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<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):  <b>BRIDGET B. HIRSCH, SBN 257015</b>          7435 N. Figueroa St., No. 412422          Los Angeles, CA 90041</p> <p>TELEPHONE NO.: (323) 387-3413 FAX NO. (Optional):          E-MAIL ADDRESS (Optional): <b>bridget@bbhirsch.com</b>          ATTORNEY FOR (Name): <b>Manifesto Records, Inc. and Evan S. Cohen</b></p>	<p>FOR COURT USE ONLY</p> <p><b>FILED</b></p> <p><b>LOS ANGELES SUPERIOR COURT</b></p> <p><b>APR - 1 2016</b></p> <p>Sherri R. Carter, Executive Officer/Clerk          By <u>Grace Ho</u>, Deputy          Grace Ho</p>
<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES</b></p> <p>STREET ADDRESS: 111 North Hill Street          MAILING ADDRESS: 111 North Hill Street          CITY AND ZIP CODE: Los Angeles, California 90012          BRANCH NAME: CENTRAL DISTRICT - STANLEY MOSK</p>	
<p>PLAINTIFF/PETITIONER: FAITH NO MORE et al.          DEFENDANT/RESPONDENT: MANIFESTO RECORDS, INC. et al.</p>	
<p><input checked="" type="checkbox"/> NOTICE OF APPEAL    <input type="checkbox"/> CROSS-APPEAL          (UNLIMITED CIVIL CASE)</p>	<p>CASE NUMBER:          BC 603 330</p>
<p><b>Notice: Please read Information on Appeal Procedures for Unlimited Civil Cases (Judicial Council form APP-001) before completing this form. This form must be filed in the superior court, not in the Court of Appeal.</b></p>	

BY FAX

1. NOTICE IS HEREBY GIVEN that (name): **Manifesto Records, Inc. and Evan S. Cohen** appeals from the following judgment or order in this case, which was entered on (date): **February 11, 2016**
- Judgment after jury trial
  - Judgment after court trial
  - Default judgment
  - Judgment after an order granting a summary judgment motion
  - Judgment of dismissal under Code of Civil Procedure sections 581d, 583.250, 583.360, or 583.430
  - Judgment of dismissal after an order sustaining a demurrer
  - An order after judgment under Code of Civil Procedure section 904.1(a)(2)
  - An order or judgment under Code of Civil Procedure section 904.1(a)(3)-(13)
  - Other (describe and specify code section that authorizes this appeal):  
 (order attached as Exhibit A)

**RECEIVED**  
**CHECK # 428498, 975**

2. For cross-appeals only:
- a. Date notice of appeal was filed in original appeal:
  - b. Date superior court clerk mailed notice of original appeal:
  - c. Court of Appeal case number (if known):

Date: March 31, 2016

Bridget B. Hirsch

(TYPE OR PRINT NAME)

[Signature]  
 (SIGNATURE OF PARTY OR ATTORNEY)

CIT/CASE: BC603330  
 LEA/DEF#: \_\_\_\_\_  
 RECEIPT #: FIN4540433  
 DATE PAID: 04/01/16  
 PAYMENT: \$100.00  
 RECEIVED: \_\_\_\_\_  
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04/13/2016

CASE NAME:

FAITH NO MORE v. MANIFESTO RECORDS, INC. et al.

CASE NUMBER:

BC 603 330

NOTICE TO PARTIES: A copy of this document must be mailed or personally delivered to the other party or parties to this appeal. A PARTY TO THE APPEAL MAY NOT PERFORM THE MAILING OR DELIVERY HIMSELF OR HERSELF. A person who is at least 18 years old and is not a party to this appeal must complete the information below and mail (by first-class mail, postage prepaid) or personally deliver the front and back of this document. When the front and back of this document have been completed and a copy mailed or personally delivered, the original may then be filed with the court.

## PROOF OF SERVICE

 Mail     Personal Service

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My residence or business address is (*specify*):  
7435 N. Figueroa Street, No. 412422, Los Angeles, CA 90041
3. I mailed or personally delivered a copy of the *Notice of Appeal/Cross-Appeal (Unlimited Civil Case)* as follows (*complete either a or b*):
  - a.  **Mail.** I am a resident of or employed in the county where the mailing occurred.
    - (1) I enclosed a copy in an envelope and
      - (a)  **deposited** the sealed envelope with the United States Postal Service, with the postage fully prepaid.
      - (b)  **placed** the envelope for collection and mailing on the date and at the place shown in items below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
    - (2) The envelope was addressed and mailed as follows:
      - (a) Name of person served: David M. Given & Brian S. Conlon
      - (b) Address on envelope:  
PHILLIPS, ERLEWINE, GIVEN & CARLIN LLP  
39 Mesa Street, Suite 201, The Presidio, San Francisco, CA 94129
      - (c) Date of mailing: March 31, 2016
      - (d) Place of mailing (*city and state*): Los Angeles, California
  - b.  **Personal delivery.** I personally delivered a copy as follows:
    - (1) Name of person served:
    - (2) Address where delivered:
    - (3) Date delivered:
    - (4) Time delivered:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: March 31, 2016

Bridget B. Hirsch

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

04/13/2016

**EXHIBIT A**

04/13/2016

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DATE: 02/11/16

DEPT. 56

HONORABLE MICHAEL JOHNSON

JUDGE

P. SOLIS

DEPUTY CLERK

HONORABLE #9

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

A. RODRIGUEZ, C.A.

Deputy Sheriff

ERMELINDA HERNANDEZ, 12257,  
PRO TEMPORE

Reporter

8:30 am

BC603330

Plaintiff David Given (x)  
Counsel

FAITH NO MORE ET AL  
VS  
MANIFESTO RECORDS INC ET AL

Defendant Bridget Byrnes Hirsch (x)  
Counsel

**NATURE OF PROCEEDINGS:**

SPECIAL MOTION OF DEFENDANTS TO STRIKE COMPLAINT;

Matter is called for hearing.

The Order Appointing Court Approved Reporter as Official Reporter Pro Tempore is signed and filed this date, and the case proceeds with the reporter of record as reflected on the minute order.

Anti-SLAPP motion is denied, with the Court ruling as follows:

Plaintiffs Faith No More ("FNM"), William Gould, Roswell Bottum III, Michael Bordin, and Michael Patton filed this action against Defendants Manifesto Records Inc., Evan S. Cohen, and Charles Mosley III. Mosely has been dismissed from the case, so the complaint asserts a single cause of action against Defendants Manifesto and Cohen for intentional interference with contractual relations. Defendants move to strike the complaint pursuant to CCP §425.16, the anti-SLAPP statute.

An anti-SLAPP motion involves a two-step process: 1) the defendant must establish that the challenged causes of action arise from protected activity; and 2) if the defendant makes this showing, the burden shifts to the plaintiff to established a probability of success on the merits. See Navellier v. Sletten (2002) 29 Cal.4th 82, 88; Brenton v. Metabolife (2004) 116 Cal.App.4th 679, 684.

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04/13/2016

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DATE: 02/11/16

DEPT. 56

HONORABLE MICHAEL JOHNSON

JUDGE P. SOLIS

DEPUTY CLERK

HONORABLE  
#9-4

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

A. RODRIGUEZ, C.A.

Deputy Sheriff

ERMELINDA HERNANDEZ, 12257,  
PRO TEMPORE

Reporter

8:30 am

BC603330

Plaintiff David Given (x)  
Counsel

FAITH NO MORE ET AL  
VS  
MANIFESTO RECORDS INC ET AL

Defendant Bridget Byrnes Hirsch (x)  
Counsel

**NATURE OF PROCEEDINGS:**

In the first step of an anti-SLAPP motion, the defendant must make a threshold showing that the challenged cause of action "arises from an act in furtherance of the right of petition or free speech in connection with a public issue." *Varian Medical Systems v. Delfino* (2005) 35 Cal.4th 180, 192; CCP §425.16(e) (4).

The complaint alleges that FNM is a music group and partnership formed in the 1980s by Gould, Bottum, Bordin, Mosley, and another person. Among the creations of FNM is a music album named "We Care a Lot" produced in 1985. In 1989 there was a partnership dispute and litigation among the members of FNM. This resulted in a written settlement agreement in which Mosely released all of his interests and rights in FNM and its works. In 2014 Mosley entered into a contract with Manifesto to sell and assign his rights to FNM's "We Care a Lot" album, even though Mosley's rights had been released in the 1989 settlement agreement. Plaintiffs allege that Manifesto and its corporate president Cohen knew of Mosely's 1989 settlement, and deliberately interfered with Plaintiffs' rights under that agreement by entering into the 2014 agreement with Mosely. Plaintiffs allege that Manifesto has been selling the "We Care a Lot" album without compensating Plaintiffs.

Defendants argue that Plaintiffs' claim involves

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**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DATE: 02/11/16

DEPT. 56

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DEPUTY CLERK

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#9-β

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**NATURE OF PROCEEDINGS:**

protected activity because it concerns creative musical works, and it concerns a musical group that is a matter of public interest. Claims concerning creative works and celebrities can be protected under the anti-SLAPP law. See No Doubt v. Activision Publishing (2011) 192 Cal.App.4th 1018, 1027 (creative works); Hall v. Time Warner (2007) 153 Cal. App. 4th 1337, 1346 (celebrity). But it is not enough that a claim concerns a subject that may be protected under the anti-SLAPP law. The claim must "arise" from protected activity, which means that "the defendant's act underlying the plaintiff's cause of action must itself have been an act in furtherance of the right of petition or free speech." City of Cotati v. Cashman (2002) 29 Cal.4th 69, 67; Equilon Enterprises v. Consumer Cause (2002) 29 Cal.4th 53, 66 (same).

Plaintiffs' claim in our case does not arise from creative musical works or a matter of public interest concerning FNM. It arises from two business contracts formed in 1989 and 2014: Plaintiffs allege that Mosely released his rights to FNM in the 1989 settlement agreement, and that Defendants entered into the 2014 agreement in deliberate disregard of the 1989 settlement agreement and Plaintiffs' rights under that agreement. While FNM and the "We Care a Lot" album are involved in Plaintiffs' claim, they play a merely incidental role as part of the factual backdrop of the claim. It is well settled that "The additional fact that protected activity may lurk in

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**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DATE: 02/11/16

DEPT. 56

HONORABLE MICHAEL JOHNSON

JUDGE

P. SOLIS

DEPUTY CLERK

HONORABLE  
#9-C

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

A. RODRIGUEZ, C.A.

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**NATURE OF PROCEEDINGS:**

the background - and may explain why the rift between the parties arose in the first place - does not transform a dispute into a SLAPP suit." Episcopal Church Cases (2009) 45 Cal.4th 467, 478; Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265, 272 (anti-SLAPP statute does not apply when protected activity is merely incidental to the plaintiff's claim); Gotterba v. Travolta (2014) 228 Cal.App.4th 35, 42 (same).

Because Defendants have failed to meet their burden of establishing a claim arising from conduct protected by the anti-SLAPP statute, the motion is denied. It is not necessary to rule on the second prong of the anti-SLAPP analysis or Plaintiffs' evidentiary objections.

Demurrer and Motion to Strike, previously set for May 24, 2016, are advanced to this date and reset for hearing on April 26, 2016 at 8:30 a.m. in this department.

Case Management Conference date of February 25, 2016 is advanced to this date and continued to April 26, 2016 at 8:30 a.m. in this department.

Notice waived.

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