

**6-Person Jury**

**IN THE CIRCUIT OF COOK COUNTY, ILLINOIS COUNTY  
DEPARTMENT - LAW DIVISION**

FILED

12/31/2018 11:53 AM

<b>ERIC L. MILLER,</b>	)		
	)	DOROTHY BROWN	
<b>Plaintiff,</b>	)		CIRCUIT CLERK
	)		
<b>v.</b>	)	No. 2018L014001	COOK COUNTY, IL
	)		
<b>DEF JAM RECORDINGS,</b>	)		
<b>ISLAND RECORDS,</b>	)		
<b>UNIVERSAL MUSIC GROUP</b>	)		
	)		
<b>Defendant.</b>	)	<b>DEMAND FOR JURY TRIAL</b>	

**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff Eric Miller brings this Complaint and Demand for Jury Trial against Def Jam Recordings, Island Records, and Universal Music Group, INC. and alleges as follows:

**NATURE OF THE ACTION**

1. In 2008 Island Def Jam entered into a settlement agreement with Eric Miller and Kanye West to receive transfer of ownership and commercially release Kanye West unreleased masters created while working with Eric Miller's record label Focus Music Group prior to his signing to Roc- A -Fella Records. As a material stipulation to the transfer of ownership of the masters and release from Miller's sole possession as outlined in the settlement agreement, Island Def Jam agreed to release the masters before December 31st, 2008.

2. Island Def Jam did not release the masters then and still have not released the masters to date.

3. Island Def Jam participated in a twenty one day verification process in which it examined the masters for technical and commercial viability as a

condition of and prior to executing and funding the settlement agreement. Island Def Jam entered into the settlement agreement and received ownership and possession of the masters.

4. Island Def Jam, as a provision of the settlement agreement, agreed if it did not find the masters commercially and technically satisfactory, Island Def Jam agreed to return the masters to Miller.

5. Island Def Jam did not return the masters.

6. Island Def Jam materially misrepresented its intentions to release the masters and only used the settlement agreement and initial nominal payment to Miller and West to gain control of the Masters, and relieve Mr. Miller of his rights and interest in the masters knowing that the exclusivity of Miller's rights were based wholly on his sole possession of the Masters.

7. Furthermore, Island Def Jam's failure to commercially release the Masters undermined Mr. Miller's financial interests in the Masters and realizing their full earning potential while Island Def Jam enjoyed continued commercial and financial success with other Kanye West releases to which the worldwide revenues tally well over one hundred million dollars.

8. Once Island Def Jam gained ownership and control of the masters through the provisions of the settlement agreement, Island Def Jam feigned hinderance in clearing samples contained in the masters, although it knew full well the masters contained samples and made no real effort to negotiate sample clearances.

We would like the Court to please note Island Def Jam is a pioneering label in sample clearance and clearing samples is a routine function of releasing Kanye West albums, as well as hundreds of other releases in the Island Def Jam catalog. To even suggest its inability to clear samples on a then flagship artist is preposterous.

9. This lawsuit seeks to right the wrongs perpetrated by Island Def Jam and its large parent company Universal Music Group, Inc in its blatant effort to bully the small independent producer and its behemoth "by any means necessary" approach to gaining all ownership, right and interest in the Masters previously owned and possessed by Miller. Mr. Miller trusted and relied upon Island Def Jam to properly commercially release and exploit the Masters to the best of its ability consistent of how it has released other Kanye West releases. Island Def Jam's misconduct and breach of fiduciary duty as the majority revenue shareholder in the commercial

release of the Masters is clear. This lawsuit seeks civil penalties and all appropriate compensatory and punitive relief to address, remedy and discourage future misconduct from Island Def Jam, Universal Music Group, Inc and large corporations like it.

### **Parties**

10. Plaintiff, Eric Miller, is a resident of Illinois and two time Grammy nominated music producer who “discovered” a young Kanye West and in 1995 recorded his first artist album with intention to release on his then label Focus Music Group. Eric Miller is party to the settlement agreement.

11. Defendant Def Jam Recordings, is an International Record Label and a subsidiary of Universal Music Group, whose headquarters is located in **Worldwide Plaza, 825 8th Ave, New York, NY 10019**. Def Jam is the distributing label for Kanye West through his Rock The World, LLC recording agreement and received transfer of ownership of the Masters from Miller through the settlement agreement. At the time of the settlement agreement Def Jam was a part of Island Def Jam Group.

12. Defendant Island Records is an International Record Label and a subsidiary of Universal Music Group, whose headquarters is located in **Worldwide Plaza, 825 8th Ave, New York, NY 10019**. At the time of the settlement agreement Def Jam was a part of Island Def Jam Group.

13. Defendant Universal Music Group, located **1755 Broadway #6 New York, NY 10019** owns Def Jam Records, Island Records and at the time of settlement agreement owned Island Def Jam Music Group and is the current parent company of both Def Jam Recordings and Island Records. The Agreement paragraph 11. states “This agreement shall be binding upon the parties, their representatives, shareholders, members, principals, affiliates, agents, parent corporations, subsidiaries, officers, directors, executors, administrators, successors, and assigns.”

### **Jurisdiction and Venue**

14. Pursuant to the Illinois Constitution art. VI, 9, this Court has subject matter jurisdiction over Plaintiff’s claims.

15. This Court has jurisdiction as agreed to by Plaintiff and Defendant in the settlement agreement as stated “ The rights and obligations of the Parties hereunder shall be construed and enforced in accordance with, and shall be governed by, the laws of the state of Illinois, without regard to the principles of conflict of laws.”.

16. This Court has jurisdiction over Defendants pursuant to 735 ILCS 5/2-209 because they conduct substantial business transactions in Illinois.

17. Venue is proper in Cook County because Defendants conduct business transactions in Cook County and the causes of action arose, in part, in Cook County.

### **Common Factual Allegations**

18. On or about July 18th, 2008 defendants Island Def Jam Music Group, a division of Universal Music Group, executed a settlement agreement (the "Agreement") between the plaintiff, Eric Miller, Kanye West, Rock The World, LLC and itself in regards to "The Unreleased Masters", featuring performances by Kanye West in (the "Masters") (1) "25 to Life", (2) Ho!!!, (3) Keep MC's Looking Out", (4) "My People's Get Down", (5) "Real Nigga Live", (6) "Stop Frontin", (7) "There Are None", (8) Are We Going Far?", (9) "Southside", and (10) "Set The World On Fire" and all compilations of those recordings.

19. The Agreement was the result of a civil suit before the Federal Court in the Northern District of Illinois, being heard by the Honorable Judge Anderson. The Agreement was prepared under the oversight of IDJ Head of Business Affairs Steve Gawley ("Gawley").

20. Prior to the existence of the Agreement, Kanye West arranged a meeting with Def Jam Music Recordings president, Jay Z with Miller in attendance to which the commercial viability of the recordings were discussed and it was decided the recordings had commercial promise. Jay Z was noted to say Kanye's pre-fame recordings could sell hope.

21. As a condition of the Agreement, Miller relinquished sole possession of the Masters to Island Def Jam ("IDJ") and assigned to IDJ all right title and interest in the Masters to IDJ.

22. Also as a condition to the agreement, Miller allowed IDJ possession of the Masters for an agreed 21 day "Verification Process" period in which IDJ and its employees or agents would inspect the masters "in order to verify that their contents are as represented and that the Masters and accompanying parts are technically satisfactory for commercial distribution". The Agreement also states, "If the contents of the Masters are not as represented and/or the accompanying parts

are not technically satisfactory for commercial distribution, IDJ shall so notify Miller and this Agreement shall be null and void. IDJ shall immediately return the Masters to Miller and the parties shall retain all of the rights they had prior to this agreement.”

23. IDJ completed the Verification Process and executed the Agreement with Miller, West and Rock The World including payment to Miller and West as outlined in the Agreement, an indication of it's acceptance and approval of the masters.

24. The Agreement outlined that IDJ would commercially release the Masters “no later than December 31st, 2008.” The Agreement also outlined a share of net profits from the commercial release of the masters as follows “IDJ shall pay to RTW (on behalf of West) thirty percent (30%) and shall prospectively accrue to Miller’s account twenty (20%) of IDJ’s Net Profits (defined below) from all revenue derived from the Masters”.

25. Island Def Jam Music Group did not release the Masters as agreed.

26. On or about October of 2008, an IDJ representative contacted Miller via e mail on West’s behalf to request delaying the release of the masters until 2nd quarter of 2009, citing that “West did not want the Masters overshadowed by his “808s and Heartbreak” album” which was also due for release in 2008. Miller agreed to the 2nd quarter 2009 release via e mail.

27. In or about early 2009, at IDJ’s request Miller assisted IDJ with identifying possible third party music samples within the Masters, for the purpose of clearing them prior to release. In or about the end of 2009, Miller’s attorneys confronted IDJ about continued delayed release of the masters and IDJ indicated the Masters would not be released citing unknown musical samples.

28. Miller’s attorney turned to the court for relief as stipulated in the Agreement as such “the Court shall retain jurisdiction of the litigation for the purposes of enabling parties to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the interpretation, execution or enforcements of any of the obligations set forth in the Agreement.” to which the presiding Judge ruled that Judge Anderson’s retention of jurisdiction as dictated in the Agreement was incorrect due to the dismissal of the previous litigation outlined in the Agreement and thus outside of the Federal Court’s jurisdiction.

**Count One.**  
**First Cause of Action**  
**Breach of Contract**

29. The allegations in Paragraphs 1 through 28 above are incorporated by reference in this Count One as if fully restated herein.
30. On or about July 18th, 2008 defendants Island Def Jam Music Group, a division of Universal Music Group, executed a settlement agreement (the "Agreement") between the plaintiff, Eric Miller, Kanye West, Rock The World, LLC and itself in regards to "The Unreleased Masters".
31. The Agreement stipulated as a condition of settlement Island Def Jam Music Group would commercially release the Masters by December 31st 2008. On or about November 2008, a representative from Island Def Jam Music Group requested via e mail to extend the release date until 2nd quarter 2009.
32. Island Def Jam Music Group breached the settlement agreement by failing to release the Masters by the date outlined in the Agreement.
33. Island Def Jam Music Group breached the settlement agreement by failing to release the Masters by the general 2009 extension date requested by it's representative.
34. Island Def Jam Group's failure to release the Masters commercially and use it's best efforts to market and promote them caused Mr. Miller to suffer actual damages including, but not limited to, severe economic harm due to loss of ownership of unique intellectual property, lost profits during the optimum time of release based on Kanye West's existing sales history at the time and star power, loss of life time earning potential due to the unique nature of the intellectual property, loss of long term future generational income to Eric Miller's heirs due to the nature of the recording industry's catalog income.
35. WHEREFORE Eric Miller seeks recovery of actual and compensatory damages arising from Island Def Jam's breach of the 2008 Agreement and its Amendments; attorney's fees, expenses and costs; and such other and further relief as this Court may deem just and proper or to which he may be entitled as a matter of law.

**Count Two**  
**AND AS FOR A SECOND CAUSE OF ACTION**  
**FRAUDULENT INDUCEMENT**

36. The allegations in Paragraphs 1 through 28 above are incorporated by reference in this Count Two as if fully restated herein.

37. Island Def Jam Music Group had substantial time to review the Masters for technical and commercial viability as a condition of settlement and outlined in the Agreement. Island Def Jam Music Group was to return the Masters to Eric Miller's possession and all rights and interests, if it determined the Masters were not technically or commercially satisfactory and they did not wish to release (see 3c. of the Agreement).

38. Island Def Jam failed to release the Masters commercially as agreed nor did they opt to return the Masters to Eric Miller subject to the agreement.

39. Island Def Jam Music Group represented in the settlement agreement that it would pay Eric Miller his heirs and assigns 20% of all net profits in perpetuity. Island Def Jam has not made any payments to Eric Miller in reference to the commercial release of the Masters.

40. Island Def Jam Music Group represented that it would account to Eric Miller semi annually six months after release. Island Def Jam Music Group failed to make any accounting to Eric Miller in reference to the Masters.

41. Island Def Jam Music Group represented it would use reasonable efforts to market the album (the Masters). Island Def Jam Music Group failed to release the Masters commercially nor use any efforts to market the Masters.

42. Eric Miller agreed in settlement as required by Island Def Jam as a condition of settlement, that he would turn over sole possession (paragraph 1 of the settlement Agreement) and release of any and all rights in the Masters and compositions as follows: "By this Agreement, Miller releases, assigns and conveys to IDJ any and all claims he has or may ever have had to the Masters and release assigns and conveys to West any and all claims he has or may have ever had to the compositions."

43. Eric Miller in good faith transferred all rights and interests in the Masters and compositions as required by the Agreement. Eric Miller delivered to Island Def Jam Music Group the Masters as required by the Agreement relinquishing his exclusive position by having sole possession of the Masters. Eric Miller relied on Island Def Jam's material representation that they would commercially release, market and exploit the Masters in the same manner that it released marketed and exploited the other Kanye West masters that they distribute. Eric Miller at the time was a two time Grammy nominated music producer and knew the revenue potential of an Island Def Jam Music Group release of the Kanye West Masters. Eric Miller relied on Island Def Jam's representations to commercially release and based on a phone conversation with Island Def Jam's Senior Vice President of Business and Legal Affairs Steve Gawly, regarding the equal position of revenues in perpetuity to master ownership, Eric Miller released his rights in the Masters for the promise of future revenue share as per the Agreement.

44. Furthermore, finding a superstar artist like Kanye West is a rarity for an independent record label and producer. The Island Def Jam release of the Masters also represented commercial validation of Eric Miller's discovery and creative nurturing of Kanye West and that type of credit is immeasurable in the world of entertainment and potentially could have been used to leverage countless other deals as well as repair some of the bad press Mr. Miller experienced during litigation against one of the world's biggest and loved recording artists in the year 2004.

45. Notwithstanding the above assertions, the Plaintiff asks the court to set aside any motion barring the cause of action due to the statute of limitations of fraud in Illinois. Plaintiff contends that the Discovery rule applies. Discovery will reveal hard evidence of the intention and act of fraud in Def Jam internal communications between relevant parties, to which the Plaintiff along with the Court will formally discover the intention to defraud Mr. Miller out of all rights and interests and sole possession of the Masters and therefore at that point should start the accrual.

46. WHEREFORE Eric Miller seeks recovery of actual and compensatory damages; punitive damages; attorney's fees; and expenses and costs for injuries caused by Island Def Jam's fraudulent inducement.

47. WHEREFORE Eric Miller seeks such other and further relief as this Court may deem just and proper or to which they may be entitled as a matter of law.

**COUNT THREE**  
**AND AS FOR THE THIRD CAUSE OF ACTION**  
**TORTIOUS INDUCEMENT OF BREACH OF FIDUCIARY DUTY**

48. The allegations in Paragraphs 1 through 28 above are incorporated by reference in this Count Three as if fully restated herein.

Island Def Jam defendant owes and owed to Eric Miller the duty to exercise candor, good faith, proper accounting and best business practices in the management and administration of the Masters and affairs, particularly with respect to commercial release and ongoing commercial viability, and continued exploitation.

49. Plaintiff Eric Miller relied on and trusted Island Def Jam Music Group's representation that it would commercially release the Masters as agreed in the settlement agreement. Island Def Jam agreed to pay Eric Miller his heirs and or, assigns 20% of net revenues in relation to the commercial release of the Masters in perpetuity. Island Def Jam agreed to account to Eric Miller semi annually through it's accounting department using GAAP principles to calculate money accrued to Eric Miller's account.

50. Island Def Jam failed to commercially release the Masters. Island Def Jam Music Group failed to return the Masters and all rights and interests back to Mr. Miller

51. Island Def Jam Group executives and Business Affairs and it's representatives and agents have pursued, or joined in the pursuit of, a common course of conduct, and have acted in concert with and conspired with one another in furtherance of their wrongdoing. The Individual Defendants further aided and abetted and/or assisted each other in breaching their respective duties, successfully colluding to acquire the Masters from Mr. Miller with no real intention to commercially release them.

52. Island Def Jam Group executives and Business Affairs and it's representatives and agents knowingly breached the Agreement by failing to commercially release the Masters by December 31st, 2008. An Island Def Jam agent claiming to represent Kanye West's request to delay the release of the

Masters until 2nd quarter of 2009 in order to not have the release overshadowed by his 808's and Heartbreaks album.

Island Def Jam Music Group knowingly accepted the benefits of the breach by retaining ownership and sole possession of the Masters even after it made clear it's intention to not to commercially release the Masters.

53. Defendants' conduct set forth herein was due to their intentional, reckless, or negligent breach of the fiduciary duties they owed to the Company, as alleged herein. Defendants intentionally, recklessly, or negligently breached or disregarded their fiduciary duties to protect the rights and interests of Eric Miller as a revenue partner.

54. Notwithstanding the above assertions, the Plaintiff asks the court to set aside any motion barring the cause of action due to the statute of limitations of fraud in Illinois. Plaintiff contends that the Discovery rule applies. Discovery will reveal hard evidence of the intention and act of fraud in Def Jam internal communications between relevant parties, to which the Plaintiff along with the Court will formally discover the intention to defraud Mr. Miller out of all rights and interests and sole possession of the Masters and therefore, at that point should start the accrual.

55. As a direct and proximate result of defendants' breaches of their fiduciary obligations, Eric Miller has sustained and continues to sustain significant financial damages including, but not limited to, severe economic harm due to loss of ownership of unique intellectual property, lost profits during the optimum time of release based on Kanye West's existing sales history at the time and star power, loss of life time earning potential due to the unique nature of the intellectual property, loss of long term future generational income to Eric Miller's heirs due to the nature of the recording industry's catalog income. As a result of the misconduct alleged herein, defendants are liable to Eric Miller.

56. WHEREFORE Eric Miller seeks recovery of actual and compensatory damages; punitive damages; attorney's fees; and expenses and costs for injuries caused by Island Def Jam's fraudulent inducement.

57. WHEREFORE Eric Miller seeks such other and further relief as this Court may deem just and proper or to which they may be entitled as a matter of law.

**COUNT FOUR**  
**AND AS FOR THE FOURTH CAUSE OF ACTION**

**Violation of the Illinois Consumer Fraud and Deceptive Business Practices Act  
815 ILCS 505, et seq.**

58. The allegations in Paragraphs 1 through 28 above are incorporated by reference in this Count Four as if fully restated herein.

59. Section 2 of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505, et seq. ("ICFA"), provides:

Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact, or the use or employment of any practice described in section 2 of the 'Uniform Deceptive Trade Practices Act', approved August 5, 1965, in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby. In construing this section consideration should be given to the interpretations of the Federal Trade Commission and the federal courts relating to Section 5 (a) of the Federal Trade Commission Act.

60. As part of it's trade or commerce, Island Def Jam Music Group has engaged in conduct constituting a deceptive act or practice declared unlawful under Section 2 of the ICFA, inasmuch as it knowingly made deceptive and false representations about its intention to release the Masters under the Agreement.

61. Island Def Jam required Eric Miller to release all rights and interests in the Masters and any possession of the Masters while Mr. Miller had a material reliance on Island Def Jam Music Group's representation that it would commercially release the Masters.

62. Island Def Jam Music Group under the terms of the agreement knowingly waited until after the "Verification Process", after the execution of the settlement

Agreement, after Mr. Miller transferred his rights and interests in the Masters, after Mr. Miller delivered his sole copy of the Masters to Island Def Jam Music Group, after the agreed release due date and after the IDJ requested release extension to notify Mr. Miller they would not be releasing the Masters.

63. It stands to reason Island Def jam Music Group had no intentions of ever releasing the Masters and used deception through the terms of the settlement agreement to gain possession of the Masters and all rights and interests in the Masters.

64. Thus, Island Def Jam Music Group's conduct constitutes an unfair and deceptive act or practice under the ICFA.

65. Notwithstanding the above assertions, the Plaintiff asks the court to set aside any motion barring the cause of action due to the statute of limitations of for the ICFA in Illinois. Plaintiff contends that the Discovery rule applies. Discovery will reveal hard evidence of the intention and act of deception in Def Jam internal communications between relevant parties, to which the Plaintiff along with the Court will formally discover the intention to deceive Mr. Miller out of all rights and interests and sole possession of the Masters and therefore at that point should start the accrual.

66. Pursuant to 815 ILCS 505/7(b), the penalty for violating the ICFA is a sum not to exceed \$50,000, or, if the Court finds that Defendants' above-described practices were intended to defraud Illinois residents, \$50,000 per violation.

#### **PRAYER FOR RELIEF**

WHEREFORE, PLAINTIFF Eric Miller accordingly and respectfully demands judgment against the DEFENDANTS DEF Jam Music Group, Island Records and Universal Music Group as follows:

1. That Eric Miller be awarded general compensatory damages in an amount to be determined at trial;
2. That Eric Miller be awarded punitive damages in an amount to be determined at trial;
4. That Eric Miller be awarded their attorney's fees and costs in this action; and

5. That Eric Miller be awarded any such other and all relief to which may be entitled as a matter of law and as deemed appropriate by this Court.

Dated: Richton Park, IL  
December 31st, 2018

PLAINTIFF  
ERIC MILLER

/s/ Eric L. Miller

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