or reasonably could have foreseen that its actions would result in the publication of a series of false and defamatory statements of fact about Plaintiff, including by and through its agents, making the statements itself, and republishing the statements on its websites and social media accounts, as detailed extensively above. As a reasonably foreseeable—and intended—result of Defendant’s statements and actions, others repeated and amplified these false and defamatory statements.

233. UMG intentionally made false implications through the false statements. The defamatory meanings of Defendant’s false and implied statements of fact are apparent from the face of the publications, refer to Drake by name, often are accompanied by images of symbols,

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<sup>297</sup> *Stream Manipulation*, *supra* note 228, at 12.

<sup>298</sup> *See* Burton, *supra* note 239, at 390-92.



items, places, and other depictions known to be associated with Drake, and/or are reasonably understood to be about him.

234. The statements UMG published about Drake are reasonably understood to state or imply that he:

- a. has a history of engaging in and continues to engage in pedophilia and sexual relations with minors;
- b. engages in other sexual criminal acts, including sex trafficking;
- c. is a sex offender or engages in acts that would require him to be registered as a sex offender; and
- d. harbors in his home individuals who are sex offenders or engage in acts that would require them to be registered as sex offenders.

235. These statements and implications are false and defamatory *per se* in that they impute criminal activity punishable by law and damage Drake in his trade, office, or profession.

236. People all over the world believed the statements and implications to be statements of fact. UMG knew when it initially published the Recording that listeners would understand the Defamatory Material to convey the accusation that Drake is a pedophile; and, following initial publication of the Recording, UMG learned of the events at Drake's Toronto house, as well as the widespread hatred and vitriol inspired against Drake as a result of the Defamatory Material, all of which stem from the misperception that the accusations in the Recording and Video are true.

237. UMG published these false statements with actual malice, i.e., with knowledge of their falsity or with reckless disregard as to their truth. UMG knew or should have known that the defamatory statements—all of which are verifiable—were and are false. UMG failed to assess or investigate the falsity of the defamatory statements despite inherent improbability and obvious reasons to doubt the veracity of the statements. Drake also made a public statement about their falsity and repeatedly informed UMG of the same privately.

238. UMG had no basis on which to believe that the allegations were true, and indeed knew them to be false given UMG's longstanding contractual relationship with Drake, and continued to publish the allegations after learning Drake had disavowed the statements. Indeed, UMG continued to promote and publish the Defamatory Material after receiving a retraction demand from Drake, including making efforts to disseminate the Defamatory Material to new audiences of millions of people, such as UMG's promotional campaigns in advance of the 2025 Grammy Awards and Super Bowl Performance. To this day, UMG does not claim that any of the allegations are true.

239. UMG published the allegations, including by its publication of the misleading Image and other conduct described herein, in a manner to create false inferences.

240. UMG had financial motives for promoting the Defamatory Material.

241. UMG endorsed and adopted the false allegations as its own, publishing and republishing, or causing to publish and republish, the false allegations for months with full knowledge of their falsity or reckless disregard for their truth.

242. UMG had no applicable privilege or legal authorization to make these false and defamatory statements.

243. UMG published these statements so that they were heard, viewed, or read billions of times around the world.

244. UMG's statements damaged Drake's reputation in the general public, in his profession, in his personal life, in his neighborhood, and with friends, relatives, and neighbors.

245. As a direct and proximate result of Defendant's conduct, Drake has suffered significant general, actual, consequential, and special damages including, without limitation, impairment of reputation and standing in the community and in his profession, personal

humiliation, mental anguish and suffering, emotional distress, stress, anxiety, lost earnings, and other pecuniary loss.

246. UMG was aware of the ongoing harm Drake was experiencing, including because of news reports of the armed attack on his Toronto residence and Drake's private communications with UMG. UMG made repeated decisions to republish the Defamatory Material to new audiences around the world after learning of the harm Drake had suffered and receiving a retraction demand from him.

**SECOND CLAIM**  
**(Harassment in the Second Degree)**

247. Plaintiff incorporates and re-alleges all preceding paragraphs as if fully set forth herein.

248. UMG engaged in a course of conduct and repeatedly committed acts which alarm and seriously annoy Plaintiff. UMG published, promoted, and profited from a coordinated campaign to smear, threaten, and discredit Plaintiff despite Plaintiff's protests. Further, UMG has placed Plaintiff in reasonable fear of physical harm. UMG published explicit threats and calls for violence against Drake.

249. The Defamatory Material individually and collectively provide a call to target Drake, including through violence. UMG has continued a course of conduct to promote these publications online and on radio airwaves and through public events and further licensing of the Recording. UMG has done so despite being a major business partner of Drake, having knowledge of physical violence and threats at Drake's home and online threats, and being aware of Drake's public and private denials of the statements.

250. UMG's course of conduct in publishing specific and unequivocal threats of violence has placed Plaintiff in reasonable fear of physical harm. Plaintiff's security guard was

taken to the hospital with serious injuries after a shooting that immediately followed the initial publication of the Recording. Even after learning about this incident, UMG continued to promote and publish the Recording and Video to new audiences around the world.

251. While its initial motive was financial, UMG lost any legitimate purpose to continue its course of conduct in the face of Drake’s public and private denials, and the reaction of the public to the Defamatory Material. At the very latest, UMG lost any legitimate purpose to continue promoting and disseminating the Defamatory Material to new audiences once it had received a retraction demand from Drake, which communicated to UMG the substantial harm that had been caused to Drake, his businesses, and his family as a result of UMG’s conduct.

252. As a direct and proximate result of Defendant’s conduct, Drake has suffered significant general, actual, consequential, and special damages including, without limitation, mental anguish and suffering, emotional distress, stress, anxiety, and costs related to his increased security.

**THIRD CLAIM**  
**(Violation of the New York General Business Law § 349)**

253. Plaintiff incorporates and re-alleges all preceding paragraphs as if fully set forth herein.

254. Plaintiff is “person” within the meaning of N.Y. Gen. Bus. Law § 349(h).

255. Defendant is a “person, firm, corporation, or association” within the meaning of N.Y. Gen. Bus. Law § 349(b).

256. Defendant engaged in deceptive acts and practices in the conduct of business, trade, and commerce by covertly financially incentivizing third parties—including music platforms and social media influencers—to play, stream, and promote the Recording. And after providing those

covert benefits, which were never disclosed to consumers, UMG then publicly made materially false and misleading representations about the Recording's popularity to consumers.

257. On information and belief, UMG directly or indirectly through its agents and making use of UMG resources, conspired with, paid, or caused payments to be made to unknown third parties to use bots to stream the Recording. UMG then touted the Recording's number of streams on Spotify while knowing that millions of those streams were false and fraudulent.

258. UMG also paid at least one radio promoter to engage in pay-for-play of the Recording on New York radio stations. UMG then marketed the Recording as being at the top of the radio charts despite knowing that it had paid third parties, including radio stations, to play and promote the Recording.

259. These deceptive acts and practices were intended to inflate the public's perception of the Recording's popularity and success. And a reasonable consumer of music would be materially misled by these deceptive acts and practices.

260. These deceptive acts and practices were consumer-oriented because they were directed and disseminated to the general music-consuming public and marketplace and had a broad impact on music consumers at large.

261. These alleged deceptive acts and practices occurred (at least in part) in the state of New York.

262. Plaintiff was injured as a direct and proximate result of Defendant's deceptive acts and practices on streaming platforms because each time the Recording was artificially streamed, Drake's songs received a disproportionate share from the pool of royalties collected based on the streaming data.

263. Plaintiff was separately injured as a direct and proximate result of Defendant's deceptive acts and practices in the radio industry because every time the Recording was played, Drake lost the opportunity for one of his songs to be played.

264. By reason of the foregoing, UMG's conduct, as alleged herein, constitutes deceptive acts and practices in violation of Section 349 of the New York General Business Law, and UMG is liable to Plaintiff for the actual damages that he has suffered as a result of Defendant's actions, the amount of such damages to be determined at trial, plus treble damages, and attorneys' fees and costs.

265. Plaintiff further demands injunctive relief enjoining Defendant from continuing to engage in, use, or employ any act, including false statements of the Recording's success or other representations, prohibited by Section 349 of the New York General Business Law.

#### **PRAYER FOR RELIEF**

266. WHEREFORE, Plaintiff prays for judgment against UMG for each of the causes of action raised herein. Plaintiff respectfully requests a judgment in his favor against UMG for:

- a. Nominal damages;
- b. Compensatory damages, including general, actual, consequential, and special damages, in an amount to be determined at trial;
- c. Punitive damages;
- d. Reasonable and necessary attorneys' fees;
- e. Reasonable and necessary costs of the suit;
- f. Prejudgment and post-judgment interest at the highest lawful rates;
- g. Declaratory relief stating that the statements published and promoted by UMG and those attributable to UMG as reasonably foreseeable republications identified within this Complaint, individually and collectively, were and are false;

- h. Injunctive relief enjoining UMG from making statements about the popularity of the Recording, Image, or Video that it knows to be false based on fake streams or pay-for-play; and
- i. Such other and further relief as this Court deems just and appropriate.

Dated: April 16, 2025

Respectfully Submitted,

By: /s/ Michael J. Gottlieb

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# **EXHIBIT B**



|    | URL   | Perma Link  | Views as of<br>04/16/2025 |
|----|---|---|---------------------------|
| 1  | <a href="https://www.tiktok.com/@boomshadowace/video/7418945847225781522">https://www.tiktok.com/@boomshadowace/video/7418945847225781522</a>         | <a href="https://perma.cc/MLR4-74KD">https://perma.cc/MLR4-74KD</a> | 137,700,000               |
| 2  | <a href="https://www.tiktok.com/@nfl/video/7469607703065791790">https://www.tiktok.com/@nfl/video/7469607703065791790</a>                             | <a href="https://perma.cc/RV58-BY67">https://perma.cc/RV58-BY67</a> | 102,600,000               |
| 3  | <a href="https://www.tiktok.com/@zayaan4/video/7469726801934191877">https://www.tiktok.com/@zayaan4/video/7469726801934191877</a>                     | <a href="https://perma.cc/NM3U-GKU8">https://perma.cc/NM3U-GKU8</a> | 77,000,000                |
| 4  | <a href="https://www.tiktok.com/@cloutynaz/video/7469601250192084270">https://www.tiktok.com/@cloutynaz/video/7469601250192084270</a>                 | <a href="https://perma.cc/956R-ALMU">https://perma.cc/956R-ALMU</a> | 58,200,000                |
| 5  | <a href="https://www.tiktok.com/@duh.itzz.vivienne/video/7365171805172157742">https://www.tiktok.com/@duh.itzz.vivienne/video/7365171805172157742</a> | <a href="https://perma.cc/Y6KG-ZHJJ">https://perma.cc/Y6KG-ZHJJ</a> | 50,500,000                |
| 6  | <a href="https://www.tiktok.com/@austinpepito/video/7365925378239548714">https://www.tiktok.com/@austinpepito/video/7365925378239548714</a>           | <a href="https://perma.cc/X3LB-TAJE">https://perma.cc/X3LB-TAJE</a> | 48,200,000                |
| 7  | <a href="https://www.tiktok.com/@enhypen/video/7374792955237895425">https://www.tiktok.com/@enhypen/video/7374792955237895425</a>                     | <a href="https://perma.cc/5CSE-69W7">https://perma.cc/5CSE-69W7</a> | 39,800,000                |
| 8  | <a href="https://www.tiktok.com/@coolitd/video/7397567717433183534">https://www.tiktok.com/@coolitd/video/7397567717433183534</a>                     | <a href="https://perma.cc/R49M-VWM5">https://perma.cc/R49M-VWM5</a> | 34,800,000                |
| 9  | <a href="https://www.tiktok.com/@nfl/video/7469609810779032874">https://www.tiktok.com/@nfl/video/7469609810779032874</a>                             | <a href="https://perma.cc/P623-2P9X">https://perma.cc/P623-2P9X</a> | 34,200,000                |
| 10 | <a href="https://www.tiktok.com/@chillestcat/video/7366226777183718657">https://www.tiktok.com/@chillestcat/video/7366226777183718657</a>             | <a href="https://perma.cc/5H3G-UYHR">https://perma.cc/5H3G-UYHR</a> | 34,100,000                |
| 11 | <a href="https://www.tiktok.com/@o.nardis/video/7469781721509088518">https://www.tiktok.com/@o.nardis/video/7469781721509088518</a>                   | <a href="https://perma.cc/5QHH-E6WL">https://perma.cc/5QHH-E6WL</a> | 33,000,000                |
| 12 | <a href="https://www.tiktok.com/@king.science/video/7371177637173153067">https://www.tiktok.com/@king.science/video/7371177637173153067</a>           | <a href="https://perma.cc/QPQ4-FVWV">https://perma.cc/QPQ4-FVWV</a> | 28,200,000                |
| 13 | <a href="https://www.tiktok.com/@juicyyyyjayyy/video/7383515649672301870">https://www.tiktok.com/@juicyyyyjayyy/video/7383515649672301870</a>         | <a href="https://perma.cc/2N8L-YYYC">https://perma.cc/2N8L-YYYC</a> | 26,500,000                |
| 14 | <a href="https://www.tiktok.com/@ohh.heyv.its.navy/photo/7469628729375919403">https://www.tiktok.com/@ohh.heyv.its.navy/photo/7469628729375919403</a> | <a href="https://perma.cc/ZK56-HH6F">https://perma.cc/ZK56-HH6F</a> | 24,900,000                |
| 15 | <a href="https://www.tiktok.com/@musicmediaco/video/7467240780227251486">https://www.tiktok.com/@musicmediaco/video/7467240780227251486</a>           | <a href="https://perma.cc/B74N-3RGU">https://perma.cc/B74N-3RGU</a> | 24,100,000                |
| 16 | <a href="https://www.tiktok.com/@bamypb/video/7380050903681830176">https://www.tiktok.com/@bamypb/video/7380050903681830176</a>                       | <a href="https://perma.cc/U387-ZLFJ">https://perma.cc/U387-ZLFJ</a> | 23,700,000                |
| 17 | <a href="https://www.tiktok.com/@jaden.moseley/video/7469841358887406879">https://www.tiktok.com/@jaden.moseley/video/7469841358887406879</a>         | <a href="https://perma.cc/C7ZH-H7M6">https://perma.cc/C7ZH-H7M6</a> | 23,700,000                |
| 18 | <a href="https://www.tiktok.com/@vrewls/video/7366050865687432490">https://www.tiktok.com/@vrewls/video/7366050865687432490</a>                       | <a href="https://perma.cc/PU7M-D5ME">https://perma.cc/PU7M-D5ME</a> | 22,800,000                |
| 19 | <a href="https://www.tiktok.com/@lextakesthecity/video/7382678737453583658">https://www.tiktok.com/@lextakesthecity/video/7382678737453583658</a>     | <a href="https://perma.cc/B5YA-8FM5">https://perma.cc/B5YA-8FM5</a> | 22,700,000                |
| 20 | <a href="https://www.tiktok.com/@tesskrauser/video/7366332648572079402">https://www.tiktok.com/@tesskrauser/video/7366332648572079402</a>             | <a href="https://perma.cc/8US4-W6MV">https://perma.cc/8US4-W6MV</a> | 22,000,000                |
| 21 | <a href="https://www.tiktok.com/@redbulldance/video/7388262158737411361">https://www.tiktok.com/@redbulldance/video/7388262158737411361</a>           | <a href="https://perma.cc/N7JN-5RKV">https://perma.cc/N7JN-5RKV</a> | 21,500,000                |
| 22 | <a href="https://www.tiktok.com/@popsense_/photo/7365571333691854113">https://www.tiktok.com/@popsense_/photo/7365571333691854113</a>                 | <a href="https://perma.cc/87CE-DDNK">https://perma.cc/87CE-DDNK</a> | 21,200,000                |
| 23 | <a href="https://www.tiktok.com/@vrewls/video/7387949209397382442">https://www.tiktok.com/@vrewls/video/7387949209397382442</a>                       | <a href="https://perma.cc/3XGB-MGA4">https://perma.cc/3XGB-MGA4</a> | 21,100,000                |
| 24 | <a href="https://www.tiktok.com/@thelachibarton/video/7370520570070338859">https://www.tiktok.com/@thelachibarton/video/7370520570070338859</a>       | <a href="https://perma.cc/8DZS-F6XW">https://perma.cc/8DZS-F6XW</a> | 20,700,000                |
| 25 | <a href="https://www.tiktok.com/@newbunnis/video/7486799860977536302">https://www.tiktok.com/@newbunnis/video/7486799860977536302</a>                 | <a href="https://perma.cc/QYP8-QPTG">https://perma.cc/QYP8-QPTG</a> | 20,700,000                |
| 26 | <a href="https://www.tiktok.com/@yonlon0/video/7365339423778721070">https://www.tiktok.com/@yonlon0/video/7365339423778721070</a>                     | <a href="https://perma.cc/VNP4-KCFJ">https://perma.cc/VNP4-KCFJ</a> | 20,400,000                |

|    | URL   | Perma Link  | Views as of<br>04/16/2025 |
|----|---|---|---------------------------|
| 27 | <a href="https://www.tiktok.com/@fenew4/video/7472104519770344747">https://www.tiktok.com/@fenew4/video/7472104519770344747</a>                             | <a href="https://perma.cc/GF66-D3QQ">https://perma.cc/GF66-D3QQ</a> | 20,100,000                |
| 28 | <a href="https://www.tiktok.com/@reen.h1/photo/7468748984195108129">https://www.tiktok.com/@reen.h1/photo/7468748984195108129</a>                           | <a href="https://perma.cc/NM8U-T6LB">https://perma.cc/NM8U-T6LB</a> | 19,900,000                |
| 29 | <a href="https://www.tiktok.com/@ourtravelera/video/7382977858219560234">https://www.tiktok.com/@ourtravelera/video/7382977858219560234</a>                 | <a href="https://perma.cc/AWK6-L2KN">https://perma.cc/AWK6-L2KN</a> | 19,200,000                |
| 30 | <a href="https://www.tiktok.com/@kennabeann14/video/7369705504249007403">https://www.tiktok.com/@kennabeann14/video/7369705504249007403</a>                 | <a href="https://perma.cc/LJJ8-MELZ">https://perma.cc/LJJ8-MELZ</a> | 18,400,000                |
| 31 | <a href="https://www.tiktok.com/@lauren.jumps/video/7470934478513278230">https://www.tiktok.com/@lauren.jumps/video/7470934478513278230</a>                 | <a href="https://perma.cc/PKV6-4YNB">https://perma.cc/PKV6-4YNB</a> | 18,000,000                |
| 32 | <a href="https://www.tiktok.com/@keanulck/video/7382415013631266080">https://www.tiktok.com/@keanulck/video/7382415013631266080</a>                         | <a href="https://perma.cc/9XS6-YZTC">https://perma.cc/9XS6-YZTC</a> | 17,800,000                |
| 33 | <a href="https://www.tiktok.com/@msrkaybee/video/7469612408403774751">https://www.tiktok.com/@msrkaybee/video/7469612408403774751</a>                       | <a href="https://perma.cc/SP83-NX9W">https://perma.cc/SP83-NX9W</a> | 17,700,000                |
| 34 | <a href="https://www.tiktok.com/@the_hoodjabi_/video/7365981699236302110">https://www.tiktok.com/@the_hoodjabi_/video/7365981699236302110</a>               | <a href="https://perma.cc/EV2F-CXZF">https://perma.cc/EV2F-CXZF</a> | 17,500,000                |
| 35 | <a href="https://www.tiktok.com/@cooljake_48/video/7368221212465483051">https://www.tiktok.com/@cooljake_48/video/7368221212465483051</a>                   | <a href="https://perma.cc/S59T-8T9H">https://perma.cc/S59T-8T9H</a> | 16,100,000                |
| 36 | <a href="https://www.tiktok.com/@p0pularkeyy/video/7371510477932776750">https://www.tiktok.com/@p0pularkeyy/video/7371510477932776750</a>                   | <a href="https://perma.cc/56GD-EV9X">https://perma.cc/56GD-EV9X</a> | 16,000,000                |
| 37 | <a href="https://www.tiktok.com/@medicine_box/photo/7469646853957569838">https://www.tiktok.com/@medicine_box/photo/7469646853957569838</a>                 | <a href="https://perma.cc/92ZK-8JCU">https://perma.cc/92ZK-8JCU</a> | 16,000,000                |
| 38 | <a href="https://www.tiktok.com/@official_net/video/7376584288428494097">https://www.tiktok.com/@official_net/video/7376584288428494097</a>                 | <a href="https://perma.cc/5772-3KC8">https://perma.cc/5772-3KC8</a> | 15,800,000                |
| 39 | <a href="https://www.tiktok.com/@xhiejiiclr/video/7366240347309083910">https://www.tiktok.com/@xhiejiiclr/video/7366240347309083910</a>                     | <a href="https://perma.cc/R22G-2735">https://perma.cc/R22G-2735</a> | 15,400,000                |
| 40 | <a href="https://www.tiktok.com/@izzynokizzybackup/video/7387926500013526302">https://www.tiktok.com/@izzynokizzybackup/video/7387926500013526302</a>       | <a href="https://perma.cc/UJ4M-K6NB">https://perma.cc/UJ4M-K6NB</a> | 15,300,000                |
| 41 | <a href="https://www.tiktok.com/@njanequim/video/7367097791350443281">https://www.tiktok.com/@njanequim/video/7367097791350443281</a>                       | <a href="https://perma.cc/8H72-BW85">https://perma.cc/8H72-BW85</a> | 15,000,000                |
| 42 | <a href="https://www.tiktok.com/@reallyrics17/video/7383465102810336544">https://www.tiktok.com/@reallyrics17/video/7383465102810336544</a>                 | <a href="https://perma.cc/VWV5-AGKY">https://perma.cc/VWV5-AGKY</a> | 14,700,000                |
| 43 | <a href="https://www.tiktok.com/@flighthouse/video/7371518212598418719">https://www.tiktok.com/@flighthouse/video/7371518212598418719</a>                   | <a href="https://perma.cc/2QM9-7YBQ">https://perma.cc/2QM9-7YBQ</a> | 14,400,000                |
| 44 | <a href="https://www.tiktok.com/@bringjessthehorizonn/video/7469810916016672042">https://www.tiktok.com/@bringjessthehorizonn/video/7469810916016672042</a> | <a href="https://perma.cc/5WJD-RU8Q">https://perma.cc/5WJD-RU8Q</a> | 14,400,000                |
| 45 | <a href="https://www.tiktok.com/@thomashubener/video/7389268102564908321">https://www.tiktok.com/@thomashubener/video/7389268102564908321</a>               | <a href="https://perma.cc/L7XS-RH7A">https://perma.cc/L7XS-RH7A</a> | 14,200,000                |
| 46 | <a href="https://www.tiktok.com/@sad_i_e/video/7370575528404733189">https://www.tiktok.com/@sad_i_e/video/7370575528404733189</a>                           | <a href="https://perma.cc/7QE4-GZKP">https://perma.cc/7QE4-GZKP</a> | 14,100,000                |
| 47 | <a href="https://www.tiktok.com/@overtime/video/7386728839742786862">https://www.tiktok.com/@overtime/video/7386728839742786862</a>                         | <a href="https://perma.cc/NT4U-UMHE">https://perma.cc/NT4U-UMHE</a> | 13,700,000                |
| 48 | <a href="https://www.tiktok.com/@quesoalex777/video/7367813846532181294">https://www.tiktok.com/@quesoalex777/video/7367813846532181294</a>                 | <a href="https://perma.cc/B2YU-LKXX">https://perma.cc/B2YU-LKXX</a> | 13,100,000                |
| 49 | <a href="https://www.tiktok.com/@chelsie.dahl/video/7378001417073691950">https://www.tiktok.com/@chelsie.dahl/video/7378001417073691950</a>                 | <a href="https://perma.cc/FLN6-BZK5">https://perma.cc/FLN6-BZK5</a> | 12,300,000                |
| 50 | <a href="https://www.tiktok.com/@dogmamaforkamala/video/7397609730769734943">https://www.tiktok.com/@dogmamaforkamala/video/7397609730769734943</a>         | <a href="https://perma.cc/6T3V-TXY7">https://perma.cc/6T3V-TXY7</a> | 12,300,000                |
| 51 | <a href="https://www.tiktok.com/@noahjaywood/video/7470641622313684267">https://www.tiktok.com/@noahjaywood/video/7470641622313684267</a>                   | <a href="https://perma.cc/G3VK-QTGI">https://perma.cc/G3VK-QTGI</a> | 12,100,000                |
| 52 | <a href="https://www.tiktok.com/@thesensoryclub/video/7366781844051971374">https://www.tiktok.com/@thesensoryclub/video/7366781844051971374</a>             | <a href="https://perma.cc/WV8B-ADUM">https://perma.cc/WV8B-ADUM</a> | 11,900,000                |

|    | URL   | Perma Link  | Views as of<br>04/16/2025 |
|----|---|---|---------------------------|
| 53 | <a href="https://www.tiktok.com/@a5prod/video/7469642688745196846">https://www.tiktok.com/@a5prod/video/7469642688745196846</a>                                 | <a href="https://perma.cc/2QUV-V8YX">https://perma.cc/2QUV-V8YX</a> | 11,900,000                |
| 54 | <a href="https://www.tiktok.com/@chitownsarah/photo/7469636623165066527">https://www.tiktok.com/@chitownsarah/photo/7469636623165066527</a>                     | <a href="https://perma.cc/RX5X-FCR6">https://perma.cc/RX5X-FCR6</a> | 11,900,000                |
| 55 | <a href="https://www.tiktok.com/@tessapeay/video/7371583133050752298">https://www.tiktok.com/@tessapeay/video/7371583133050752298</a>                           | <a href="https://perma.cc/BH6M-9QP8">https://perma.cc/BH6M-9QP8</a> | 11,800,000                |
| 56 | <a href="https://www.tiktok.com/@cloutynaz/video/7382409704246398250">https://www.tiktok.com/@cloutynaz/video/7382409704246398250</a>                           | <a href="https://perma.cc/JR5D-RFY8">https://perma.cc/JR5D-RFY8</a> | 11,600,000                |
| 57 | <a href="https://www.tiktok.com/@fiscooemo/video/7366416429698010411">https://www.tiktok.com/@fiscooemo/video/7366416429698010411</a>                           | <a href="https://perma.cc/9V4S-QXAC">https://perma.cc/9V4S-QXAC</a> | 11,300,000                |
| 58 | <a href="https://www.tiktok.com/@hiphopplaylist/video/7398315713724812576">https://www.tiktok.com/@hiphopplaylist/video/7398315713724812576</a>                 | <a href="https://perma.cc/4SJD-PMVF">https://perma.cc/4SJD-PMVF</a> | 11,200,000                |
| 59 | <a href="https://www.tiktok.com/@lucki.lover123/video/7367216866386840874">https://www.tiktok.com/@lucki.lover123/video/7367216866386840874</a>                 | <a href="https://perma.cc/4LPH-4XSE">https://perma.cc/4LPH-4XSE</a> | 11,000,000                |
| 60 | <a href="https://www.tiktok.com/@alex.rubiks.team/video/7471707261086338326">https://www.tiktok.com/@alex.rubiks.team/video/7471707261086338326</a>             | <a href="https://perma.cc/KS2P-SUGK">https://perma.cc/KS2P-SUGK</a> | 10,900,000                |
| 61 | <a href="https://www.tiktok.com/@chepispuebla/video/7469686926874889477">https://www.tiktok.com/@chepispuebla/video/7469686926874889477</a>                     | <a href="https://perma.cc/A6NE-K5QY">https://perma.cc/A6NE-K5QY</a> | 10,700,000                |
| 62 | <a href="https://www.tiktok.com/@amauryguichon/video/7472419927987801390">https://www.tiktok.com/@amauryguichon/video/7472419927987801390</a>                   | <a href="https://perma.cc/EJ5V-MMAC">https://perma.cc/EJ5V-MMAC</a> | 10,500,000                |
| 63 | <a href="https://www.tiktok.com/@lyricalmedia/video/7387931931868171526">https://www.tiktok.com/@lyricalmedia/video/7387931931868171526</a>                     | <a href="https://perma.cc/6TCY-A6BA">https://perma.cc/6TCY-A6BA</a> | 10,100,000                |
| 64 | <a href="https://www.tiktok.com/@gl0balofficial/video/7382768710798331142">https://www.tiktok.com/@gl0balofficial/video/7382768710798331142</a>                 | <a href="https://perma.cc/L2HM-XTRG">https://perma.cc/L2HM-XTRG</a> | 9,700,000                 |
| 65 | <a href="https://www.tiktok.com/@milivineboutique/video/7473091260996226322">https://www.tiktok.com/@milivineboutique/video/7473091260996226322</a>             | <a href="https://perma.cc/D9JB-FXBX">https://perma.cc/D9JB-FXBX</a> | 9,600,000                 |
| 66 | <a href="https://www.tiktok.com/@ecolchi/video/7393321097346731295">https://www.tiktok.com/@ecolchi/video/7393321097346731295</a>                               | <a href="https://perma.cc/QP3B-8YJV">https://perma.cc/QP3B-8YJV</a> | 9,500,000                 |
| 67 | <a href="https://www.tiktok.com/@thenightoperators/video/7312635885441256710">https://www.tiktok.com/@thenightoperators/video/7312635885441256710</a>           | <a href="https://perma.cc/7JKJ-8WEF">https://perma.cc/7JKJ-8WEF</a> | 9,400,000                 |
| 68 | <a href="https://www.tiktok.com/@basiciggy/video/7367039771639680298">https://www.tiktok.com/@basiciggy/video/7367039771639680298</a>                           | <a href="https://perma.cc/A5Y8-7GF6">https://perma.cc/A5Y8-7GF6</a> | 8,700,000                 |
| 69 | <a href="https://www.tiktok.com/@ari.piercing/video/7369700252208647467">https://www.tiktok.com/@ari.piercing/video/7369700252208647467</a>                     | <a href="https://perma.cc/GM73-F2NV">https://perma.cc/GM73-F2NV</a> | 8,600,000                 |
| 70 | <a href="https://www.tiktok.com/@kid.kevv4/video/7469605542609128750">https://www.tiktok.com/@kid.kevv4/video/7469605542609128750</a>                           | <a href="https://perma.cc/S8JR-4FBT">https://perma.cc/S8JR-4FBT</a> | 8,500,000                 |
| 71 | <a href="https://www.tiktok.com/@hayley_smithh/photo/7470089848326475025">https://www.tiktok.com/@hayley_smithh/photo/7470089848326475025</a>                   | <a href="https://perma.cc/HHN4-CZTW">https://perma.cc/HHN4-CZTW</a> | 8,300,000                 |
| 72 | <a href="https://www.tiktok.com/@sundaykalogeras/video/7374509186811497734">https://www.tiktok.com/@sundaykalogeras/video/7374509186811497734</a>               | <a href="https://perma.cc/97W5-75MV">https://perma.cc/97W5-75MV</a> | 8,100,000                 |
| 73 | <a href="https://www.tiktok.com/@not.ur.average.haitian/video/7375744096637422891">https://www.tiktok.com/@not.ur.average.haitian/video/7375744096637422891</a> | <a href="https://perma.cc/XCK8-U9AV">https://perma.cc/XCK8-U9AV</a> | 8,000,000                 |
| 74 | <a href="https://www.tiktok.com/@84playlist/photo/7467054374137662737">https://www.tiktok.com/@84playlist/photo/7467054374137662737</a>                         | <a href="https://perma.cc/8ZFJ-H5R4">https://perma.cc/8ZFJ-H5R4</a> | 8,000,000                 |
| 75 | <a href="https://www.tiktok.com/@wallythebk/video/7396686630452612394">https://www.tiktok.com/@wallythebk/video/7396686630452612394</a>                         | <a href="https://perma.cc/66SS-YDW8">https://perma.cc/66SS-YDW8</a> | 7,900,000                 |
| 76 | <a href="https://www.tiktok.com/@gwacefromspace/video/7365604138341649707">https://www.tiktok.com/@gwacefromspace/video/7365604138341649707</a>                 | <a href="https://perma.cc/U5GH-EDYX">https://perma.cc/U5GH-EDYX</a> | 7,700,000                 |
| 77 | <a href="https://www.tiktok.com/@konoclouds/video/7469647661549964590">https://www.tiktok.com/@konoclouds/video/7469647661549964590</a>                         | <a href="https://perma.cc/DKZ2-2EQV">https://perma.cc/DKZ2-2EQV</a> | 7,600,000                 |
| 78 | <a href="https://www.tiktok.com/@flighthouse/video/7468080625996631342">https://www.tiktok.com/@flighthouse/video/7468080625996631342</a>                       | <a href="https://perma.cc/4ZEJ-CFGD">https://perma.cc/4ZEJ-CFGD</a> | 7,600,000                 |

|     | URL   | Perma Link  | Views as of 04/16/2025 |
|-----|---|---|------------------------|
| 79  | <a href="https://www.tiktok.com/@themarblerace1/video/7367779124590546209">https://www.tiktok.com/@themarblerace1/video/7367779124590546209</a>       | <a href="https://perma.cc/4797-K55M">https://perma.cc/4797-K55M</a> | 7,500,000              |
| 80  | <a href="https://www.tiktok.com/@nessatorr/video/7469601565247016223">https://www.tiktok.com/@nessatorr/video/7469601565247016223</a>                 | <a href="https://perma.cc/Q4NK-QJFF">https://perma.cc/Q4NK-QJFF</a> | 7,500,000              |
| 81  | <a href="https://www.tiktok.com/@jcthebarber/video/7367472329779203371">https://www.tiktok.com/@jcthebarber/video/7367472329779203371</a>             | <a href="https://perma.cc/UGK7-GH74">https://perma.cc/UGK7-GH74</a> | 7,400,000              |
| 82  | <a href="https://www.tiktok.com/@kennabeann14/video/7374922430646832427">https://www.tiktok.com/@kennabeann14/video/7374922430646832427</a>           | <a href="https://perma.cc/U2R5-8JTZ">https://perma.cc/U2R5-8JTZ</a> | 7,400,000              |
| 83  | <a href="https://www.tiktok.com/@iambonetti/video/7374382381223972129">https://www.tiktok.com/@iambonetti/video/7374382381223972129</a>               | <a href="https://perma.cc/5AR6-6DWQ">https://perma.cc/5AR6-6DWQ</a> | 7,300,000              |
| 84  | <a href="https://www.tiktok.com/@impjcomics/video/7370711396595600656">https://www.tiktok.com/@impjcomics/video/7370711396595600656</a>               | <a href="https://perma.cc/4VE6-QELY">https://perma.cc/4VE6-QELY</a> | 7,100,000              |
| 85  | <a href="https://www.tiktok.com/@nfl/video/7470334588984790315">https://www.tiktok.com/@nfl/video/7470334588984790315</a>                             | <a href="https://perma.cc/59H4-USLR">https://perma.cc/59H4-USLR</a> | 7,100,000              |
| 86  | <a href="https://www.tiktok.com/@nurseloveofficial/video/7468369914089442602">https://www.tiktok.com/@nurseloveofficial/video/7468369914089442602</a> | <a href="https://perma.cc/VM7S-CZAM">https://perma.cc/VM7S-CZAM</a> | 7,000,000              |
| 87  | <a href="https://www.tiktok.com/@redbulldance/video/7436068528802893089">https://www.tiktok.com/@redbulldance/video/7436068528802893089</a>           | <a href="https://perma.cc/Q6RK-PGC5">https://perma.cc/Q6RK-PGC5</a> | 6,900,000              |
| 88  | <a href="https://www.tiktok.com/@tatianakaer/video/7375474385857154337">https://www.tiktok.com/@tatianakaer/video/7375474385857154337</a>             | <a href="https://perma.cc/R84V-BDS4">https://perma.cc/R84V-BDS4</a> | 6,800,000              |
| 89  | <a href="https://www.tiktok.com/@laylaelenik/video/7378483270784208160">https://www.tiktok.com/@laylaelenik/video/7378483270784208160</a>             | <a href="https://perma.cc/7T2M-VDG9">https://perma.cc/7T2M-VDG9</a> | 6,500,000              |
| 90  | <a href="https://www.tiktok.com/@space_panda/video/7389337459819056415">https://www.tiktok.com/@space_panda/video/7389337459819056415</a>             | <a href="https://perma.cc/5LGE-YP9Y">https://perma.cc/5LGE-YP9Y</a> | 6,500,000              |
| 91  | <a href="https://www.tiktok.com/@merlf_animations/video/7372937715471486213">https://www.tiktok.com/@merlf_animations/video/7372937715471486213</a>   | <a href="https://perma.cc/8HFN-JYV9">https://perma.cc/8HFN-JYV9</a> | 6,400,000              |
| 92  | <a href="https://www.tiktok.com/@nona.nopales/video/7389465558120402181">https://www.tiktok.com/@nona.nopales/video/7389465558120402181</a>           | <a href="https://perma.cc/9Y9Z-EAH3">https://perma.cc/9Y9Z-EAH3</a> | 6,400,000              |
| 93  | <a href="https://www.tiktok.com/@thruitall/photo/7469603790937787678">https://www.tiktok.com/@thruitall/photo/7469603790937787678</a>                 | <a href="https://perma.cc/MJX2-Y349">https://perma.cc/MJX2-Y349</a> | 6,200,000              |
| 94  | <a href="https://www.tiktok.com/@mario.create/video/7469661231058570527">https://www.tiktok.com/@mario.create/video/7469661231058570527</a>           | <a href="https://perma.cc/S89R-TAFK">https://perma.cc/S89R-TAFK</a> | 6,000,000              |
| 95  | <a href="https://www.tiktok.com/@impjcomics/video/7366239935377984769">https://www.tiktok.com/@impjcomics/video/7366239935377984769</a>               | <a href="https://perma.cc/S9AE-ZZER">https://perma.cc/S9AE-ZZER</a> | 5,900,000              |
| 96  | <a href="https://www.tiktok.com/@andy.posner/video/7371955164862975278">https://www.tiktok.com/@andy.posner/video/7371955164862975278</a>             | <a href="https://perma.cc/JMT3-W6YB">https://perma.cc/JMT3-W6YB</a> | 5,800,000              |
| 97  | <a href="https://www.tiktok.com/@flighthouse/video/7467333185349700907">https://www.tiktok.com/@flighthouse/video/7467333185349700907</a>             | <a href="https://perma.cc/2NXC-FC6B">https://perma.cc/2NXC-FC6B</a> | 5,700,000              |
| 98  | <a href="https://www.tiktok.com/@marcanderson8/video/7368949865239399726">https://www.tiktok.com/@marcanderson8/video/7368949865239399726</a>         | <a href="https://perma.cc/GU6V-XPMA">https://perma.cc/GU6V-XPMA</a> | 5,600,000              |
| 99  | <a href="https://www.tiktok.com/@soossaa.s/video/7377995062594129195">https://www.tiktok.com/@soossaa.s/video/7377995062594129195</a>                 | <a href="https://perma.cc/4AH8-CXQ4">https://perma.cc/4AH8-CXQ4</a> | 5,600,000              |
| 100 | <a href="https://www.tiktok.com/@balisticandblind/video/7383367569064971566">https://www.tiktok.com/@balisticandblind/video/7383367569064971566</a>   | <a href="https://perma.cc/DYR8-ZQLA">https://perma.cc/DYR8-ZQLA</a> | 5,500,000              |
| 101 | <a href="https://www.tiktok.com/@jolegendd/video/7401969464561945862">https://www.tiktok.com/@jolegendd/video/7401969464561945862</a>                 | <a href="https://perma.cc/S3SB-WZNS">https://perma.cc/S3SB-WZNS</a> | 5,500,000              |
| 102 | <a href="https://www.tiktok.com/@law.rence12/video/7397607378851663150">https://www.tiktok.com/@law.rence12/video/7397607378851663150</a>             | <a href="https://perma.cc/SC68-7K6Y">https://perma.cc/SC68-7K6Y</a> | 5,500,000              |
| 103 | <a href="https://www.tiktok.com/@aldoooo.0/video/7374349368670915882">https://www.tiktok.com/@aldoooo.0/video/7374349368670915882</a>                 | <a href="https://perma.cc/QG48-YD46">https://perma.cc/QG48-YD46</a> | 5,300,000              |
| 104 | <a href="https://www.tiktok.com/@pappasparlor/video/7369985503896046880">https://www.tiktok.com/@pappasparlor/video/7369985503896046880</a>           | <a href="https://perma.cc/W7H3-MA4V">https://perma.cc/W7H3-MA4V</a> | 5,300,000              |

|     | URL   | Perma Link  | Views as of 04/16/2025 |
|-----|---|---|------------------------|
| 105 | <a href="https://www.tiktok.com/@eldonjel/video/7371314888385383685">https://www.tiktok.com/@eldonjel/video/7371314888385383685</a>                   | <a href="https://perma.cc/9STS-JVSS">https://perma.cc/9STS-JVSS</a>   | 5,300,000              |
| 106 | <a href="https://www.tiktok.com/@d2_shots/video/7371785794425523488">https://www.tiktok.com/@d2_shots/video/7371785794425523488</a>                   | <a href="https://perma.cc/8DMK-47LD">https://perma.cc/8DMK-47LD</a>   | 5,000,000              |
| 107 | <a href="https://www.tiktok.com/@bigmike_675/video/7469602152823000351">https://www.tiktok.com/@bigmike_675/video/7469602152823000351</a>             | <a href="https://perma.cc/R69K-V2C2">https://perma.cc/R69K-V2C2</a>   | 5,000,000              |
| 108 | <a href="https://www.tiktok.com/@dme_363/photo/7467157623402564869">https://www.tiktok.com/@dme_363/photo/7467157623402564869</a>                     | <a href="https://perma.cc/DJ6G-WNAX">https://perma.cc/DJ6G-WNAX</a>   | 5,000,000              |
| 109 | <a href="https://www.tiktok.com/@hiphopplaylist_/video/7373744885695860000">https://www.tiktok.com/@hiphopplaylist_/video/7373744885695860000</a>     | <a href="https://perma.cc/6LLK-JSNS">https://perma.cc/6LLK-JSNS</a>   | 4,800,000              |
| 110 | <a href="https://www.tiktok.com/@loryn.goodwin/video/7380464200599997727">https://www.tiktok.com/@loryn.goodwin/video/7380464200599997727</a>         | <a href="https://perma.cc/8RDD-QSOR">https://perma.cc/8RDD-QSOR</a>   | 4,800,000              |
| 111 | <a href="https://www.tiktok.com/@aespa_official/video/7401509513653734664">https://www.tiktok.com/@aespa_official/video/7401509513653734664</a>       | <a href="https://perma.cc/82DZ-59R6">https://perma.cc/82DZ-59R6</a>   | 4,800,000              |
| 112 | <a href="https://www.tiktok.com/@un25deabril/photo/7477400415609392439">https://www.tiktok.com/@un25deabril/photo/7477400415609392439</a>             | <a href="https://perma.cc/5KFU-DMVR">https://perma.cc/5KFU-DMVR</a>   | 4,800,000              |
| 113 | <a href="https://www.tiktok.com/@thebeauxx/video/7395286917727653150">https://www.tiktok.com/@thebeauxx/video/7395286917727653150</a>                 | <a href="https://perma.cc/Z2XV-6KMV">https://perma.cc/Z2XV-6KMV</a>   | 4,700,000              |
| 114 | <a href="https://www.tiktok.com/@adrishouldh8u/photo/7469607598233242910">https://www.tiktok.com/@adrishouldh8u/photo/7469607598233242910</a>         | <a href="https://perma.cc/ZT5N-SUX6">https://perma.cc/ZT5N-SUX6</a>   | 4,700,000              |
| 115 | <a href="https://www.tiktok.com/@the.world.newsoff/video/7388147226725420320">https://www.tiktok.com/@the.world.newsoff/video/7388147226725420320</a> | <a href="https://perma.cc/W2M-K-U9LF">https://perma.cc/W2M-K-U9LF</a> | 4,600,000              |
| 116 | <a href="https://www.tiktok.com/@ipostnow/video/7472641647176699178">https://www.tiktok.com/@ipostnow/video/7472641647176699178</a>                   | <a href="https://perma.cc/35HM-KH6B">https://perma.cc/35HM-KH6B</a>   | 4,600,000              |
| 117 | <a href="https://www.tiktok.com/@notorlandolucas/video/7372441637856857349">https://www.tiktok.com/@notorlandolucas/video/7372441637856857349</a>     | <a href="https://perma.cc/M78M-Z2ZM">https://perma.cc/M78M-Z2ZM</a>   | 4,300,000              |
| 118 | <a href="https://www.tiktok.com/@rustamkholov/video/7370552355164622081">https://www.tiktok.com/@rustamkholov/video/7370552355164622081</a>           | <a href="https://perma.cc/JL8D-8UBT">https://perma.cc/JL8D-8UBT</a>   | 4,300,000              |
| 119 | <a href="https://www.tiktok.com/@sopharoch/video/7468859216518778155">https://www.tiktok.com/@sopharoch/video/7468859216518778155</a>                 | <a href="https://perma.cc/56PP-XHYN">https://perma.cc/56PP-XHYN</a>   | 4,300,000              |
| 120 | <a href="https://www.tiktok.com/@musicmediaco/video/7469636427081452831">https://www.tiktok.com/@musicmediaco/video/7469636427081452831</a>           | <a href="https://perma.cc/A4BM-KRPH">https://perma.cc/A4BM-KRPH</a>   | 4,100,000              |
| 121 | <a href="https://www.tiktok.com/@artbyvfae/photo/7470023436866227498">https://www.tiktok.com/@artbyvfae/photo/7470023436866227498</a>                 | <a href="https://perma.cc/VQ7W-ZTSS">https://perma.cc/VQ7W-ZTSS</a>   | 4,000,000              |
| 122 | <a href="https://www.tiktok.com/@meghantorla_/video/7469610271967907115">https://www.tiktok.com/@meghantorla_/video/7469610271967907115</a>           | <a href="https://perma.cc/5RXM-NAB7">https://perma.cc/5RXM-NAB7</a>   | 4,000,000              |
| 123 | <a href="https://www.tiktok.com/@hugo.hilaire/video/7371199213331303713">https://www.tiktok.com/@hugo.hilaire/video/7371199213331303713</a>           | <a href="https://perma.cc/7GQY-PBSK">https://perma.cc/7GQY-PBSK</a>   | 3,900,000              |
| 124 | <a href="https://www.tiktok.com/@taylinchandler/video/7371995661471862023">https://www.tiktok.com/@taylinchandler/video/7371995661471862023</a>       | <a href="https://perma.cc/2MDY-L6RA">https://perma.cc/2MDY-L6RA</a>   | 3,900,000              |
| 125 | <a href="https://www.tiktok.com/@djrenaissance87/video/7379785254220909867">https://www.tiktok.com/@djrenaissance87/video/7379785254220909867</a>     | <a href="https://perma.cc/ZE8C-7ZBV">https://perma.cc/ZE8C-7ZBV</a>   | 3,900,000              |
| 126 | <a href="https://www.tiktok.com/@austintaylrrrr/video/7369724189332229392">https://www.tiktok.com/@austintaylrrrr/video/7369724189332229392</a>       | <a href="https://perma.cc/6VER-F3JD">https://perma.cc/6VER-F3JD</a>   | 3,800,000              |
| 127 | <a href="https://www.tiktok.com/@therealbccltg/video/7367059063127035182">https://www.tiktok.com/@therealbccltg/video/7367059063127035182</a>         | <a href="https://perma.cc/DLK3-LWW7">https://perma.cc/DLK3-LWW7</a>   | 3,800,000              |
| 128 | <a href="https://www.tiktok.com/@lyhkdt/video/7388151619977825554">https://www.tiktok.com/@lyhkdt/video/7388151619977825554</a>                       | <a href="https://perma.cc/HJQ7-87G4">https://perma.cc/HJQ7-87G4</a>   | 3,800,000              |
| 129 | <a href="https://www.tiktok.com/@palidiaries/photo/7469698248689585426">https://www.tiktok.com/@palidiaries/photo/7469698248689585426</a>             | <a href="https://perma.cc/MB62-XNXJ">https://perma.cc/MB62-XNXJ</a>   | 3,800,000              |
| 130 | <a href="https://www.tiktok.com/@ur_faveboi23/video/7374483389430222086">https://www.tiktok.com/@ur_faveboi23/video/7374483389430222086</a>           | <a href="https://perma.cc/J2DA-D6N2">https://perma.cc/J2DA-D6N2</a>   | 3,700,000              |



|     | URL   | Perma Link  | Views as of<br>04/16/2025 |
|-----|---|---|---------------------------|
| 131 | <a href="https://www.tiktok.com/@kelseycarlucchi/photo/7467041212504034602">https://www.tiktok.com/@kelseycarlucchi/photo/7467041212504034602</a>     | <a href="https://perma.cc/M38P-AC46">https://perma.cc/M38P-AC46</a> | 3,700,000                 |
| 132 | <a href="https://www.tiktok.com/@caitlin_dack/photo/7469779131404717345">https://www.tiktok.com/@caitlin_dack/photo/7469779131404717345</a>           | <a href="https://perma.cc/KY2Q-RNN2">https://perma.cc/KY2Q-RNN2</a> | 3,700,000                 |
| 133 | <a href="https://www.tiktok.com/@costarenato3/video/7372210659104197893">https://www.tiktok.com/@costarenato3/video/7372210659104197893</a>           | <a href="https://perma.cc/KT8B-PNB4">https://perma.cc/KT8B-PNB4</a> | 3,600,000                 |
| 134 | <a href="https://www.tiktok.com/@mitdn_/video/7371803167983422753">https://www.tiktok.com/@mitdn_/video/7371803167983422753</a>                       | <a href="https://perma.cc/MWT3-PG8Q">https://perma.cc/MWT3-PG8Q</a> | 3,600,000                 |
| 135 | <a href="https://www.tiktok.com/@oshuclips/video/7369214816323374369">https://www.tiktok.com/@oshuclips/video/7369214816323374369</a>                 | <a href="https://perma.cc/K2JJ-GVE8">https://perma.cc/K2JJ-GVE8</a> | 3,600,000                 |
| 136 | <a href="https://www.tiktok.com/@datboysneakerss/video/7375640411999718661">https://www.tiktok.com/@datboysneakerss/video/7375640411999718661</a>     | <a href="https://perma.cc/CT9Q-M4L5">https://perma.cc/CT9Q-M4L5</a> | 3,600,000                 |
| 137 | <a href="https://www.tiktok.com/@chantegeyser/video/7375516761736662277">https://www.tiktok.com/@chantegeyser/video/7375516761736662277</a>           | <a href="https://perma.cc/BW2Y-GFUW">https://perma.cc/BW2Y-GFUW</a> | 3,500,000                 |
| 138 | <a href="https://www.tiktok.com/@samuarlll/video/7370009879068609835">https://www.tiktok.com/@samuarlll/video/7370009879068609835</a>                 | <a href="https://perma.cc/3JM7-MHK2">https://perma.cc/3JM7-MHK2</a> | 3,500,000                 |
| 139 | <a href="https://www.tiktok.com/@anniquemcleod_/photo/7469763476534086943">https://www.tiktok.com/@anniquemcleod_/photo/7469763476534086943</a>       | <a href="https://perma.cc/KG77-R9GU">https://perma.cc/KG77-R9GU</a> | 3,500,000                 |
| 140 | <a href="https://www.tiktok.com/@samouricasspam/video/7372562827766140166">https://www.tiktok.com/@samouricasspam/video/7372562827766140166</a>       | <a href="https://perma.cc/TM4P-HY5D">https://perma.cc/TM4P-HY5D</a> | 3,400,000                 |
| 141 | <a href="https://www.tiktok.com/@jailah.k/photo/7469677823318379818">https://www.tiktok.com/@jailah.k/photo/7469677823318379818</a>                   | <a href="https://perma.cc/596N-XYC4">https://perma.cc/596N-XYC4</a> | 3,400,000                 |
| 142 | <a href="https://www.tiktok.com/@hiphopplaylist_/video/7382626454867103009">https://www.tiktok.com/@hiphopplaylist_/video/7382626454867103009</a>     | <a href="https://perma.cc/AMH9-VKHU">https://perma.cc/AMH9-VKHU</a> | 3,300,000                 |
| 143 | <a href="https://www.tiktok.com/@musicmediaco/video/7471107573903641886">https://www.tiktok.com/@musicmediaco/video/7471107573903641886</a>           | <a href="https://perma.cc/2TXZ-HCSQ">https://perma.cc/2TXZ-HCSQ</a> | 3,300,000                 |
| 144 | <a href="https://www.tiktok.com/@gala.fr/video/7481241490983898390">https://www.tiktok.com/@gala.fr/video/7481241490983898390</a>                     | <a href="https://perma.cc/7H7R-AY77">https://perma.cc/7H7R-AY77</a> | 3,200,000                 |
| 145 | <a href="https://www.tiktok.com/@bbywinnibeauty/video/7385407570447437062">https://www.tiktok.com/@bbywinnibeauty/video/7385407570447437062</a>       | <a href="https://perma.cc/G7GS-Z983">https://perma.cc/G7GS-Z983</a> | 3,100,000                 |
| 146 | <a href="https://www.tiktok.com/@rotoberu/video/7382634668870454535">https://www.tiktok.com/@rotoberu/video/7382634668870454535</a>                   | <a href="https://perma.cc/V48D-EX3V">https://perma.cc/V48D-EX3V</a> | 3,100,000                 |
| 147 | <a href="https://www.tiktok.com/@onsitepublicmedia/photo/7467283247358135598">https://www.tiktok.com/@onsitepublicmedia/photo/7467283247358135598</a> | <a href="https://perma.cc/2VVQ-YJZY">https://perma.cc/2VVQ-YJZY</a> | 3,100,000                 |
| 148 | <a href="https://www.tiktok.com/@madison.humphreyy/photo/7469626663723126058">https://www.tiktok.com/@madison.humphreyy/photo/7469626663723126058</a> | <a href="https://perma.cc/QJ22-5SF8">https://perma.cc/QJ22-5SF8</a> | 3,100,000                 |
| 149 | <a href="https://www.tiktok.com/@federico.ravazzi/video/7374735844436987168">https://www.tiktok.com/@federico.ravazzi/video/7374735844436987168</a>   | <a href="https://perma.cc/J3QP-EPLB">https://perma.cc/J3QP-EPLB</a> | 3,000,000                 |
| 150 | <a href="https://www.tiktok.com/@marlaa9_/photo/7366498263404530977">https://www.tiktok.com/@marlaa9_/photo/7366498263404530977</a>                   | <a href="https://perma.cc/YLL3-735R">https://perma.cc/YLL3-735R</a> | 3,000,000                 |
| 151 | <a href="https://www.tiktok.com/@tinkerbelle185/photo/7469774560028593441">https://www.tiktok.com/@tinkerbelle185/photo/7469774560028593441</a>       | <a href="https://perma.cc/B23L-NKPH">https://perma.cc/B23L-NKPH</a> | 2,900,000                 |
| 152 | <a href="https://www.tiktok.com/@rap/photo/7365355520359877934">https://www.tiktok.com/@rap/photo/7365355520359877934</a>                             | <a href="https://perma.cc/FHE7-VU9Y">https://perma.cc/FHE7-VU9Y</a> | 2,800,000                 |
| 153 | <a href="https://www.tiktok.com/@localturtle/video/7395552779391028513">https://www.tiktok.com/@localturtle/video/7395552779391028513</a>             | <a href="https://perma.cc/HEF5-CMM7">https://perma.cc/HEF5-CMM7</a> | 2,700,000                 |
| 154 | <a href="https://www.tiktok.com/@ingridn.20/photo/7470232924739079429">https://www.tiktok.com/@ingridn.20/photo/7470232924739079429</a>               | <a href="https://perma.cc/TZ6D-PNKA">https://perma.cc/TZ6D-PNKA</a> | 2,700,000                 |
| 155 | <a href="https://www.tiktok.com/@jrazzypark/video/7373230142400826630">https://www.tiktok.com/@jrazzypark/video/7373230142400826630</a>               | <a href="https://perma.cc/L47J-3TBK">https://perma.cc/L47J-3TBK</a> | 2,600,000                 |
| 156 | <a href="https://www.tiktok.com/@eldonjcl/video/7372451604341247237">https://www.tiktok.com/@eldonjcl/video/7372451604341247237</a>                   | <a href="https://perma.cc/L78V-MFJG">https://perma.cc/L78V-MFJG</a> | 2,600,000                 |

|     | URL   | Perma Link  | Views as of 04/16/2025 |
|-----|---|---|------------------------|
| 157 | <a href="https://www.tiktok.com/@itstotallynotmaggie/photo/7471755370562669855">https://www.tiktok.com/@itstotallynotmaggie/photo/7471755370562669855</a> | <a href="https://perma.cc/R3WJ-ATYX">https://perma.cc/R3WJ-ATYX</a> | 2,600,000              |
| 158 | <a href="https://www.tiktok.com/@anyeverything8/photo/7469813672303627566">https://www.tiktok.com/@anyeverything8/photo/7469813672303627566</a>           | <a href="https://perma.cc/N6US-B6WG">https://perma.cc/N6US-B6WG</a> | 2,600,000              |
| 159 | <a href="https://www.tiktok.com/@nate.t3/video/7368104430765460742">https://www.tiktok.com/@nate.t3/video/7368104430765460742</a>                         | <a href="https://perma.cc/PQ89-LUBM">https://perma.cc/PQ89-LUBM</a> | 2,400,000              |
| 160 | <a href="https://www.tiktok.com/@who.is.hannahbanana/photo/7469812533000604974">https://www.tiktok.com/@who.is.hannahbanana/photo/7469812533000604974</a> | <a href="https://perma.cc/ENL5-D4D6">https://perma.cc/ENL5-D4D6</a> | 2,400,000              |
| 161 | <a href="https://www.tiktok.com/@zoecolletti/video/7373008580510846251">https://www.tiktok.com/@zoecolletti/video/7373008580510846251</a>                 | <a href="https://perma.cc/B225-3SXD">https://perma.cc/B225-3SXD</a> | 2,300,000              |
| 162 | <a href="https://www.tiktok.com/@ryan.jjk/video/7372453457602661638">https://www.tiktok.com/@ryan.jjk/video/7372453457602661638</a>                       | <a href="https://perma.cc/E2TA-BYR8">https://perma.cc/E2TA-BYR8</a> | 2,300,000              |
| 163 | <a href="https://www.tiktok.com/@rf20053/photo/7477711564926143749">https://www.tiktok.com/@rf20053/photo/7477711564926143749</a>                         | <a href="https://perma.cc/DA9E-VXPK">https://perma.cc/DA9E-VXPK</a> | 2,300,000              |
| 164 | <a href="https://www.tiktok.com/@cherry_keem/video/7380488077468323077">https://www.tiktok.com/@cherry_keem/video/7380488077468323077</a>                 | <a href="https://perma.cc/XD2S-C3G9">https://perma.cc/XD2S-C3G9</a> | 2,200,000              |
| 165 | <a href="https://www.tiktok.com/@datboysneakerss/video/7371555296772181254">https://www.tiktok.com/@datboysneakerss/video/7371555296772181254</a>         | <a href="https://perma.cc/3MVH-UTUZ">https://perma.cc/3MVH-UTUZ</a> | 2,200,000              |
| 166 | <a href="https://www.tiktok.com/@uh.idk.uh/video/7372628749210225926">https://www.tiktok.com/@uh.idk.uh/video/7372628749210225926</a>                     | <a href="https://perma.cc/BR7R-NTWJ">https://perma.cc/BR7R-NTWJ</a> | 2,200,000              |
| 167 | <a href="https://www.tiktok.com/@caleb.green/video/7390585441491111199">https://www.tiktok.com/@caleb.green/video/7390585441491111199</a>                 | <a href="https://perma.cc/ZYW2-CU8Z">https://perma.cc/ZYW2-CU8Z</a> | 2,100,000              |
| 168 | <a href="https://www.tiktok.com/@kaicenatclipzzz1/video/7387981435090652448">https://www.tiktok.com/@kaicenatclipzzz1/video/7387981435090652448</a>       | <a href="https://perma.cc/DGE2-UHD4">https://perma.cc/DGE2-UHD4</a> | 2,100,000              |
| 169 | <a href="https://www.tiktok.com/@ennwonity/video/7375149237132168480">https://www.tiktok.com/@ennwonity/video/7375149237132168480</a>                     | <a href="https://perma.cc/PR5A-5LJP">https://perma.cc/PR5A-5LJP</a> | 2,000,000              |
| 170 | <a href="https://www.tiktok.com/@trendkidds/video/7376008096763612448">https://www.tiktok.com/@trendkidds/video/7376008096763612448</a>                   | <a href="https://perma.cc/SDA2-WBUW">https://perma.cc/SDA2-WBUW</a> | 2,000,000              |
| 171 | <a href="https://www.tiktok.com/@arkadiabarson/photo/7469705119601397014">https://www.tiktok.com/@arkadiabarson/photo/7469705119601397014</a>             | <a href="https://perma.cc/PE6Z-8Q5U">https://perma.cc/PE6Z-8Q5U</a> | 2,000,000              |
| 172 | <a href="https://www.tiktok.com/@adriyonce/video/7365319392898403630">https://www.tiktok.com/@adriyonce/video/7365319392898403630</a>                     | <a href="https://perma.cc/FH38-ES9D">https://perma.cc/FH38-ES9D</a> | 1,900,000              |
| 173 | <a href="https://www.tiktok.com/@natfart/video/7366392635172474155">https://www.tiktok.com/@natfart/video/7366392635172474155</a>                         | <a href="https://perma.cc/PZH2-N9JQ">https://perma.cc/PZH2-N9JQ</a> | 1,800,000              |
| 174 | <a href="https://www.tiktok.com/@kikakiim/video/7372744078947077382">https://www.tiktok.com/@kikakiim/video/7372744078947077382</a>                       | <a href="https://perma.cc/GP4B-WXPS">https://perma.cc/GP4B-WXPS</a> | 1,700,000              |
| 175 | <a href="https://www.tiktok.com/@earlieeee/video/7366474423953591558">https://www.tiktok.com/@earlieeee/video/7366474423953591558</a>                     | <a href="https://perma.cc/24FY-2JD4">https://perma.cc/24FY-2JD4</a> | 1,700,000              |
| 176 | <a href="https://www.tiktok.com/@shampqang.ae/video/7366399640754834694">https://www.tiktok.com/@shampqang.ae/video/7366399640754834694</a>               | <a href="https://perma.cc/W867-97RZ">https://perma.cc/W867-97RZ</a> | 1,600,000              |
| 177 | <a href="https://www.tiktok.com/@taylinchandler/video/7373572623013383431">https://www.tiktok.com/@taylinchandler/video/7373572623013383431</a>           | <a href="https://perma.cc/GY86-US49">https://perma.cc/GY86-US49</a> | 1,600,000              |
| 178 | <a href="https://www.tiktok.com/@d2_shots/video/7371144044342185248">https://www.tiktok.com/@d2_shots/video/7371144044342185248</a>                       | <a href="https://perma.cc/2LN9-EE5F">https://perma.cc/2LN9-EE5F</a> | 1,500,000              |
| 179 | <a href="https://www.tiktok.com/@sofia_mcoelho/video/7375257546900196640">https://www.tiktok.com/@sofia_mcoelho/video/7375257546900196640</a>             | <a href="https://perma.cc/CPB2-XHL4">https://perma.cc/CPB2-XHL4</a> | 1,400,000              |
| 180 | <a href="https://www.tiktok.com/@itsyujen/video/7382974782087662854">https://www.tiktok.com/@itsyujen/video/7382974782087662854</a>                       | <a href="https://perma.cc/F9ZP-8M59">https://perma.cc/F9ZP-8M59</a> | 1,300,000              |
| 181 | <a href="https://www.tiktok.com/@itsyujen/video/7389286252941479174">https://www.tiktok.com/@itsyujen/video/7389286252941479174</a>                       | <a href="https://perma.cc/2S3C-EV2D">https://perma.cc/2S3C-EV2D</a> | 1,200,000              |
| 182 | <a href="https://www.tiktok.com/@pariyac/video/7373382738520362245">https://www.tiktok.com/@pariyac/video/7373382738520362245</a>                         | <a href="https://perma.cc/TSB9-26C4">https://perma.cc/TSB9-26C4</a> | 874,800                |

|               | URL   | Perma Link  | Views as of<br>04/16/2025 |
|---------------|---|---|---------------------------|
| 183           | <a href="https://www.tiktok.com/@screamskhai/video/7386797956294348038">https://www.tiktok.com/@screamskhai/video/7386797956294348038</a> | <a href="https://perma.cc/4FVV-ML7Z">https://perma.cc/4FVV-ML7Z</a> | 805,800                   |
| <b>Total:</b> |   |   | 2,063,880,600             |