

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

MELISSA FERRICK, et al.,

Plaintiff,

vs.

SPOTIFY USA INC., et al.,

Defendants.

No. 1:16-cv-08412 (AJN)

**DECLARATION OF KRYSTA KAUBLE PACHMAN IN SUPPORT OF PLAINTIFFS’  
OMNIBUS RESPONSE TO OBJECTIONS TO PLAINTIFFS’ MOTION FOR FINAL  
APPROVAL**

I, Krysta Kauble Pachman, declare as follows:

1. I submit this declaration in support of Plaintiffs’ Omnibus Response to Objections to Plaintiffs’ Motion for Final Approval.

2. I am an associate in the law firm of Susman Godfrey L.L.P., which, along with Gradstein & Marzano, P.C., is interim co-lead counsel (“Class Counsel”) for Class Plaintiffs in Civil Action No. 1:16-cv-08412 (AJN). I have been admitted *pro hac vice* by this Court in this action and am a member of good standing of the California bar. I have personal, first-hand knowledge of the matters set forth herein and, if called to testify as a witness, could and would testify competently thereto.

3. Attached hereto as Exhibit 1 is Wixen’s privilege log, which was provided to Class Counsel and Spotify USA Inc. at the deposition of Randall D. Wixen.

4. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from the deposition of Randall D. Wixen, which occurred in Calabasas, California on October 31, 2017.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: November 10, 2017

/s/ Krysta Kauble Pachman  
Krysta Kauble Pachman

# EXHIBIT 1

Wixen Music Publishing, Inc.  
 Privilege Log | October 31, 2017  
*Ferrick v. Spotify USA, Inc.*

Date	Doc Type	From	To	CC	Subject Matter	Category
4/5/2016	Letter	Dale Melidosian; Wixen Music Publishing, Inc.	Wixen Clients		Ferrick v. Spotify	Attorney-Client Communication; Work Product
6/13/2017	Email	Elizabeth Gregory	David Boyer; Dwight Wiles; Sharon Wixen		Ferrick v. Spotify	Attorney-Client Communication; Work Product
6/13/2017	Email	Sharon Wixen	David Boyer; Dwight Wiles; Elizabeth Gregory	Elizabeth Gregory; Dwight Wiles	Ferrick v. Spotify	Attorney-Client Communication; Work Product
6/13/2017	Email	David Boyer	Sharon Wixen		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Letter	Cory Shackelford; Wixen Music Publishing, Inc.	Wixen Clients; Donahue Fitzgerald LLP		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Robin Kamakahi	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Robert Lamm	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Jane Ebdon	Cory Shackelford	Brandie Garcia	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Bob Thiele	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Megan Keely	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Constance Brown	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Megan Keely	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Jinsoo Lim	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Jack Tempchin	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Jason Rys	Cory Shackelford; Joe Guida	Tamera H. Bennett	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Joe Guida	Cory Shackelford	Tamera H.	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Mary Bono	Cory Shackelford; Randall Wixen	Bennett; Jason Rys	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Judith Parsons	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Cory Shackelford	Judith Parsons		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Judith Parsons	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product

Wixen Music Publishing, Inc.  
 Privilege Log | October 31, 2017  
*Ferrick v. Spotify USA, Inc.*

Date	Doc Type	From	To	CC	Subject Matter	Category
8/2/2017	Email	Kristi Lloyd	Cory Shackelford	Randall Wixen	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Randall Wixen	Kristi Lloyd; Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Kristi Lloyd	Randall Wixen; Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Bruce Gaitsch	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Mary Bono	Randall Wixen	Cory Shackelford	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Michael Shrieve	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Don Williams	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Sharon Wixen	David Boyer; Elizabeth Gregory		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/2/2017	Email	Hochberg, William	Cory Shackelford; semariva@gmail.com		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/3/2017	Email	Camilla McGuinn	Cory Shackelford	Randall Wixen;	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/3/2017	Email	Pamela Georgi	Cory Shackelford	Jason Rys	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/3/2017	Email	Alex Woodard	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/3/2017	Email	David Wykoff	Cory Shackelford	mike@acctspec.com	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/3/2017	Email	Cory Shackelford	Jason Rys		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/3/2017	Email	Dominic Kelly	Cory Shackelford; Jason Rys		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/3/2017	Email	Cory Shackelford	Hochberg, William		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/3/2017	Email	Hochberg, William	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/3/2017	Email	Lena Lebendiger	Cory Shackelford	Fabienne Zingg; Ana Cristina Garcia Falcão	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/3/2017	Email	Nancy Meyer	Jason Rys		Ferrick v. Spotify	Attorney-Client Communication; Work Product

Wixen Music Publishing, Inc.  
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Date	Doc Type	From	To	CC	Subject Matter	Category
8/3/2017	Email	Howell Begle	Cory Shackelford	Lisa Alter; Joyce Dollinger	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/3/2017	Email	Mark Leggett	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/4/2017	Email	Nancy Meyer	Jason Rys; Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/4/2017	Email	Cory Shackelford	Nancy Meyer; Jason Rys		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/4/2017	Email	Bill Gable	Randall Wixen		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/4/2017	Email	Randall Wixen	Bill Gable		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/4/2017	Email	Scott Thurston	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/4/2017	Email	Trevor Jackson	Cory Shackelford	Ben Foster; Andrew Wixen	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/5/2017	Email	Stan Lynch	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/6/2017	Email	David Boyer	Sharon Wixen; Elizabeth Gregory		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/7/2017	Email	Cory Shackelford	Stan Lynch		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/7/2017	Email	Jason Rys	Lynn Stuart	Lynn Stuart	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/7/2017	Email	Norm Parenteau	Randall Wixen		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/7/2017	Email	Randall Wixen	Norm Parenteau; Cory Shackelford	Jason Rys	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/8/2017	Email	Jason Rys	<a href="mailto:mchelleswhite@gmail.com">mchelleswhite@gmail.com</a>		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/8/2017	Email	Cynthia Weil	Randall Wixen; <a href="mailto:wptb@aol.com">wptb@aol.com</a>		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/8/2017	Email	Randall Wixen	Bernie Gudvi; Brad Swart; Tony Dimitriades; David E. Altschul		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/8/2017	Email	Randall Wixen	Cory Shackelford; Jason Rys		Ferrick v. Spotify	Attorney-Client Communication; Work Product

Wixen Music Publishing, Inc.  
 Privilege Log | October 31, 2017  
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Date	Doc Type	From	To	CC	Subject Matter	Category
8/9/2017	Email	Brad Swart	Randall Wixen; Bernie Gudvi; Tony Dimitriadis; David E. Altschul		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/9/2017	Email	Randall Wixen	Brad Swart; Bernie Gudvi; Tony Dimitriadis; David E. Altschul		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/9/2017	Email	Brad Swart	Randall Wixen; Bernie Gudvi		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/9/2017	Email	Randall Wixen	Brad Swart; Bernie Gudvi		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/9/2017	Email	Tamara Milagros-Butler	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/10/2017	Email	Connie Pappas Hillman	Jason Rys		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/11/2017	Email	François Honquert	Cory Shackelford; Karina Wauterecht	Pierre Mossiat	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/11/2017	Email	Jason Rys	Lynn Stuart		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/11/2017	Email	Stan Lynch	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/11/2017	Email	Cory Shackelford	Stan Lynch	Jason Rys	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/14/2017	Email	Jonny Thompson	Randall Wixen	Cory Shackelford; Andrew Wixen; Sharon Wixen	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/14/2017	Email	Randall Wixen	Jeff Jampol; Kim Stockemer; Kenny Nemes		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/15/2017	Email	Lynn Stuart	Jason Rys		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/15/2017	Email	Jason Rys	Lynn Stuart		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/15/2017	Email	Independent Project Records & Press	Cory Shackelford	Randall Wixen	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/16/2017	Email	Randall Wixen	Independent Project Records & Press; Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/16/2017	Email	David Lowery	Randall Wixen		Ferrick v. Spotify	Attorney-Client Communication; Work Product

Wixen Music Publishing, Inc.  
 Privilege Log | October 31, 2017  
*Ferrick v. Spotify USA, Inc.*

Date	Doc Type	From	To	CC	Subject Matter	Category
8/16/2017	Email	Randall Wixen	Independent Project Records & Press	Jason Rys	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/17/2017	Email	Eric Custer	Teresa Polyak; Randall Wixen		Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/21/2017	Email	Evelyn Paglinawan	Cory Shackelford	Jake Wisely	Ferrick v. Spotify	Attorney-Client Communication; Work Product
8/30/2017	Email	Jason Rys	Patricia Bergdahl		Ferrick v. Spotify	Attorney-Client Communication; Work Product
9/1/2017	Email	Jason Rys	Matthew Fowler; Melinda Elliott		Ferrick v. Spotify	Attorney-Client Communication; Work Product
9/5/2017	Email	Jason Rys	Matthew Fowler; Melinda Elliott		Ferrick v. Spotify	Attorney-Client Communication; Work Product
9/5/2017	Email	Melinda Elliott	Jason Rys; Matthew Fowler		Ferrick v. Spotify	Attorney-Client Communication; Work Product
9/17/2017	Email	Melinda Elliott	Jason Rys	Matthew Fowler	Ferrick v. Spotify	Attorney-Client Communication; Work Product
10/20/2017	Letter	Cory Shackelford; Wixen Music Publishing, Inc.	Wixen Clients; Donahue Fitzgerald LLP		Ferrick v. Spotify	Attorney-Client Communication; Work Product
10/23/2017	Email	Melinda Elliott	Jason Rys; Matthew Fowler		Ferrick v. Spotify	Attorney-Client Communication; Work Product
10/26/2017	Email	Stanley Lynch	Cory Shackelford		Ferrick v. Spotify	Attorney-Client Communication; Work Product

Documents identified by group or category that are subject to the attorney-client privilege and work product doctrine:

1. Communications regarding the Ferrick v. Spotify litigation that are internal to Wixen and include or are at the direction of Wixen's general counsel
2. Communications regarding the Ferrick v. Spotify litigation between Wixen and Donahue Fitzgerald
3. Communications between Donahue Fitzgerald and its clients



# EXHIBIT 2

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

MELISSA FERRICK, ET AL.,	)	
	)	
PLAINTIFF,	)	
	)	
	)	No. 1:16-CV-08412
vs.	)	(AJN)
	)	
SPOTIFY USA INC., ET AL,	)	
	)	
DEFENDANTS.	)	
_____	)	

VIDEOTAPED DEPOSITION OF RANDALL D. WIXEN

(PAGES 108 - 110 ARE CONFIDENTIAL AND BOUND SEPARATELY)

TUESDAY, OCTOBER 31, 2017

REPORTED BY: D'ANNE MOUNGEY, CSR 7872

1 DEPOSITION OF RANDALL D. WIXEN, TAKEN ON BEHALF OF  
2 DEFENDANTS AT 24025 PARK SORRENTO, SUITE 130,  
3 CALABASAS, CALIFORNIA, COMMENCING AT 7:37 A.M. ON  
4 TUESDAY, OCTOBER 31, 2017, BEFORE D'ANNE MOUNGEY,  
5 CSR 7872.

6

7

8

9 APPEARANCES OF COUNSEL:

10

11 FOR THE CLASS COUNSEL:

12

SUSMAN GODFREY, LLP

BY: KRYSTA KAUBLE PACHMAN, ESQ.

13

-AND-

CATRIONA LAVERY, ESQ.

14

-AND-

GENG CHEN, ESQ. (TELEPHONICALLY)

15

1901 AVENUE OF THE STARS

SUITE 950

16

LOS ANGELES, CALIFORNIA 90067

310.789.3118

17

KPACHMAN@SUSMANGODFREY.COM

18

19

20

21

22

23

24

25

1 APPEARANCES (CONTINUED) :

2

3 FOR THE DEFENDANT SPOTIFY USA, INC. :

4 MAYER BROWN  
5 BY: JOHN NADOLENCO, ESQ.  
6 350 SOUTH GRAND AVENUE  
7 25TH FLOOR  
8 LOS ANGELES, CALIFORNIA 90071-1503  
9 213.229.5173  
10 JNADOLENCO@MAYERBROWN.COM

11 -AND-

12 MAYER BROWN  
13 BY: GRAY M. BUCCIGROSS, ESQ.  
14 3000 EL CAMINO REAL  
15 PALO ALTO, CALIFORNIA 94036-2112  
16 650.331.2067  
17 GBUCCIGROSS@MAYERBROWN.COM

18

19

20 FOR RANDALL WIXEN, WIXEN MUSIC  
21 PUBLISHING, INC. AND THE WIXEN CLIENTS:

22 DONAHUE FITZGERALD  
23 BY: ANDREW S. MACKAY, ESQ.  
24 1999 HARRISON STREET  
25 25TH FLOOR  
OAKLAND, CALIFORNIA 94612  
510.451.3300  
AMACKAY@DONAHUE.COM

19

20 ALSO PRESENT:

21 KEVAN CHOSET, SPOTIFY GENERAL COUNSEL

22 CORY SHACKELFORD, WIXEN MUSIC PUBLISHING  
23 GENERAL COUNSEL

24

25 JASON RYS, WIXEN MUSIC PUBLISHING HEAD OF  
COPYRIGHT AND LICENSING

MAX MAI, VIDEOGRAPHER

1 manually go through -- you know, Neil Young's report  
2 was like 600 pages and someone can go through the  
3 600 pages and find pre-'78 numbers listed and then  
4 we could put them in our system, but we just decided  
12:23:44 5 given that the time involved and the duress and  
6 pressure to get this done, having people go through  
7 and manually take them was a lot less effective and  
8 was going to get a lot less songs taken out of the  
9 Ferrick settlement than going for post '78 and the  
12:24:03 10 India route.

11 Q So just so I'm clear, you did not do that  
12 then?

13 A Oh, no. Some of it was done. As I said, I  
14 think we spent about four weeks trying -- I have  
12:24:14 15 staff members do stuff and we just said, great we've  
16 got 300 titles per staff member, per day, that's a  
17 hypothetical number, and we are never going to get  
18 anything done if we don't go on to something else.

19 Q To your knowledge, did you guys look at  
12:24:31 20 archive.org for pre-'78 records?

21 A Yeah, I could be wrong, but I think that  
22 was looked at. But you have to -- the search  
23 requirements are much longer and harder to find and  
24 you have to review documents and it's not as easy an  
12:24:55 25 interface as the U.S. copyright -- Copyright.gov.

1 And even though it's cheaper and less time  
2 consuming than having someone go to Washington D.C.  
3 and do the research, it was still not cost  
4 effective.

12:25:15 5 Q So did Wixen Music actually search that  
6 site in connection with the Ferrick settlement?

7 MR. MACKAY: Asked and answered.

8 THE WITNESS: We would have to ask Jason.

9 BY MR. NADOLENCO:

12:25:24 10 Q You don't know as you sit there whether  
11 that was actually searched?

12 A I do not know.

13 MR. MACKAY: Asked and answered.

14 MR. NADOLENCO: With regard to the  
12:26:17 15 documents you guys produced, I think I made it  
16 clear, but I just want to make it clear we think we  
17 should -- we are entitled to all administration  
18 agreements in full, unredacted form. So I just want  
19 to make that clear just because I asked about  
12:26:38 20 some --

21 MR. MACKAY: I understand. We can  
22 certainly meet and confer with you on that.

23 MR. NADOLENCO: So I asked a number of  
24 questions about what was done to see whether or not  
12:26:47 25 the songs were on verify and the like, and I know

1 efforts to resolve the litigation with class counsel  
2 though?

3 A I think the only thing that I recall is  
4 conversations with David Lowery.

12:31:12 5 Q Do you know if Spotify and class counsel  
6 used a mediator in order to effectuate settlement?

7 A I don't recall. I don't know.

8 Q Do you know how long the mediation process  
9 took between Spotify and class counsel in order to  
10 eventually reach a settlement?

11 A No.

12 Q Do you know how many documents were  
13 exchanged amongst Spotify and class counsel in  
14 conjunction with the mediation process?

12:31:39 15 A No.

16 Q What's your understanding of the amount of  
17 attorney's fees that's being claimed in this case?

18 A My understanding is that it's like  
19 33 percent plus another 5 million to you guys.

12:31:55 20 Q So is your objection or -- strike that.

21 I understand you made an objection that you  
22 think that class counsel's fees are too high in this  
23 litigation; is that correct?

24 A I would have to check the exhibit here.

12:32:13 25 But relative to the settlement amount, I think it's

1 that period as to what happened when.

2 Q If Wixen Music Publishing company or --  
3 sorry.

4 If Wixen Music Publishing, Inc. dated a  
12:51:44 5 letter with a particular date, you would think that  
6 is probably an accurate date of when the letter was  
7 disseminated; right?

8 A I didn't print them. I didn't send them.  
9 I don't know.

12:51:57 10 Q And then it appears there's also a letter  
11 sent from Wixen Music Publishing, Inc. to Wixen  
12 clients on October 20th of 2017.

13 Are you able to confirm that that letter  
14 was sent after the September 12th, 2017 opt out and  
12:52:12 15 objection deadline?

16 A Yes. That's coming back into my recent  
17 memory.

18 Q Now, if there was transmittal of the  
19 objections that were filed to Wixen clients --

12:52:42 20 A Yes.

21 Q -- you would expect that to show up on your  
22 privilege log; right?

23 MR. MACKAY: Calls for speculation.

24 BY MS. PACHMAN:

12:52:52 25 Q Let me rephrase it.



1           There's been a lot of claims over material  
2           being privileged. I think one of the positions that  
3           you took with your counsel was that transmission of  
4           information about objections to clients would be  
12:53:04 5           privileged.

6           So sending, for instance, a draft of the  
7           objections you were going to file to your client  
8           would be a privileged communication.

9           Do you recall that testimony?

12:53:12 10           MR. MACKAY: I'm going to object that  
11           you're asking him legal conclusions about a document  
12           that lawyers prepare and I don't think that's  
13           appropriate.

14           BY MS. PACHMAN:

12:53:21 15           Q           Are you going to answer my question?

16           A           The letter that went out, October  
17           something, did have a copy of the objection.

18           MR. MACKAY: Pardon me. Pardon me. I'm  
19           going to instruct you not to answer any  
12:53:37 20           communications on privilege and not to answer any  
21           more questions on these lines.

22           THE WITNESS: Okay.

23           MR. MACKAY: I mean, we've stated the  
24           privilege objection on the record, and to the extent  
12:53:49 25           you want to get into the content of communications

1 A You can't put a single date on when I had  
2 discussions with clients and so that might have  
3 shifted over time.

4 Q Do you currently think the Ferrick  
12:58:59 5 settlement is superior to the NMPA settlement?

6 A I haven't done the analysis.

7 Q At one time at least you thought the  
8 Ferrick settlement was better than the NMPA  
9 settlement; right?

12:59:09 10 MR. MACKAY: Vague and ambiguous.

11 THE WITNESS: It was bigger dollars for  
12 less market share.

13 BY MS. PACHMAN:

14 Q I think you referenced throughout your  
12:59:21 15 deposition whether or not copyright registration  
16 numbers had to be provided for other class action  
17 settlements.

18 Has Wixen ever been involved in another  
19 class action on behalf of its clients?

12:59:31 20 A Yeah. That was asked to me earlier. And I  
21 said I believed so but I just -- it did occur to me  
22 since that question was asked and now that there was  
23 a late payment matter that the NMPA brought several  
24 years ago, and it was an opt in or opt out and  
01:00:07 25 you -- in order for the settlement to be effective,

1 a certain portion of market share had to agree to  
2 opt to opt in.

3 And I remember David Israelite and Kenneth  
4 Feinberg, who was the so-called pay czar of class  
01:00:30 5 action settlements, flew out to discuss with us at  
6 that time whether or not -- why they felt we should  
7 opt in and why we felt it was a good settlement.

8 And ultimately we weren't required in any  
9 way, shape or form to provide any affirmative notice  
01:01:00 10 from our clients that we were authorized to act on  
11 their behalf. And we were allowed to settle it  
12 without copyright numbers.

13 And I believe that was a much, much larger  
14 settlement than this. And the way that it's done in  
01:01:17 15 the music business is that unless you're suing  
16 someone specifically for a copyright infringement,  
17 you don't use copyright numbers and publishing  
18 administrators are allowed to resolve these things  
19 for their group of clients.

01:01:31 20 Q In what court was this class action  
21 pending?

22 A I think it was federal court.

23 Q Do you recall which court? Where the court  
24 was located?

01:01:39 25 A No.

1 BY MS. PACHMAN:

2 Q Do you recognize Exhibit 8?

3 A Seems to be a reduced picture of a book I  
4 wrote.

01:09:53 5 Q What's the title of the book?

6 A "The Plain and Simple Guide to Music  
7 Publishing," third edition.

8 Q I see on page 2 it says:

9 "Wixen offers ten tips for  
01:10:12 10 song writers at all stages in  
11 their careers."

12 And number 6 is:

13 "Keep a copy of everything  
14 you sign and all your copyright  
01:10:19 15 forms and clearance  
16 confirmations. You'll need them  
17 some day."

18 Why would individuals need their copyright  
19 forms?

01:10:30 20 MR. MACKAY: Vague and ambiguous, calls for  
21 legal conclusion.

22 THE WITNESS: Well, I can give you a list:  
23 Perhaps for estate purposes, for getting bank loans  
24 against collateral, for potential litigation, to  
01:10:49 25 give to their administrators so that their

1 administrators had the works.

2 Unfortunately, rock and roll musicians take

3 a lot of drugs and don't always keep copies of what

4 they sign and it's a finding it after the fact case

01:11:09 5 sometimes.

6 BY MS. PACHMAN:

7 Q But, for example, if you wanted a bank loan

8 against collateral, you would need to list a

9 copyright registration number, you couldn't list

01:11:17 10 some other type of number; right?

11 MR. MACKAY: Calls for speculation.

12 THE WITNESS: In my personal experience,

13 clients who have gotten bank loans secured by

14 copyrights, the bank wants to do due diligence and

01:11:31 15 see if something has been copyrighted and is held by

16 the person who's attempting to get the loan and

17 wants to make sure that it hasn't already been

18 hypothecated or sold to a third party if they're

19 loaning against that collateral.

01:11:51 20 BY MS. PACHMAN:

21 Q So in conjunction with that due diligence

22 they require a copyright registration number; right?

23 A A prudent bank would.

24 MR. MACKAY: Calls for speculation.

01:12:02 25 ///

1 STATE OF CALIFORNIA )  
2 COUNTY OF LOS ANGELES ) ss.

3  
4 I, D'Anne Moungey, C.S.R. No. 7872, in  
5 and for the State of California, do hereby certify:

6 That prior to being examined, the witness named  
7 in the foregoing deposition was by me duly sworn to  
8 testify to the truth, the whole truth, and nothing but the  
9 truth;

10 That said deposition was taken down by me in  
11 shorthand at the time and place therein named and  
12 thereafter reduced to typewriting under my direction, and  
13 the same is a true, correct, and complete transcript of  
14 said proceedings;

15 That if the foregoing pertains to the original  
16 transcript of a deposition in a Federal Case, before  
17 completion of the proceedings, review of the transcript  
18 { } was { } was not required.

19 I further certify that I am not interested in the  
20 event of the action.

21 Witness my hand this 2nd day of Nov November, 2017.  
22 2017.

23   
24 Certified Shorthand Reporter

25 for the State of California

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 22, 2017, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's SDNY Procedures for Electronic Filing.

Dated: November 22, 2017

/s/ Krysta Kauble Pachman  
Krysta Kauble Pachman