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12 **UNITED STATES DISTRICT COURT**
 13 **CENTRAL DISTRICT OF CALIFORNIA**

14 CLEVELAND CONSTANTINE
 15 BROWNE, an individual; ANIKA
 16 JOHNSON as personal representative of
 17 the Estate of WYCLIFFE JOHNSON,
 18 deceased; and STEELY & CLEVIE
 19 PRODUCTIONS LTD.,

20 Plaintiffs,

21 v.

22 RODNEY SEBASTIAN CLARK
 23 DONALDS, et al.

24 Defendants.

Case No.: 2:21-cv-02840-AB-AFM
Hon. André Birotte Jr. Presiding

**NOTICE OF LODGING AND
 DECLARATION OF SCOTT ALAN
 BURROUGHS, ESQ.**

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NOTICE OF LODGING

TO THE HONORABLE COURT, ALL PARTIES, AND COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT Plaintiffs submit and lodge herewith true and correct copies of four audio recordings that Plaintiffs seek leave to play for the Court and parties during the hearing set for October 20, 2023. The audio recordings contain material created by or available to Defendants and are relevant to the issues under consideration. Playing them during the hearing will help guide and illustrate the argument as it pertains to the songs at issue.

Specifically, **Audio Recording One** includes Plaintiffs’ song and representative excerpts from Defendants’ songs, with the following track list:

- 1) 0:00 Plaintiffs’ *Fish Market* Composition, captured in their *Pounder Dub Mix II* Sound Recording
- 2) 0:21 *Magnum* by Nicky Jam
- 3) 0:32 *No Se Da Cuenta* by Ozuna
- 4) 0:43 *Me Dijeron* by Ozuna
- 5) 0:53 *La Dificil* by Bad Bunny
- 6) 1:04 *El Perdedor* by Maluma
- 7) 1:15 *Calenton* by Daddy Yankee feat. Yandel
- 8) 1:25 *Guaya* by Wisin & Yandel
- 9) 1:35 *Bad Con Nicky* by Bad Bunny feat. Nicky Jam
- 10) 1:45 *Sin Contrato* by Maluma
- 11) 1:54 *Llegamos a la disco* by Daddy Yankee feat. De La Ghetto
- 12) 2:05 *Contigo Voy A Muerte* by Karol G feat. Camilo
- 13) 2:16 *Deja Tus Besos* by Natti Natasha feat. Chencho Corleone

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- 14) 2:28 *Shhh (Calla)* by Maluma
- 15) 2:38 *Deseo* by Wisin & Yandel feat. Zion & Lennox
- 16) 2:48 *Te Soñé* de Nuevo by Ozuna
- 17) 2:59 *Ansiedad* by Maluma
- 18) 3:10 *Todo Comienza en la Disco* by Wisin, Daddy Yankee and Yandel
- 19) 3:22 *La Luz* by Wisin & Yandel feat. Maluma

Audio Recording Two includes excerpts from various interviews and public statements given by Defendants where they acknowledge copying from Plaintiffs’ songs to create certain of the songs at issue, with the following track list:

- 1) Ivy Queen as part of Episode 3¹ of *Loud*, an oral history of reggaeton:²
 - 0:00: “We are going to hear about that beat that came to define the scene you know what I’m talking about - Dem Bow – that beat honey that beat will dominate almost every song of reggaeton that you hear today[.]”
 - 0:14: “Sleepy Wonder and Bobo General did a song on the beat called Pounder ... his record had an instrumental version of the new beat on the B side that instrumental is the one that end up getting sampled over and over again and becoming the Dem Bow beat we all know and love- deejays in Puerto Rico started literally flying to new York going to the Jamaican record store and buying up every copy of Sleepy Wonder’s record that they could find.

¹ Last accessed September 10, 2023 at <https://www.latinousa.org/loudthehistoryofreggaeton/>, not currently available

² Her songs at issue include *Amor Puro*, *La Vida Es Así*, *Te He Querido*, *Te He Llorado*, *Yo Quiero Bailar*, and *Yo Quiero Saber*.

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2) Subelo Neo³ (Defendants Freddy Montalvo Jr. and Jose Cruz), as part of *Pensado’s Place* #495 Bad Bunny Production Duo, Subelo Neo.⁴

0:43: Dem Bow is basically an old loop – it’s from Shabba Ranks – it’s from an old Jamaican song – so basically what we did – every producer in Puerto Rico, the roots from reggaeton like most of the loops and the drums and all drum patterns come from Jamaican music but like we basically recreated the loop we recreated it[.]

3) Tainy, as part of Pitchfork’s *How to Create a Reggaeton Track*.⁵⁶

1:04: “People call it like Dem Bow – because it came as a reference to a song called like that how many years ago (Dem Bow Shabba sample)”

1:16 “when you listen to it you know you’re listening to a reggaeton track - that’s one of the most common percussion samples or elements that make a reggaeton track.”

³ Subelo Neo produced at least 21 of the songs at issue, including Anuel AA & Ozuna’s *NENA BUENA*, Bad Bunny’s *Bichiyal*, *BYE ME FUI*, *La Corriente*, *La Difícil*, *Me Porto Bonito*, *Soliá*, *Una Vez*, *Vete*, and *Yo Perreo Sola*, Farruko’s *Visionary*, Justin Quiles’ *Desaparecida*, *El Party Se Formó*, *Gladiadora*, *Ocean Park*, *Un Rato*, and *Vacaciones Por Tu Cuerpo*, Karol G’s *El Makinon*, Lenny Tavárez’s *Fantasías*, *Fantasías Remix*, and Sech’s *Oficial*.

⁴ *Pensado’s Place* #495 Bad Bunny Production Duo, Subelo Neo (<https://www.youtube.com/watch?v=Lfp0W99Ipfc>), last accessed October 13, 2023.

⁵ (<https://www.youtube.com/watch?v=zz21GI7CUk>), last accessed October 13, 2023.

⁶ Tainy produced at least 119 of the songs at issue, including Daddy Yankee’s *Si Supieras* and Bad Bunny’s *Callaíta*, “*CÓMO SE SIENTE (Remix)*”, *Cuando Perriabas*, *LA CANCIÓN*, *La Corriente*, *La Noche de Anoche*, *La Romana*, *La Santa*, *Me Porto Bonito*, *Ojitos Lindos*, *PA’ ROMPERLA*, *Party*, *Safaera*, *Si Estuviésemos Juntos*, *Solo De Mi*, *Tarot*, *Un Ratito*, *Yo Perreo Sola*, and *Yonaguni*, J Balvin’s *Agua*, *Ahora*, *Ambiente*, *Cuando Tú Quieras*, *CUIDAO POR AHÍ*, *Dónde Estarás*, *LA CANCIÓN*, *Machika*, *No Es Justo*, *Noches Pasadas*, *Reggaeton*, *Ten Cuidado (Pokémon 25 Version)*, *UN DIA (ONE DAY)*, and *Una Nota*, and Wisin & Yandel’s *Muévete*, *Paleta*, *Pam Pam*, *Peligro*, *Recuerdo*, *Se Acabó*, *Sensación*, *Tabla*, *Te Hice Mujer*, *Tiene Que Pasar*, *Tu Cuerpo Me Llama*, *Uy Uy Uy*, and *Ya Me Voy*.

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Audio Recording Three includes Plaintiffs’ *Dem Bow* composition and representative excerpts from Defendants’ songs that interpolate Plaintiffs’ *Dem Bow* composition, with the following track list:

- 1) 0:00 - *Dem Bow* by Shabba Ranks
- 2) 0:12 - *Se Va Viral* by Sech
- 3) 0:22 - *Dembow 2020* by Yandel feat. Rauw Alejandro
- 4) 0:34 - *Dembow (Remix)* by Yandel
- 5) 0:44 - *Dembow* by Wisin y Yandel
- 6) 0:54 - *Calenton* by Daddy Yankee feat. Yandel
- 7) 1:05 - *Golpe de Estado* by Daddy Yankee
- 8) 1:15 - *Sal y Perrea* by Sech
- 9) 1:22 - *Sal y Perrea (Remix)* by Sech feat. Daddy Yankee and J Balvin
- 10) 1:31 - *Llame Pa Verte (Baliando Sexy)* by Wisin y Yandel
- 11) 1:41 - *Mano Al Aire* by Yandel

And **Audio Recording Four** includes Plaintiffs’ *Fish Market* sound recording, Plaintiffs’ *Dem Bow* composition and Plaintiffs’ *Fish Market* Composition, captured in their *Pounder Dub Mix II* Sound Recording, with the following track list:

- 1) 0.00 Plaintiffs’ *Fish Market* Composition, captured in their *Fish Market* Sound Recording
- 2) 0.21 Plaintiffs’ *Dem Bow* Composition
- 3) 0.36 Plaintiffs’ *Fish Market* Composition, captured in their *Pounder Dub Mix II* Sound Recording

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The above-referenced audio tracks reflect music and admissions referenced in the operative complaint and are already available to or in the possession of Defendants. They will facilitate the discussion during the hearing as to whether the operative complaint provides reasonable notice as to the claims at issue. So owing, Plaintiffs respectfully submits the tracks herewith and requests the ability to play them from a speaker (which Plaintiffs' counsel will provide) during the hearing.

Respectfully submitted,

Dated: October 16, 2023

By: /s/ Scott Alan Burroughs
Scott Alan Burroughs, Esq.
Frank Trechsel, Esq.
Benjamin F. Tookey, Esq.
DONIGER / BURROUGHS
Attorneys for Plaintiffs


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DECLARATION OF SCOTT ALAN BURROUGHS, ESQ.

I, Scott Alan Burroughs, Esq., hereby declare from my personal knowledge as follows:

1. I am above eighteen (18) years of age and am competent to give the testimony set forth below. I am counsel for Plaintiffs in this action.
2. Attached as **Audio Recording One** is a true and correct copy of an audio mix that includes a portion of Plaintiff’s Pounder Mix II recording and excerpts from Defendants’ songs.
3. Attached as **Audio Recording Two** is a true and correct copy of an audio mix that includes excerpts from three interviews given by Defendants.
4. Attached as **Audio Recording Three** is a true and correct copy of an audio mix that includes Plaintiffs’ *Dem Bow* composition and excerpts from Defendants’ songs.
5. Attached as *Audio Recording Four* is a true and correct copy of an audio mix that includes portions of Plaintiff’s *Fish Market* sound recording, Plaintiffs’ *Dem Bow* composition and Plaintiffs’ *Pounder Dub Mix II* recording.

I declare under penalty of perjury and the laws of the United States of America that the foregoing is true and correct. Executed on October 16, 2023 in New York, New York.

By:  _____
 SCOTT ALAN BURROUGHS
 Declarant