

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DUANE RICE as Personal Representative
of the ESTATE OF BONNY RICE a/k/a
MACK RICE,

Plaintiff,

Case No.
Hon.

v.

MUSIC ROYALTY CONSULTING, INC.;
and LAURA BUTLER A/K/A LAURA RICE,

Defendants.

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COMPLAINT

Plaintiff, Duane Rice (“Duane”) as Personal Representative of the Estate of Bonny Rice a/k/a Mack Rice (the “Estate”), states the following for his complaint against Music Royalty Consulting, Inc. (“MRC”) and Laura Butler (“Laura”):

PARTIES, JURISDICTION, AND VENUE

1. The Estate was duly opened in the State of Michigan's Wayne County Probate Court.

2. Duane was appointed Personal Representative of the Estate on May 10, 2018.

3. MRC is a California corporation that does business in the State of Michigan and has a principal place of business in Los Angeles, California.

4. Upon information and belief, Laura is an individual who resides in Detroit, Michigan.

5. Count III of this Action arises under the United States Copyright Act of 1976, as amended, 17 U.S.C. § 101 et seq. (the "Copyright Act"). This Court has jurisdiction over this cause of action pursuant to 28 U.S.C. § 1331, § 1332, and § 1338(a).

6. Counts I, II, IV, V, VI, VII, and VIII of this Action arise under state law. This Court has supplemental jurisdiction over these state-law claims under 28 U.S.C. §1367 because the federal and state claims are based on the same facts and because judicial economy, convenience, and fairness to the parties will result if the Court assumes and exercises jurisdiction over the state law claims.

7. Venue is proper in this Court pursuant to 28 U.S.C. §1391 because a substantial part of the events or omissions giving rise to the claim occurred in this

District and because Defendants' wrongful acts alleged herein originate from, have continuously occurred, and have caused damage in and within this District and within the State of Michigan as described below.

GENERAL ALLEGATIONS

8. Bonny "Mack" Rice ("Bonny") was a successful Detroit-based singer and songwriter who is best known for his hit song "Mustang Sally," which was also later performed and recorded by Wilson Pickett and several other popular artists.

9. Bonny died on June 27, 2016 due to complications from Alzheimer's disease.

10. Prior to his death, Bonny had written hundreds of compositions. Bonny assigned the copyright for many of those compositions to Universal Music Publishing Group or its subsidiaries, and to other publishers. However, Bonny maintained his right to receive his songwriter's share of royalties from each of those publishers, there were additional compositions to which Bonny continued to own the copyright, and Bonny also maintained his copyright reversion rights. In total, Bonny wrote, in whole or in part, more than four hundred compositions, including those for which Bonny continued to own the copyright (jointly, the "Compositions").

11. Bonny is listed as a registered copyright claimant for the Compositions, including, but not limited to, registration numbers PAu003378780, RE0000799564, and PAu002955768.

12. Bonny had a long-standing first marriage that ended in 2009 when his wife died.

13. Laura married Bonny in November 2011.

14. At all times relevant to this complaint, and, upon information and belief, for a period in excess of 15 years, both prior to and during their marriage, Laura managed Bonny's career by, among other things, assisting Bonny in making basic career decisions and putting Bonny in direct contact with concert promoters and other employers.

15. As described in more detail below, Laura received monetary compensation as a result of her management of Bonny's affairs.

16. MRC is in the business of purchasing artists' interests in their works. Generally, when MRC enters into such a transaction, MRC pays a one-time lump-sum fee in exchange for all of an artist's rights to his or her copyrights and the right to receive all future income streams for his or her works.

17. MRC and its principal, Parvis Omidvar ("Omidvar"), have an alleged well-publicized and court-documented history of taking advantage of elderly, vulnerable, and infirm artists by purchasing interests in their works for less than fair value.

18. Although he had signs of dementia for several years before the diagnosis, Bonny was first diagnosed with Alzheimer's disease on August 7, 2012.

19. Alzheimer's disease is a progressive brain disease that destroys memory and other important mental functions.

20. Due to the onset of Alzheimer's disease, Bonny's cognitive abilities became significantly impaired. Bonny heavily relied upon Laura for assistance, even with ordinary, everyday tasks.

21. Upon information and belief, shortly after Bonny was diagnosed with Alzheimer's disease, Laura negotiated a purported agreement to sell Bonny's interests in the Compositions to MRC (the "Sale").

22. Upon information and belief, Laura negotiated and agreed to the Sale on Bonny's behalf directly with Omidvar during telephone calls.

23. Upon information and belief, Bonny was not involved in the negotiation of the Sale and had no direct conversations with Omidvar.

24. Upon information and belief, in November 2012, after Laura agreed to the Sale on Bonny's behalf, MRC sent a notary to Bonny's home to have Bonny sign four documents purporting to memorialize the Sale and bind Bonny, including:

- a Royalty Assignment Form that was signed by Bonny on November 13, 2012;
- a Performance Rights Society Assignment that was dated November 20, 2012 and signed by Bonny on November 29, 2012;
- a General Short Form Assignment of Rights that was dated November 20, 2012 and signed by Bonny on December 5, 2012; and

- a purported November 20, 2012 Irrevocable Royalty Purchase Agreement that is referenced in the General Short Form Assignment of Rights.

(the above-referenced documents and all other documents related to the Sale are collectively referred to as the “Documents”).

25. Collectively, the Documents purport to assign Bonny’s right, title, and interest to all of his Compositions, copyrights, and all other rights to derive future income from his Compositions to MRC.

26. The Documents also purport to direct Broadcast Music, Inc. (“BMI”), the performing rights organization that collects public performance licensing fees and royalties for Bonny’s Compositions, to pay all royalties derived from Bonny’s works to MRC instead of Bonny.

27. The Documents also purport to direct music publishers, record labels, licensees and all payors of music royalties for Bonny’s Compositions, to pay all royalties derived from Bonny’s Compositions and recordings to MRC instead of Bonny.

28. When Laura agreed to the sale and Bonny signed the Documents, Bonny lacked sufficient mental ability and capacity to understand in a reasonable manner the nature and effect of the Documents that he signed and the transaction that purportedly took place.

29. Upon information and belief, since Laura agreed to the Sale on Bonny's behalf and Bonny signed the Documents, MRC has received all royalties and other income derived from Bonny's Compositions.

30. Upon information and belief, MRC has derived income from its exploitation of Bonny's Compositions by, among other rights afforded to a copyright owner, authorizing public performances of the Compositions and collecting royalties therefrom.

31. In exchange for the purported transfer of rights described in the Documents, MRC tendered two checks in a lump-sum monetary payment to Bonny (the "Payment").

32. The Payment was in an amount far less than the fair value of the Compositions, royalty streams, and other rights that Bonny purportedly transferred to MRC in the Sale.

33. Upon information and belief, the Payment was in an amount less than the amount of the payments that MRC has derived from the Compositions in royalties and other income on an annual basis since the Sale.

34. Upon information and belief, Laura diverted funds from the Payment for her own personal benefit.

35. For example, on February 19, 2013, soon after the Payment was deposited, a check payable to “stayfitter.com” for \$50,000 was drawn on Bonny’s checking account.

36. Upon information and belief, “stayfitter.com” is a fictitious company located at Laura’s business office location.

COUNT I
DECLARATORY RELIEF
(BOTH DEFENDANTS)

37. Duane incorporates all of the preceding paragraphs herein by reference.

38. Bonny lacked sufficient mental ability and capacity to understand in a reasonable manner the nature and effect of the Sale to MRC of his Compositions and other rights to derive income from his artistic works, and the Documents purporting to memorialize said Sale.

39. Bonny was of unsound mind at the time the Documents were signed.

40. The unsoundness of Bonny’s mind at the time the Documents were signed was of such a character that he had no reasonable perception of the nature and terms of the contracts.

41. Bonny was not competent to enter into a contract at the time the Documents were signed.

42. For these reasons, the Documents are void ab initio.

43. The Documents are also void ab initio as a matter of public policy because Laura was not appropriately licensed to negotiate the Sale on Bonny's behalf.

44. Under Michigan law, a person must be licensed as a personnel agency in order to serve, assist, or in any way aid or consult with a client to make basic career decisions and/or put a person in direct contact with an employer if said person receives income for the services rendered.

45. Laura was required to be licensed as a personnel agency and agent because she assisted Bonny in making basic career decisions and by putting Bonny in contact with an employer, MRC, to sign the documents memorializing the Sale.

46. Upon information and belief, Laura was not licensed as a personnel agency or agent at the time of the Sale.

47. This matter is a case of actual controversy within this Court's jurisdiction.

48. A declaratory judgment stating that the Documents related to the purported Sale of Bonny's rights to derive income from his artistic works are void ab initio would settle the controversy.

49. A declaratory judgment would serve a useful purpose in clarifying whether Bonny's rights to his Compositions and his rights to derive income were actually legally assigned and transferred to MRC.

50. The requested declaratory judgment is not being used merely for the purpose of procedural fencing or to provide an arena for a race for res judicata.

51. The requested declaratory judgment would not improperly encroach on state jurisdiction.

52. There is no alternative remedy that is better or more effective for resolving whether Bonny's rights to his Compositions and to derive income were actually legally assigned and transferred to MRC.

COUNT II
DECLARATORY RELIEF (IN THE ALTERNATIVE)
(BOTH DEFENDANTS)

53. Duane incorporates all of the preceding paragraphs herein by reference.

54. In the alternative, if this Court determines that the Documents related to the Sale are not void ab initio, they are voidable because Bonny was not competent to enter into a contract at the time the Documents were signed.

55. On behalf of the Estate, Duane hereby declares that the Documents are void.

56. This matter is a case of actual controversy within this Court's jurisdiction.

57. A declaratory judgment stating that the Documents related to the purported Sale of Bonny's rights to his Compositions and to derive income from his artistic works are void would settle the controversy.

58. A declaratory judgment would serve a useful purpose in clarifying whether the Documents are void in accordance with Duane's declaration that they are void.

59. The requested declaratory judgment is not being used merely for the purpose of procedural fencing or to provide an arena for a race for res judicata.

60. The requested declaratory judgment would not improperly encroach on state jurisdiction.

61. There is no alternative remedy that is better or more effective for resolving whether the Documents are void.

62. The Estate is unable to tender back any purported benefits received under the Documents because the Estate has little or no assets. The ends of justice and equity would not be served by requiring that the Estate tender these purported benefits back to MRC.

COUNT III
COPYRIGHT INFRINGEMENT
(MRC ONLY)

63. Duane incorporates all of the preceding paragraphs herein by reference.

64. Because the Documents related to the purported Sale of Bonny's rights to derive income from his artistic works are void, the Estate is the rightful owner of Bonny's Compositions and any copyrights and reversion rights related thereto.

65. MRC's continued use and derivation of income from the Compositions and copyrights was not authorized by Bonny and is not authorized by the Estate.

66. MRC's unauthorized use, reproduction, licensing, distribution, transmission, and/or exploitation of the Compositions and copyrights in connection with its ongoing infringement of the Estate's rights in the Compositions and copyrights, creation of unauthorized derivatives of the Compositions, copyrights and/or authorization of the foregoing, infringes the Estate's exclusive rights in and to the Compositions and copyrights in direct violation of the Copyright Act, 17 U.S.C. § 101 *et seq.*

67. MRC's conduct has been knowing and willful at all times.

68. Pursuant to Pursuant to 17 U.S.C. § 504(b), the Estate is entitled to its actual damages, including, but not limited to, MRC's profits attributable to its infringement of the copyrights in an amount to be proven at trial.

69. Pursuant to 17 U.S.C. § 504(c), the Estate is entitled to the maximum statutory damages for each infringement of the copyrights. Alternatively, and at the Estate's election and pursuant to 17 U.S.C. § 504(b), the Estate is entitled to its actual damages, including, but not limited to, MRC's profits attributable to the infringement, as will be proven at trial.

70. The Estate is entitled to its costs, including reasonable attorneys' fees, pursuant to 17 U.S.C. § 505.

COUNT IV
UNJUST ENRICHMENT
(BOTH DEFENDANTS)

71. Duane incorporates all of the preceding paragraphs herein by reference.

72. MRC received benefits from Bonny and the Estate by receiving royalties and other income derived from the Compositions to which Bonny and the Estate were or are entitled because the Documents related to the purported Sale of Bonny's rights to derive income from his artistic works are void.

73. Upon information and belief, Laura received benefits from Bonny and the Estate by diverting Bonny and/or the Estate's assets for her own personal benefit and use.

74. It would be unjust and inequitable for Defendants to retain these benefits.

75. Duane and the Estate have no adequate remedy at law.

COUNT V
STATUTORY AND COMMON-LAW CONVERSION
(BOTH DEFENDANTS)

76. Duane incorporates all of the preceding paragraphs herein by reference.

77. MRC has wrongfully exerted dominion and control over Bonny and the Estate's personal and intellectual property inconsistent with the Estate's rights in said property by exercising control over the Compositions, by deriving royalties and

other income from the Compositions, and by retaining royalties and other income generated by the Compositions.

78. Laura has wrongfully exerted dominion and control over Bonny and the Estate's personal and intellectual property inconsistent with the Estate's rights in said property by diverting Bonny and/or the Estate's assets for her own personal use.

79. In the alternative, if this Court determines that the Documents are voidable rather than void ab initio, Laura has wrongfully exerted dominion and control over Bonny and the Estate's personal and intellectual property inconsistent with the Estate's rights in said property by entering an agreement to sell Bonny's interests in the Compositions.

80. Defendants converted the Estate's personal property to their own use, pursuant to MCL 600.2919a(1)(a), or have bought, received, possessed, concealed, or aided in the concealment of stolen, embezzled or converted property when Defendants knew that the property was stolen, embezzled, or converted, pursuant to MCL 600.2919a(1)(b).

81. The Estate has suffered damages as a result of Defendants' conversion of Plaintiffs' assets and funds.

COUNT VI
CIVIL CONSPIRACY TO COMMIT STATUTORY AND COMMON-LAW CONVERSION
(BOTH DEFENDANTS)

82. Duane incorporates all of the preceding paragraphs herein by reference.

83. Defendants combined to accomplish an unlawful purpose, namely, to commit statutory and common-law conversion.

84. MRC's role in the conspiracy was to commit the underlying torts of statutory and common-law conversion.

85. Laura's role in the conspiracy was to arrange for the purported Sale of Bonny's Compositions and other rights to generate income from Bonny's artistic works that allowed MRC to exercise dominion and control over the same.

86. Bonny and the Estate were harmed by Defendants' concerted action.

COUNT VII
TORTIOUS INTERFERENCE WITH BUSINESS RELATIONSHIP OR EXPECTANCY
(BOTH DEFENDANTS)

87. Duane incorporates all of the preceding paragraphs herein by reference.

88. Bonny and the Estate had and have valid business relationships and/or expectancies based on their prior receipt of royalties and other income derived from Bonny's artistic works, specifically, their receipt of royalties from BMI as well as other music publishers, record labels, licensees, and all payors of music royalties.

89. Defendants were aware that Bonny and the Estate had and have valid business relationships and/or expectancies based on their receipt of royalties and other income derived from Bonny's artistic works, specifically, their receipt of royalties from BMI, Universal Music Publishing Group and its subsidiaries as well as other music publishers, record labels, licensees and all payors of music royalties.

90. MRC and Laura intentionally interfered with Bonny and the Estate's valid business relationships and/or expectancies by wrongfully exerting dominion and control over the Compositions and other rights, and by converting the Compositions to their own use.

COUNT VIII
BREACHES OF FIDUCIARY DUTIES
(LAURA ONLY)

91. Duane incorporates all of the preceding paragraphs herein by reference.

92. As a personnel agency that assisted Bonny in making basic career decisions and by putting Bonny in contact with MRC to sign the documents memorializing the Sale, Laura owed fiduciary duties, including duties of loyalty and good faith, to Bonny.

93. Bonny placed his faith, confidence, and trust in Laura and relied upon Laura's judgment and advice rendered in her role as a personnel agency.

94. Laura breached her fiduciary duties to Bonny by betraying Bonny's faith, confidence, and trust by purportedly selling the Compositions and other rights for less than fair value and by diverting Bonny and/or the Estate's assets for her own personal gain.

95. Laura's breach of her fiduciary duties to Bonny has caused damages to the Estate that include lost royalties and other income from the Compositions and other rights, and the loss of property that rightfully belongs to the Estate.

WHEREFORE, Plaintiff requests entry of a judgment in its favor and against

Defendants:

- stating that that the Documents related to the purported Sale of Bonny's Compositions and right to derive income from his artistic works are void ab initio or, in the alternative, that they are void pursuant to Bonny's Estate's declaration that they are void;
- awarding damages based on all royalties and other income related to the Compositions received by MRC under the void or voidable Documents;
- awarding all other damages to which the Estate is legally entitled based on the circumstances alleged above, including, but not limited to compensatory damages, treble damages, interest, costs, and attorney fees; and
- awarding such other relief that this Court deems appropriate.

Respectfully submitted,

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