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11 Attorneys for Plaintiff TYLER ARMES

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

14 TYLER ARMES,

15 Plaintiff,

16 v.

17 AUSTIN RICHARD POST, publicly  
18 known as POST MALONE, an  
19 individual; ADAM KING FEENEY  
20 publicly known as FRANK DUKES,  
21 an individual; UNIVERSAL MUSIC  
22 GROUP, INC., a Delaware  
23 corporation; DOES 1 through 10,  
24 inclusive,

25 Defendants.

CASE NO. 2:20-CV-3212

COMPLAINT FOR:

1. DECLARATORY JUDGMENT
2. ACCOUNTING
3. CONSTRUCTIVE TRUST

[DEMAND FOR JURY TRIAL]

Plaintiff Tyler Armes alleges as follows:

**INTRODUCTION**

1. This case arises from Post Malone's ("Post") and his producer Frank Dukes' ("Dukes") bad faith refusal to accord Tyler Armes ("Armes") the credit and share of the profits he is due as a co-writer of the song *Circles*, which is perhaps

1 Post's biggest hit to date and was named by Billboard as among the top 10 best  
2 songs of 2019. *Circles* was released on August 30, 2019, to much critical praise and  
3 it debuted at Number 7 on the Billboard Hot 100 Chart. It quickly shot to Number  
4 1, where it spent three (3) weeks, and to this day it remains in the Billboard Hot  
5 100's top 5 most popular songs.

6 2. Armes is a professional songwriter, musician and producer. He is also  
7 the bandleader, writer and producer for the bands Down With Webster, which was  
8 signed to Motown by Sylvia Rhone in 2009, and Honors. With Armes at the helm,  
9 Down With Webster has sold multiple platinum albums and over One Million  
10 (1,000,000) singles, and it has been nominated for a number of Juno Awards,  
11 MuchMusic Video Awards and Canadian Radio Music Awards. Armes wrote and  
12 produced five (5) of Down with Webster's top five (5) Canadian singles including,  
13 *Rich Girl\$, Your Man, Whoa is Me, One in a Million* and *Chills*. Armes, with Down  
14 With Webster, has performed sold-out shows at Toronto's famed Massey Hall, as  
15 well as performing at the Juno Awards, MuchMusic Video Awards and the Grey  
16 Cup, the championship game of the Canadian Football League. Not only has Armes  
17 been the leader of one commercially successful band, but he also created a second  
18 project called Honors that has also been commercially successful. Honors' song  
19 *Over* was the Number 1 Global Viral Track on Spotify in January 2017, and it  
20 charted on the US Alternative Radio charts. Honors was courted by multiple major  
21 record labels and, after receiving multiple offers, it signed with PRMD, the label  
22 helmed by Ash Pournouri, who is best known for managing the artist Avicci. In  
23 addition, Armes individually, has a music publishing deal with Warner Chappell  
24 Music, and Armes' music has appeared in campaigns for Panasonic, Major League  
25 Baseball, TBS, Fox and *The Voice* on NBC. Armes has also collaborated with  
26 some of the top writers and producers in the music industry, including Murda Beatz,  
27 Justin Tranter, Jesse Saint John and Timbaland. Armes also co-wrote and produced a  
28 song on Lil Baby's recent Number 1 charting album *My Turn*, released on February

1 28, 2020, and he co-wrote and produced an upcoming single for \$ki Mask “The  
2 Slump God”.

3 3. On August 8, 2018, after being repeatedly encouraged by Post’s  
4 manager, Dre London (“Dre”), that Armes and Post should collaborate to write  
5 music together, Dre invited Armes to join Post and Dukes at Dukes’ studio to jam  
6 together. When Post found out that Armes was a talented multi-instrumental  
7 musician, he was excited and said, “*let’s write a tune!*” Armes spent hours in the  
8 studio jamming with Post and Dukes and ultimately co-writing the song *Circles*.

9 4. Although Post has freely admitted that Armes co-wrote *Circles* with  
10 him and Dukes during the August 2018 session at Dukes’ studio, Post and Dukes  
11 have refused to credit Armes as a co-writer and have refused to pay Armes a fair  
12 share of the monies derived from the exploitation of *Circles*. Despite repeated  
13 efforts by Armes to amicably resolve this matter, Post and Dukes have steadfastly  
14 refused to give Armes the credit and share of the profits he is due.

### 15 16 **JURISDICTION AND VENUE**

17 5. Plaintiff’s first claim for relief arises under the copyright laws of the  
18 United States, as amended (17 U.S.C. § 101, *et seq.*) The Court has subject matter  
19 jurisdiction over this claim pursuant to 28 U.S.C. §§ 1331, 1332 and 1338, and  
20 supplemental jurisdiction over the remaining claims pursuant to 28 U.S.C. § 1367.

21 6. Venue is proper in this district 28 U.S.C. § 1391(b)(2) because  
22 Defendant has committed acts directed at this judicial district, where Plaintiff  
23 resides.

### 24 25 **THE PARTIES**

26 7. Plaintiff Tyler Armes (“Plaintiff” or “Armes”) is a songwriter,  
27 producer and composer, and at all times relevant hereto was, an individual residing  
28 in the County of Los Angeles, California.

1           8.       Plaintiff is informed and believes and based thereon alleges that  
2 Defendant Austin Richard Post, publicly known as Post Malone (“Post”), is, and at  
3 all times relevant hereto was, an individual residing and doing business in the  
4 County of Los Angeles, State of California.

5           9.       Plaintiff is informed and believes and based thereon alleges that  
6 Defendant Adam King Feeney, publicly known as Frank Dukes (“Dukes”) is, and at  
7 all times relevant hereto was, an individual doing business in the County of Los  
8 Angeles, State of California.

9           10.      Plaintiff is informed and believes and based thereon alleges that  
10 Defendant Universal Music Group, Inc. (“UMG”) is, through its Republic Records  
11 division, the distributor of the song entitled *Circles*, and at all times relevant hereto  
12 was a Delaware corporation with its principal place of business in the County of Los  
13 Angeles, State of California.

14           11.      The true names and capacities of the Defendants sued herein as Does 1  
15 through 10, inclusive, are currently unknown to Plaintiff, who therefore sues such  
16 Defendants by fictitious names. Plaintiff will amend this Complaint to allege the  
17 true identities of such Doe Defendants when their identities are discovered. Plaintiff  
18 is informed and believes, and thereon alleges, that each such fictitiously named Doe  
19 Defendant is responsible in some manner for the events alleged in this Complaint  
20 and that Plaintiff’s damages as alleged herein were proximately caused by the  
21 conduct of such Doe Defendants, and each of them, and that Defendants in  
22 committing the acts and omissions alleged herein acted as agents and servants of one  
23 another, acted within the scope of their authority as agents and servants of each  
24 other, and/or approved and ratified the acts and/or omissions of each other.

25  
26                   **ALLEGATIONS COMMON TO ALL CLAIMS**

27           12.      Dre London (“Dre”) is a music manager whose best known client is  
28 Post. Armes first met Dre in approximately 2015. After Armes’ band Honors’ hit

1 single *Over* was released and became a viral hit in 2017, Dre began actively courting  
2 Armes and Honors to sign with him. On a number of occasions, Dre has also  
3 encouraged Armes to get into the studio with Post to collaborate.

4 13. In early August 2018, at Dre's invitation, Armes attended a private  
5 concert at which Post was performing in Toronto, Canada. The following evening,  
6 Dre again invited Armes to get into the studio with Post to write music together.

7 14. The following evening, Armes, Dre, Post and Dukes went to see a  
8 band that Post was a fan of play at a club in Toronto. After the show, Dre again  
9 invited Armes to go to Duke's Toronto studio with Post and Dukes to write music  
10 together. Dre told Post that Armes is "an amazing musician" and that he should  
11 check out Armes' band. When Post learned that Armes was a legitimate musician  
12 and composer and proficient with multiple instruments, he was excited to jam with  
13 Armes, and write music together.

14 15. From approximately 2:00 a.m. on August 8, 2018 until 9:00 a.m. that  
15 morning, Armes, Post and Dukes worked together in the studio, with Armes on bass,  
16 Post on drums and Dukes playing guitar and keyboards. That collaboration resulted  
17 in the song *Circles* (the "Song"), Post's fourth number one song on the US Billboard  
18 Hot 100, and his first as the only credited artist on the track.

19 16. At Dukes' studio on August 8, 2018, Armes and Dukes co-wrote the  
20 chords for the Song on the keyboard, and Armes co-wrote and had significant input  
21 in the bassline for the Song. Armes also had input on the guitar parts in the Song,  
22 including co-writing the guitar melody which is played in the introduction to the  
23 Song and which repeats throughout the Song.

24 17. A recording engineer at the studio observed Armes working alongside  
25 Post and Dukes to create the Song, and set up Dukes' equipment and Dukes  
26 recorded the music composed by Armes, Post and Dukes that night with Dukes  
27 playing the bass parts co-written by Armes and Post playing guitar parts co-written  
28 by Armes. At the end of the session that morning, Dukes played back the recording

1 for Armes and Post, and the three of them were thrilled with the results of their  
2 collaboration. Dukes exclaimed, *“It’s so fucking good! It’s a whole new sound*  
3 *man.* Post said, *“It’s super special,”* and *“that’s gonna be the next ... we’re just*  
4 *gonna, for the next album we’re just gonna use a fuck load of reverb,”* and Dukes  
5 said, *“this kind of track would be insane to play live.”*

6 18. Although the lyrics had not yet been completed, other than the main  
7 lyric and title of the Song, *i.e.*, “circles”, all instrumentation and vocal melodies in  
8 the song recorded at Dukes’ studio on August 8, 2018 are note for note rhythmically  
9 and melodically identical to the Song and have the same main lyric, title and  
10 concept, including without limitation the guitar introduction co-written by Armes,  
11 and the bassline and chords co-written by Armes. Everything but the bridge vocal  
12 melody was conceived that night.

13 19. The Song is also dramatically different from other music previously  
14 released by Post. Significantly, although Post is well known as a hip-hop artist,  
15 typically performing lyrics over a rap track, the Song is the first major release by  
16 Post not to appear on any hip-hop charts. As Chris Molanphy observed about the  
17 Song in a December 5, 2019 article for Slate entitled, “Post Malone Might Finally  
18 Be Getting His Wish to Escape Hip Hop,” unlike Post’s prior music, *“the melody is*  
19 *sparkling, with prominent guitar arpeggios and a wistful sigh of a chorus that,*  
20 *dare I say it, soars. Post Malone has never been about the soar.”* Indeed, the style  
21 and sound of the Song is more similar to music created by Armes for his bands  
22 Down With Webster and Honors than it is to any of Post’s prior music.

23 20. On August 5, 2019, Dre posted a snippet of the Song on Instagram,  
24 and Post premiered the Song live that night during his Bud Light Dive Bar Tour  
25 show in New York City. The Song was released by Defendant UMG through its  
26 Republic Records label on August 30, 2019. The Song debuted at Number 7,  
27 reached Number 1 on the US Billboard Hot 100 for the week of November 30, 2019,  
28 where it remained for three (3) non-consecutive weeks, and to this day it remains

1 one of the top 5 most popular songs on the Billboard charts. The Song received  
2 critical praise, with Billboard naming it the seventh (7<sup>th</sup>) best song of 2019, and  
3 describing it as consisting of a “bouncy, melancholy” melody alongside a “gentle  
4 acoustic groove,” and as being “backed by sunny acoustic guitars, swirling  
5 percussion and infectious melodies” with a “funky feel”.

6 21. When Dre posted the Song on Instagram on August 5, 2019, Armes  
7 immediately reached out to him and sent him the following text message:

8 *Dre, I need you to ask Post about this please....*

9 *Post asked me to write with them and jam and we did for well over an hour*  
10 *in the live recording room coming up with the jam that lead into the*  
11 *recording of circles.*

12 *I was there until long after the sun came up with them in the main room*  
13 *working on the song and playing different instruments and contributing to*  
14 *ideas from start to finish.*

15 *Specifically the bass and guitar parts, post ended up tracking them after I*  
16 *was playing. I was beside him giving input on both of them. I was not just*  
17 *someone hanging out in the room, I’m a writer/producer in the room with*  
18 *two other writer/producers working on a song.*

19 *I have never asked for anything I don’t deserve. I’ve been in 100 studio*  
20 *sessions with Lou while he was working at EF with different artists, I know*  
21 *when I am just hanging out. This was much different.*

22 *I was part of the writing process. The entire song (minus the lyrics other*  
23 *than “circles) was laid down that night with the 3 of us in the room*  
24 *together, working together.*

25 *Trying to just be fair here. Not asking for much. Would just like credit and*  
26 *minimal pub. Please speak to post. I’ll have Cory my manager hit up*  
27 *frank’s manager. Thanks brother, excited for the song.*  
28

22. On August 9, 2019, Dre responded to Armes, “*Just showed Posty the message [¶] He said he remembers [¶] U played a tune on the bass then he played more of it after*”. Thus Post acknowledged that Armes co-wrote the Song with him at Dukes’ studio. In particular, Post recalled Armes’ contributions to the bass line in the Song. Notwithstanding the foregoing, to date, Defendants have refused to credit Armes as a co-writer of the Song and have refused to pay him any share of the publishing royalties for the Song.

23. The credited writers on the song are Post, Dukes, Billy Walsh, who Armes is informed wrote the lyrics, Louis Bell, a producer with whom Post and Dukes frequently collaborate and who Armes is informed recorded the vocal track for the Song, and Kaan Gunesberk, another producer who also frequently collaborates with Dukes. Other than Post and Dukes, none of the foregoing credited co-writers of the Song was present with Armes, Post and Dukes at Dukes’ studio when they composed the guitar, bass and melody of Song on August 8, 2018.

24. After Dre informed Armes that Post remembered and acknowledged that Armes co-wrote the Song, Post initially offered to give Armes a five percent (5%) share of the publishing royalties. In response, Armes attempted to negotiate to receive a larger percentage of the royalties that more fairly reflected his significant contributions to the Song, and one of his representatives requested that he be credited as a co-writer and co-producer of the Song while they attempted to reach an agreement on Armes’ share of the publishing royalties. Defendants refused. Instead, Austin Rosen, who manages both Post and Dukes, threatened Armes’ manager, Cory Litwin, that if Armes was unwilling to accept Post’s so-called “gift” of five percent (5%) of the publishing, then he would get nothing – no credit and no publishing royalties. Thus, Defendants have retaliated and attempted to punish Armes for not accepting their low-ball offer on the publishing royalties by refusing to credit Armes as a co-writer and co-producer of the Song, notwithstanding the fact that Post has acknowledged that Armes co-wrote the Song.

1           25.     On November 15, 2019, Plaintiff filed a copyright registration for the  
2 Song, identifying Armes and Defendants Post and Dukes as co-writers of the music  
3 (composition) and sound recording of the Song. A true and correct copy of said  
4 copyright registration is attached hereto as Exhibit A.

5           26.     Defendants' refusal to credit Armes' as a co-writer and co-producer of  
6 the Song has resulted in significant harm to Armes' reputation, career and cost him a  
7 host of opportunities that otherwise would have been available had Armes been  
8 properly credited as a co-writer and co-producer of the Song when it was initially  
9 released. Composers credited with writing hit songs are invited to work with the top  
10 artists in the music industry, among other potentially lucrative opportunities.

11           27.     Songwriters and composers work their entire lives to create a  
12 commercially successful and critically acclaimed song like the Song. As a direct  
13 result of Defendants' retaliatory refusal to grant Armes the co-writing credit he  
14 admittedly deserves on the Song, which would have been Armes' biggest musical  
15 credit to date, Defendants have prevented Armes from capitalizing on the success of  
16 the Song in order to further his career in the music industry.

17  
18                               **FIRST CLAIM FOR RELIEF**

19                               **(For Declaratory Judgment against all Defendants)**

20           28.     Plaintiff repeats, realleges and incorporates by reference each and  
21 every allegation contained in Paragraphs 1 through 27, inclusive, of this Complaint  
22 as if fully set forth herein.

23           29.     An actual and present controversy now exists between Plaintiff and  
24 Defendants regarding Plaintiff's status as a co-writer and co-producer of the Song.  
25 Defendants have denied recognition of Plaintiff's status as a co-writer and co-  
26 producer of the sound recording and composition of the Song, which entitles  
27 Plaintiff to writer credit and a share of the monies generated from the exploitation of  
28 the Song.

1           30. Plaintiff contends that he is a co-writer and co-producer with  
2 Defendants Post and Dukes on the sound recording and the composition of the Song.  
3 Plaintiff and Defendants Post and Dukes each jointly contributed separate and  
4 distinct copyrightable chord progressions, melody, and rhythm to the Song. They  
5 each possessed independent creative control over their respective contributions.

6           31. Plaintiff and Defendants Post and Dukes each manifested an intent to  
7 be co-writers of the Song, and worked together jointly to create the Song. Plaintiff,  
8 Post and Dukes intended that their separate contributions be merged into inseparable  
9 or interdependent parts of a unitary composition.

10          32. Plaintiff contributed significantly to the Song, including composing the  
11 guitar introduction at the beginning and which repeats throughout the Song, as well  
12 as making significant contributions to the bass line of the Song and the chords in the  
13 Song.

14          33. An actual and present controversy exists regarding the parties'  
15 respective rights to the Song. Pursuant to the Federal Declaratory Judgment Act, 28  
16 U.S.C. § 2201, Plaintiff is entitled to a declaration of rights as follows: (a) Plaintiff  
17 is a co-writer and co-producer of the sound recording entitled *Circles*; (b) Plaintiff is  
18 a co-writer of the composition entitled *Circles*; (c) Plaintiff is entitled to a co-writer  
19 and co-producer credit on the copyright to the Song and on subsequently released  
20 versions of the Song; and (d) Plaintiff is entitled to prospective and retroactive  
21 royalties and other money owed with respect to his interest in the Song.

## 22 23                                   **SECOND CLAIM FOR RELIEF**

### 24                                   **(For Accounting against all Defendants)**

25          34. Plaintiff repeats, realleges and incorporates by reference each and  
26 every allegation contained in Paragraphs 1 through 27, inclusive, of this Complaint  
27 as if fully set forth herein.

1           35. Plaintiff, as joint author and co-owner of the copyright of the sound  
2 recording and composition of the Song is entitled to his *pro rata* share of the profits  
3 that Defendants have enjoyed from the exploitation of the Song.

4           36. By commercially exploiting the Song without accounting to Plaintiff  
5 for profits, Defendants have wrongfully deprived Plaintiff of his rightful share of  
6 income therefrom.

7           37. Defendants are in sole control of the books and records needed to  
8 ascertain the amounts due to Plaintiff pursuant to their special relationship as joint  
9 authors and co-owners of the composition of the Song. Plaintiff has no means by  
10 which he can assemble the information necessary to calculate what is owed to him  
11 by Defendants.

12           38. Plaintiff is entitled to an order of this Court directing Defendants to  
13 render a complete and honest accounting of all revenues derived from the  
14 exploitation of the Song and all sums due to Plaintiff and to pay Plaintiff the sums  
15 shown due by such accounting.

16  
17                                   **THIRD CLAIM FOR RELIEF**

18                                   **(For Constructive Trust against all Defendants)**

19           39. Plaintiff repeats, realleges and incorporates by reference each and  
20 every allegation contained in Paragraphs 1 through 27, inclusive, of this Complaint  
21 as if fully set forth herein.

22           40. By virtue of the foregoing, any interest that Plaintiff has in the Song,  
23 and any and all profits received by Defendants Post and Dukes from the commercial  
24 exploitation of the Song, are the property of Plaintiff, Post and Dukes in equal  
25 shares.

26           41. Post and Dukes have wrongfully deprived Plaintiff of his share of the  
27 profits that they have enjoyed from the commercial exploitation of the Song.  
28

42. By virtue of Defendants' acts, Defendants hold the profits derived from the exploitation of the Song as constructive trustees for the benefit of Plaintiff and Defendants.

43. Plaintiff is entitled to immediate possession of his *pro rata* share of the profits held by Defendants as constructive trustees.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. That the Court declare that as follows: (a) Plaintiff is a joint author and has an ownership interest in the sound recording entitled *Circles*; (b) Plaintiff is a joint author of the composition entitled *Circles*; (c) Plaintiff is entitled to a co-writer and co-producer credit on the copyright to the sound recording and composition entitled *Circles*, and on subsequently released versions of *Circles*; and (d) Plaintiff is entitled to prospective and retroactive royalties and other money owed with respect to his respective interest in the sound recording and composition entitled *Circles*, in a percentage to be proven at trial;

2. That the Court order an accounting of all revenues derived from the exploitation of the Song by Defendants;

3. That the Court impose a constructive trust over the proceeds from the exploitation of the Song pending the final disposition of this action;

4. That Plaintiff be awarded his reasonable attorney's fees and costs pursuant to Section 505 of the U.S. Copyright Act (17 U.S.C. § 505); and

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1           5.       For such other and further relief as the Court deems to be just and  
2 proper.

3  
4       DATE: April 7, 2020

ALLISON S. HART  
KELSEY J. LEEKER  
LAVELY & SINGER  
PROFESSIONAL CORPORATION

7  
8       By:   
9                               ALLISON S. HART  
10                              Attorneys for Plaintiff TYLER ARMES

**DEMAND FOR JURY TRIAL**

Plaintiff Tyler Armes hereby demands a trial by jury.

DATE: April 7, 2020

ALLISON S. HART  
KELSEY J. LEEKER  
LAVELY & SINGER  
PROFESSIONAL CORPORATION

By:   
ALLISON S. HART  
Attorneys for Plaintiff TYLER ARMES

# EXHIBIT A

## Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Maie Strong*  
Acting United States Register of Copyrights and Director

Registration Number

**SR 860-757**

Effective Date of Registration:

November 15, 2019

Registration Decision Date:

January 10, 2020

## Title

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Title of Work: Circles

## Completion/Publication

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Year of Completion: 2018

Date of 1st Publication: August 30, 2019

Nation of 1st Publication: United States

International Standard Number: ISRC USUM71915699

## Author

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- **Author:** Tyler Armes  
**Author Created:** sound recording, music and production  
**Citizen of:** Canada  
**Domiciled in:** Canada  
**Year Born:** 1985
- **Author:** Austin R. Post  
**Author Created:** sound recording, music and lyrics  
**Work made for hire:** No  
**Citizen of:** United States  
**Domiciled in:** United States  
**Year Born:** 1995
- **Author:** Adam K. Feeney  
**Author Created:** sound recording, music and production  
**Citizen of:** Canada  
**Domiciled in:** Canada  
**Year Born:** 1983

## Copyright Claimant

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**Copyright Claimant:** Tyler Armes  
43 Hambly Ave, Toronto, ON, M4E 2R5, Canada

## **Rights and Permissions**

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Name: Tyler Armes  
Email: tylerarmes@gmail.com  
Telephone: (310)895-3121  
Alt. Telephone: (646)556-5574

## **Certification**

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Name: Tyler Armes  
Date: November 15, 2019

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