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5 Attorney for Defendants
6 TAYLOR SWIFT, KARL MARTIN SANDBERG,
KARL JOHAN SCHUSTER, SONY/ATV MUSIC
7 PUBLISHING LLC, KOBALT MUSIC
PUBLISHING AMERICA INC.,
8 BIG MACHINE LABEL GROUP, LLC and
UNIVERSAL MUSIC GROUP, INC.
9

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12 **WESTERN DIVISION**

13 SEAN HALL d.b.a. GIMME SOME) Case No. 2:17-cv-06882 MWF (ASx)
HOT SAUCE MUSIC, an individual,)
14 and NATHAN BUTLER d.b.a. FAITH)
FORCE MUSIC, an individual,)
15 Plaintiffs,)
16 vs.) DEFENDANTS' NOTICE OF
MOTION AND MOTION TO
17 TAYLOR SWIFT, an individual, KARL)
MARTIN SANDBERG, an individual,) DISMISS FOR FAILURE TO
KARL JOHAN SCHUSTER, an) STATE A CLAIM AND MOTION
18 individual, SONY/ATV MUSIC) TO STRIKE
PUBLISHING, LLC a limited liability)
19 company, KOBALT MUSIC)
20 PUBLISHING AMERICA INC. a)
Delaware Corporation, BIG MACHINE)
21 LABEL GROUP, LLC, a limited)
liability company, UNIVERSAL)
22 MUSIC GROUP, INC., a California)
23 Corporation, and DOES 1-5,)
24 Defendants.)
25)

[Fed. R. Civ. P. 12(b)(6) & 12(f)]
Date: February 5, 2018
Time: 10:00 a.m.
Courtroom of the Honorable
Michael W. Fitzgerald
United States District Judge

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1 **TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on February 5, 2018, at 10:00 a.m. or as soon
3 thereafter as the matter may be heard in Courtroom 5A of the above-entitled Court
4 located at 350 West 1st Street, Los Angeles, California, defendants Taylor Swift,
5 Karl Martin Sandberg, Karl Johan Schuster, Sony/ATV Music Publishing LLC,
6 Kobalt Music Publishing America Inc., Big Machine Label Group, LLC and
7 Universal Music Group, Inc., will move the above-entitled Court, the Honorable
8 Michael W. Fitzgerald, United States District Judge presiding, for an Order
9 dismissing plaintiffs Sean Hall and Nathan Butler’s Complaint and its sole claim for
10 alleged copyright infringement and for an Order striking the allegations of plaintiffs’
11 Complaint of an industry custom and practice of obtaining licenses for uses such as
12 those alleged by plaintiffs.

13 This Motion to dismiss is brought pursuant to Federal Rule of Civil Procedure
14 12(b)(6) and on the grounds that plaintiffs’ claim for alleged infringement of a
15 copyright in a 2001 musical composition by allegedly copying the phrase “playas,
16 they gonna play, and haters, they gonna hate,” and the version of that phrase, “The
17 playas gon’ play / Them haters gonna hate,” fails to state a claim for the copying of
18 protected expression because:

19 (1) copyright does not protect short phrases such as those
20 plaintiffs allege were copied;

21 (2) the unprotected ideas underlying the allegedly copied
22 words merge with those words, rendering them unprotectable too; and

23 (3) plaintiffs’ alleged decision to combine two public domain
24 elements – players playing and haters hating – is not copyrightable and,
25 in addition, plaintiffs’ and defendants’ alleged uses of these public
26 domain elements are different in multiple respects and, as a result, are
27 not virtually identical.

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1 This Motion to strike is brought pursuant to Federal Rule of Civil Procedure
2 12(f) and on the grounds that the Complaint's allegations at pages 7-8, paragraphs
3 31-34, of an alleged industry custom and practice of obtaining licenses, are
4 immaterial and/or impertinent, and striking the allegations will avoid unnecessary
5 time, effort and expense of discovery and other proceedings as to the allegations.

6 These Motions are based upon this Notice of Motion and Motion, the
7 accompanying Memorandum of Points and Authorities, Declaration, Notice of
8 Lodging and Request for Judicial Notice, the pleadings and papers on file in this
9 action, the matters of which this Court may take judicial notice, and such additional
10 matters and oral argument as may be offered in support of the Motions.

11 These Motions are made following the conference of counsel pursuant to L.R.
12 7-3, which took place on December 13, 2017.

13 Dated: January 3, 2018

14 /s/ Peter J. Anderson
15 Peter J. Anderson, Esq.
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17 A Professional Corporation
18 Attorney for Defendants
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