

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AUSTIN R. POST, professionally known as
POST MALONE,

Plaintiff,

v.

TYLER ARMES,

Defendant.

CASE NO. 20-cv-2877

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Austin R. Post, professionally known as Post Malone (“Plaintiff” or “Post Malone”), for his complaint against defendant, Tyler Armes (“Armes” or “Defendant”), alleges:

INTRODUCTION

1. Post Malone is an internationally acclaimed songwriter, recording artist and performer. To date, Post Malone has released four Number One singles and two Number One albums. He has received numerous awards, including Billboard Music Awards, American Music Awards and MTV Video Music Awards. Post Malone presently has over 53 million monthly listeners on the Spotify service alone.

2. Recently, Post Malone’s track entitled “Circles,” which is featured on his latest album *Hollywood’s Bleeding*, has achieved massive commercial success. The track was commercially released on August 30, 2019. It reached Number One on the *Billboard* Hot 100 chart for two consecutive weeks, and it has earned hundreds of millions of streams on various platforms.

3. It is an age-old story in the music business that when a song earns the type of runaway success that “Circles” has garnered, an individual will come out of the woodwork,

falsely claim to take credit for the song, and demand unwarranted and unearned windfall profits from the song.

4. This lawsuit arises from such a story. Defendant Armes is falsely claiming that he is a co-author of the musical composition contained in the “Circles” track (hereafter, this composition is referred to as the “Circles Composition”). Based upon that false claim, Armes is demanding a share of the profits earned by the Circles Composition. Armes’s claim and demand are utterly baseless. Armes did not write or author any portion of the Circles Composition, and he is not entitled to any of the revenue from the Circles Composition.

5. This lawsuit is unfortunately necessary because Armes, through his attorney, has threatened to take action against Post Malone’s record label, and thereby interfere with the exploitation of the Circles Composition, unless Armes is paid substantial monies, and provided with writing credit and a copyright interest in the Circles Composition. Accordingly, Post Malone requires a declaration from this Court that Armes is not a joint author of the Circles Composition, and that Armes is not entitled to any of the revenues earned by that composition.

PARTIES

6. Plaintiff Post Malone is a joint author of the Circles Composition. As a result of his joint authorship of Circles, Post Malone is a co-owner of the copyright in that composition.

7. The other joint authors of the Circles Composition, who are non-parties to this action, are Adam K. Feeney, professionally known as Frank Dukes (“Dukes”); Billy Walsh; Kaan Gunesberk; and Louis Bell.

8. Defendant Armes is a musician, songwriter, and producer.

JURISDICTION AND VENUE

9. This action arises under the copyright laws of the United States, 17 U.S.C. § 101, *et seq.* The Circles Composition has been registered with the United States Copyright Office, with a Registration Number PA 2-216-024 (the “Registration”). The Registration sets forth a date of first publication of August 30, 2019 and states that the United States is the nation of first publication for the Circles Composition.

10. This court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338 and under the Declaratory Judgment Act, 18 U.S.C. § 2201. The declaratory relief sought herein concerns the interpretation and construction of the authorship provisions of the Copyright Act.

11. This court has personal jurisdiction over Armes in that, on information and belief, he transacts business within the State of New York out of which the cause of action set forth in this Complaint arises. *First*, as discussed below, Armes has sent a cease-and-desist letter asserting his claim of purported co-authorship of the Circles Composition into the State of New York. *Second*, Armes has been negotiating with major music companies based in New York in an attempt to obtain a music publishing agreement with one of these companies pursuant to which it would publish his claimed copyright interest in the Circles Composition.

12. Venue in this District is proper under 18 U.S.C. § 1391(b)(2) because, on information and belief, a substantial part of the events giving rise to Post Malone’s claim occurred in this District.

FACTUAL ALLEGATIONS

13. On or about August 8, 2018 Post Malone and Dukes composed and recorded music at a session in a recording studio (the “August 8, 2018 Session”); this music later became the Circles Composition.

14. Although Armes was present for the August 8, 2018 Session, he did not write any music or lyrics that were used in the Circles Composition at the August 8, 2018 Session, or at any time thereafter. Dukes has confirmed that Armes did not make any authorship contribution to the Circles Composition.

15. Following the August 8, 2018 Session, Post Malone, Dukes, and three other songwriters—Billy Walsh, Kaan Gunesberk, and Louis Bell—continued to work on writing the Circles Composition during subsequent sessions. Armes did not participate in, and was not even present for, any of the sessions for the Circles Composition which followed the August 8, 2018 Session.

16. Because Armes did not author any music or lyrics used in the Circles Composition at the August 8, 2018 session, and because Armes was not even present for any of the subsequent sessions for the Circles Composition, it is incontrovertible that Armes made no contribution whatsoever to the Circles Composition.

17. Nonetheless, on October 21, 2019, an attorney for Armes sent a demand letter to Post Malone, Dukes, and Post Malone’s record company, which is based in New York. This letter falsely contended that Armes is a joint author of the Circles Composition. Based upon this false contention, the letter demanded that the record company: (i) cease all distribution and sales of the Circles Composition; (ii) put a freeze on all royalties payable to the credited authors and

publishers of the Circles Composition; and (iii) account for the revenues earned by the Circles Composition. Because Armes is not a joint author of the Circles Composition, all of the demands in this letter are wholly without basis.

COUNT ONE

(Claim for Declaratory Judgment Requiring Construction of the Copyright Act)

18. Post Malone incorporates by reference the allegations in each of the preceding paragraphs as if fully set forth herein.

19. Armes falsely contends that he is a joint author of, and concomitant co-owner of the copyright in, the Circles Composition. Armes further wrongly contends that, as a result of this purported copyright co-ownership, Armes has a purported right to monies earned in connection with the exploitation of the copyright in the Circles Composition.

20. Section 101 of the Copyright Act (17 U.S.C. § 101) defines “joint work” as “a work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.” For a claimant to obtain joint authorship rights in a work, the claimant must have made independently copyrightable contributions to the work; and the claimant, along with all of the other putative authors, must have fully intended to be co-authors.

21. Armes did not write or author any portion of the Circles Composition. Nor did any of the actual authors of the Circles Composition intend to be co-authors with Armes. Accordingly, Armes is not a “joint author” of the Circles Composition as that term is used in the Copyright Act.

22. As a result of Armes's false contentions that he is a joint author and copyright owner of the Circles Composition, Post Malone is being deprived of his rights with respect to this work.

23. By reason of the foregoing, an actual and justiciable controversy has arisen and now exists between Post Malone, on the one hand, and Armes, on the other hand, regarding whether Armes is a joint author and concomitant copyright co-owner of the Circles Composition.

24. Post Malone request a judicial declaration determining that: (a) Armes did not write or author any portion of the Circles Composition; (b) Armes is not an "author" of the Circles Composition, as such term is used in the Copyright Act; and (c) due to Armes's lack of authorship of the Circles Composition, Armes does not have a valid copyright in the Circles Composition and no right to any sums of money earned by Post Malone or anyone else in connection with the exploitation of the copyright in the Circles Composition.

25. Such a declaration is necessary and appropriate because a substantial controversy exists between the parties having adverse legal interests as to the authorship of the Circles Composition, and it is of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that the Court enter a judgment:

(A) Declaring that:

1. Armes did not write or author any portion of the Circles Composition;
2. Armes is not an "author" of the Circles Composition, as such term is used in the Copyright Act; and
3. Due to Armes's lack of authorship of the Circles Composition, Armes does not have a valid copyright in the Circles Composition, and Armes has no

right to any sums of money earned by Post Malone or anyone else in connection with the exploitation of the copyright in the Circles Composition;

- (B) Awarding Post Malone his costs and reasonable attorneys' fees; and
- (C) Awarding such other and further relief as the Court may deem proper.

DEMAND FOR JURY TRIAL

Post Malone demands a trial by jury of all issues so triable.

DATED: New York, New York
April 7, 2020

Respectfully submitted,

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