

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

Emmanuel Gazmey Santiago A/K/A  
Anuel AA and José Gazmey, a  
partnership D/B/A Gazmey Music  
Publishing and Real Hasta la  
Muerte Music

Plaintiffs

v.

Carlos Suárez D/B/A Spiff TV,  
Maybach Music Latino, Maybach  
Music Group, L.L.C., William  
Leonard Roberts II, ABC Insurance  
Co., John Doe and Jane Doe,  
Company 123

Defendants

CASE No.:

Copyright Infringement;  
Non-Payment of  
Mechanical Royalties;  
Breach of Contract;  
Breach of Licensing;  
Misappropriation of Image  
and Likeness

Plaintiffs Demand  
Trial By Jury

**COMPLAINT FOR COPYRIGHT INFRINGEMENT, BREACH OF  
CONTRACT, MISAPPROPRIATION OF IMAGE AND LIKENESS &  
DECLARATORY JUDGMENT**

**TO THE HONORABLE COURT:**

COMES NOW, the Plaintiffs hereby represented by its undersigned  
attorneys and respectfully states, alleges and prays:

**I. JURISDICTION AND VENUE**

1. This is an action for copyright infringement arising under the  
Copyright Act of 1976, 17 U.S.C., § 115 and related claims, breach or for  
non-performance of contract, and Puerto Rico Law 139, enacted the 13<sup>th</sup>  
of July 2011, known as *Ley del Derecho sobre la Propia Imagen*, 2011

L.P.R. 139 under its pendent jurisdiction. This Court has jurisdiction of this action under 28 U.S.C. § 1338(a)(b), § 1332 for diversity of citizenship because the amount in controversy exceeds the sum of \$75,000.00 dollars and under 15 U.S.C. § 1121.

2. Venue is proper in this district under 28 U.S.C., § 1391(b) and 1400(b).

## **II. PARTIES**

3. Plaintiff, EMMANUEL GAZMEY SANTIAGO ("Anuel"), is a famous rap, trap and reggaeton artist resident of Puerto Rico, who is artistically known as Anuel AA. He is the author of numerous compositions that are being infringed by defendants and whose image and likeness has been misappropriated.

4. Plaintiff JOSÉ GAZMEY ("Gazmey") D/B/A Gazmey Music Publishing is a resident of Puerto Rico, the father of plaintiff Anuel and the beneficial owner of the musical compositions. Gazmey Music Publishing is a partnership between Mr. Gazmey and his son, Anuel. Mr. Gazmey is also the co-owner of Real Hasta la Muerte Music with his son.

5. Co-defendant CARLOS SUAREZ ("Mr. Suárez") A/K/A "Spiff TV" and does business under this pseudonym. Mr. Suarez is an individual who upon information and belief resides in the City and State of Orlando. Mr. Suárez is the president and/or director and officer of Maybach Music Latino, a sub-division of Maybach Music Group, L.L.C. Upon information

and belief, Mr. Suarez has infringed the rights in the musical compositions and to this day is reaping the economic benefits from said songs.

6. Co-defendant MAYBACH MUSIC LATINO ("MML") is a sub-division of MAYBACH MUSIC GROUP, L.L.C. Upon information and belief, Mr. Suárez is the president and/or director and officer of MML.

7. Co-defendant MAYBACH MUSIC GROUP, L.L.C. ("MMG") is a record label imprint, founded by artist William Leonard Roberts ("Rick Ross"). Upon information and belief, MMG is based in the Miami suburb of Davie, Florida and is a Florida Limited Liability Company, with its principal place of business in the State of Mississippi.

8. Co-defendant WILLIAM LEONARD ROBERTS, II ("Ross") is an individual, who upon information and belief resides in Davie, Florida. Ross is a world-renowned musical performer doing business under the names of "Rick Rozay", "Rick Ross", and "Rick Ro\$\$". Ross is the founder, CEO, and/or director and officer of the record label MMG.

9. Co-defendant ABC INSURANCE COMPANY is the fictitious name of an insurance company that upon Plaintiffs' belief, during all the times herein mentioned, had in full effect an insurance policy with MMG. The insurance company is a corporation and/or legal entity organized under the Laws of the Commonwealth of Puerto Rico or any state of the United States, doing business in Puerto Rico and with its principal offices in the Commonwealth of Puerto Rico or any state of the United States. ABC

INSURANCE COMPANY is jointly liable for all copyright violations, breaches of contract and misappropriations of image and likeness alleged in the complaint. The real name is unknown at this time and will be substituted pursuant to the Federal Rules of Civil Procedure once the real name is made known

10. Co-defendants JOHN DOE and JANE DOE and the Legal Conjugal partnership they comprise are the fictional names of any persons jointly liable for all copyright violations, breaches of contract, and misappropriations of image and likeness alleged in the complaint, whose names and identities are unknown at this moment. The real name of JOHN DOE and JANE DOE are unknown at this time and will be substituted pursuant to the Federal Rules of Civil Procedure once the real name is made known.

11. Co-defendant COMPANY 123 is the fictitious name of any company or corporate entity jointly or severally liable for the causes of actions alleged in the complaint. The real name of Company 123 is unknown at this time and will be substituted pursuant to the Federal Rules of Civil procedure once the real name is made known.

### **III. FACTUAL ALLEGATIONS**

12. Anuel is a talented rap, trap and reggaeton artist. In 2010 he began recording music and funding his own music videos. Anuel started gaining popularity in Puerto Rico and the United States in 2014 by posting songs

online. In 2015 he established his name in the music industry with his contribution to the song "La Ocasión" which registered more than two million views in YouTube in two weeks. As the creator of the Trap genre, Anuel is the most influential artist in the latin market. His contributions to the genre include songs such as: "La Ocasión", "Ceniza en Cenicero", "Sola", "Sola Remix", "Coronamos", "Soldado y Profeta", and "Nacimos pa' Morir", among others.

13. Co-defendat Mr. Suárez alleges that Anuel, while still a minor, signed a contract with MMG's Latin sub-division, MML. Mr. Suárez, as MML's president, alleges that said contract with Anuel gives him the right to fifty (50) percent of all net profits produced by artist through MML's record deal.

14. As per the alleged contract signed, MML placed Anuel's Sound Recordings in the market and commenced economically exploiting the publishing and image and likeness of artist. MML began to notify certain royalty statements and payments to Gazmey without any itemization or description of the nature and origins of these payments.

15. In order to ascertain the contractual rights of each party Mr. Gazmey contacted Mr. Suárez requesting copies of the contract allegedly signed by Anuel. Despite agreeing to provide a copy of the contract to Gazmey, Mr. Suárez never produced the contract. Good faith efforts

through Gazmey's attorneys to obtain a copy of the contract were also ignored by Mr. Suárez and his counsels.<sup>1</sup>

16. Gazmey has questioned the fairness of the contract's compensation. The Plaintiffs believe that the alleged 50-50-income split is not in accordance with the music industry's standards when the artist is the owner of the Sound Recording promoted for sale. Conscious of this fact Suárez has offered to send a new agreement improving artist's percentages. Gazmey has declined said offer due to the fact that Suárez has not provided copy of the alleged original contract. Without the original contract Gazmey is unable to make a comparison between the original covenant and the amended. Gazmey has also conveyed Suárez that he wishes to inspect the original agreement because Anuel does not recall specifically the nature of the agreement allegedly signed. Attempts to obtain a copy of the amended agreement were also to no avail.

17. Refusal by co-defendants to submit the contract and non-payment of mechanical royalties constitute a blatant breach of contract. Thus, a rescission of the agreement is hereby requested in this complaint.

18. In the meantime, co-defendants have reaped all the economic benefits pertaining to Anuel's artistic career without payment or his consent. The following areas are currently being economically exploited

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<sup>1</sup> Plaintiff Gazmey has also questioned the validity of the alleged signed contract, given that Anuel was a minor when the contract was allegedly signed with MML.

by co-defendants without any compensation and/or royalty payments to artist: 1) mechanical reproduction and/or streaming of the Sound Recordings, 2) misappropriation of Anuel's name and image for sale of merchandise, and 3) Anuel's music publishing rights over the songs that are being reproduced, sold, and/or streamed as audiovisuals or recordings. Co-defendants have yet to pay any mechanical royalties for the records manufactured and/or downloaded.

19. The songs that are being infringed are "Ceniza en Cenicero" and "Sola (Remix)", among many others.<sup>2</sup>

20. Co-defendants have taken control of Anuel's audiovisuals in YouTube and other audiovisual platforms without authorization and/or a contract allowing the monetization of Anuel's Sound Recordings and/or publishing rights.

21. Needless to say Anuel's career is presently stagnant, despite reaching the peaks in popularity and record charts because co-defendants have maliciously interfered in negotiations with third parties interested in acquiring sound recording, merchandising and publishing rights.<sup>3</sup>

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<sup>2</sup> Co-defendants have infringed the copyrights of multiple other songs which will be made known further on.

<sup>3</sup> Mr. Suárez has willfully lied to plaintiffs about the record label's proposed terms. On multiple occasions he has informed plaintiffs that record labels were offering advances in the amount of fifty thousand dollars (\$50,000). After being approached directly by the record label, Plaintiff became aware that the advances offered were of four hundred and fifty thousand dollars (\$450,000). Plaintiffs are deadlocked by the alleged contract with MML. They are unable to take any action as a result of co-defendant's reluctance to produce copies of the alleged agreement.

#### **IV. CAUSES OF ACTION**

##### **A. COPYRIGHT INFRINGEMENT**

22. Plaintiff realleges and incorporates by reference each and every allegation of Paragraphs one (1) through twenty-one (21), as if fully set forth herein.

23. Plaintiff Anuel is the author and/or co-author of the musical works enumerated in paragraph 19. As author he has the exclusive right to reproduce and distribute or perform the above mentioned songs by sale or other transfer of ownership, or by rental, lease, or lending, copies or phonorecords of the copyrighted work (Section 106 of the Copyright Act of 1976, 17 U.S.C. § 106).

24. Plaintiffs sound recordings and musical compositions registration applications have been submitted to the Copyright Office under service request numbers 1-4925094891, 1-4933137230, and 1-4929081155 respectively.

25. Co-defendants Suárez and/or MML through Cinq have mechanically reproduced, sold, monetized and distributed the sound recordings owned by Plaintiff. In addition co-defendants Suárez and/or MML through Cinq have exploited without authorization the publishing rights of the musical works penned by Anuel. Notwithstanding the very successful commercial exploitation of these rights by co-defendant Suárez and/or MML no payments or royalties including mechanicals have been paid to Anuel.



More specifically co-defendants have not paid any royalties for the mechanical reproduction of "Ceniza en Cenicero" and "Sola (Remix)" whose sole author is Anuel. 17 U.S.C. § 115 of the Copyright Act.

26. Co-defendants have engaged in the reproduction, download, streaming and distribution of the aforementioned songs for their own economic profit, without payment of royalties to artist. This is a violation Section 115 as aforesaid. Furthermore, co-defendants have not requested mechanical licenses for reproduction of the sound recordings. Similarly co-defendants have not requested synchronization licenses to upload the music in audiovisual platforms and have monetized said publishing rights and sound recordings without consent from plaintiff.

27. Upon information and belief, co-defendants Mr. Suárez and/or MML through Cinq have distributed for sale and/or streaming Anuel's sound recordings to Apple Music, iTunes, Spotify, Google Play, Pandora and Deezer. Likewise co-defendant has also uploaded Anuel's audiovisuals to YouTube and Vevo, having neither the synchronization licenses nor the sound recording rights to do so.

28. In fact, Vidaprimo, a multi-platform music network, has created a specific channel dedicated to Anuel where all of his audiovisuals have been uploaded. Needless to say the Plaintiffs have never authorized or licensed synchronization or any other right enabling the publishing of the videos in Vidaprimo's YouTube channel.

29. As anticipated, the non-payment of royalties constitutes an infringement of the copyright law pursuant to 17 U.S.C. §115. Thus, Plaintiffs are entitled to request payment of mechanical royalties, to recover damages, including attorney's fees, and any gains, profits and advantages obtained by co-defendants through the mechanical reproductions, sales and streams. At present, the amount of such damages, gains, profits and advantages cannot be fully ascertained by Plaintiffs, but it's rough estimate is well over \$450,000.

30. Co-defendants have also infringed the Plaintiffs' rights by publishing and streaming the musical compositions without a synchronization license. At present, the amount of such damages, gains, profits and advantages cannot be fully ascertained by Plaintiffs, but it's rough estimate is well over \$300,000.

31. In the same vein, co-defendants have infringed Plaintiffs' rights by authorizing the sound recording's reproduction and/or downloads without claimant's consent. At present, the amount of such damages, gains, profits and advantages cannot be fully ascertained by Plaintiffs, but it's rough estimate is well over \$300,000.

## **B. BREACH OF CONTRACT**

32. Plaintiff realleges each and every allegation set forth in paragraphs one (1) through thirty-one (31), inclusive, and incorporates them herein by this reference.

33. Co-defendants stubborn reluctance to submit a copy of the alleged contract with Anuel leads Plaintiffs to believe that neither Suárez and/or MML have a valid contract signed by Anuel. Notwithstanding the foregoing Plaintiffs hereby allege in the alternative that co-defendants have materially breached the alleged sound recording distribution contract. Material breaches by co-defendants Suárez and/or MML consist of the following: 1) failed to provide appropriate accounting, 2) failed to pay mechanical royalties, 3) failed to account for advances received from third parties, 4) failed to stay within the scope of the sound recording license amounting to a willful copyright infringement, 5) failed to negotiate in good faith the exploitation of the artist's image and likeness that was not a part of the alleged sound recording distribution contract which did not entertain a merchandising right for the image and likeness of artist 6) failed to account for income derived from the exploitation of the artist's image and likeness through merchandising, and 7) failed to account for profits derived from the mechanical reproduction and/or sound recording streaming. Even cognizant of these material breaches and willful infringements of copyright co-defendants have continue to stream, reproduce and sell Plaintiff's sound recordings and image and likeness. Co-defendants have employed insidious machinations and "dolo" to prevent Plaintiffs from asserting their rights and/or to prevent Plaintiffs from reaching contractual agreements with third parties. This egregious

and malicious conduct has been exercised even in areas where the alleged non-exclusive distribution sound recording distribution contract does not cover.

34. Co-defendants' non-performance of obligations as above described constitute a material breach of the alleged contract. Consequently, Plaintiffs are entitled to a rescission and/or resolution, termination, annulment or cancelation of the agreement.

35. At present, Plaintiffs are also entitled to recover damages resulting from the material breaches by co-defendants. The amount of these damages cannot be ascertained at this time but its rough estimate is well over \$450,000.

### **C. MISAPPROPRIATION OF IMAGE AND LIKENESS**

36. Plaintiff re-alleges each and every allegation set forth in paragraphs one (1) through thirty-five (35), inclusive, and incorporates them herein by this reference.

37. Plaintiffs registered the name "Anuel AA" and the phrase "Real Hasta La Muerte" on Puerto Rico's Department of State as a trademark.

38. Co-defendants, without Plaintiff's consent, have merchandised the image and likeness of Anuel. Among others the co-defendants have manufactured, distributed, sold, or licensed for sale t-shirts, headwear, bottoms, tank-tops, hoodies, and chains that prominently display Plaintiff's name and/or motto, image and/or likeness through the internet

and multiple stores in Puerto Rico. Metro Merch is presently manufacturing much of the merchandising.

39. Co-defendants have earned substantial profits from the commercialization of Anuel's image. The amount of these profits cannot be determined at this time. However a rough estimate provided by outside sources establish over \$400,000 in incomes and profits.

40. Co-defendants have damaged and continue to damage Plaintiff's rights in his identity, image, and/or likeness by permitting them to be appropriated and exploited without permission.

41. Further, co-defendants have injured and continue to injure Plaintiff by commercially exploiting his identity without Plaintiff retaining control thereof or receiving income properly owed to him as the sole owner of his identity rights.

42. Co-defendants are therefore liable for violation of Anuel's rights to his own image under Puerto Rican law (Ley del Derecho sobre la Propia Imagen, 2011 L.P.R. 139). Plaintiffs are further entitled to recover statutory damages for the premeditated and wilfull illegal use of Anuel's name, image and/or likeness for including attorneys' fees in the amount of \$100,000 per infringement. At this time Plaintiffs estimate the amount of these damages in not less than \$2,000,000.

**V. INJUNCTIVE RELIEF**

43. Plaintiff realleges each and every allegation set forth in paragraphs one (1) through forty-two (42), inclusive, and incorporates them herein by this reference.

44. Plaintiffs seek an injunction because the damages caused are irreparable in nature and the damages of artist's own image are intangible and for that reason extremely difficult to be ascertained.

45. Furthermore the injunction here sought is the only remedy at law available to Plaintiffs that could eviscerate in an expedited manner the damages that are being presently caused by co-defendants.

46. Plaintiffs request that the co-defendants be held to have willfully infringed Plaintiffs' copyrights in relation to the aforementioned musical works.

47. Plaintiffs request that the co-defendants cease the mechanical reproductions, sales, and distribution of Anuel's sound recordings. Likewise, Plaintiffs request that co-defendants cease the use of Anuel's name, image and/or likeness for their own economic profit.

48. Plaintiffs pray for judgment against the co-defendants and their agents, servants, employees, successors, licensees, officers, partners, assign, parent corporation, attorney and any person acting in concert or in participation with each or any of them, cease from directly or indirectly

continue to violate Plaintiff's sound recording, merchandising and publishing rights.

## **VI. DECLARATORY JUDGMENT**

49. Plaintiff re-alleges each and every allegation set forth in Paragraphs one (1) through forty-eight (48), inclusive, and incorporates them herein by this reference.

50. The plaintiff authored by himself the songs "Ceniza en Cenicero", "Sola (Remix)", and multiple other songs. Plaintiff Anuel had creative control over the song's composition and sound recordings. Moreover, Plaintiffs have never intended to create a co-ownership of the compositions or sound recordings with anyone aside from the authors and co-authors.

51. Notwithstanding the foregoing, co-defendants have taken specific actions as if they were owners of the aforementioned musical compositions and/or sound recordings by licensing, distributing, reproducing and/or uploading Plaintiff's musical works.

52. Further, co-defendants have willfully exploited artist's name, image and likeness without having any merchandising rights.

53. This court has the power to declare the authorship and merchandising rights of the parties to this action. A declaratory judgment will terminate the controversy between the parties concerning the ownership of the musical works and artist's merchandising rights. Co-

defendant is alleging that ownership of these songs was transferred to MML. Plaintiffs vehemently deny this.

54. Thus, Plaintiff Anuel seeks a declaratory judgment to establish that he is the sole owner of the musical compositions "Ceniza en Cenicero" and "Sola" its sound recordings and all copyrights related to these musical works.

## **VII. PRAYER FOR RELIEF**

Plaintiffs hereby request that:

55. The Defendants be held to have materially breach the contract agreements respecting royalties for distribution of artist's musical compositions and sound recordings.

56. The co-defendants are ordered to pay to Plaintiff all damages that Defendants have caused from the misappropriation of plaintiff's name, image and/or likeness.

57. The co-defendants be required to account for all gains, profits and advantages derived from their acts of infringement, breach of contract, misappropriation of image and likeness and for its other violations of law.

58. The co-defendants have no ownership rights in the aforementioned songs.

59. The cancellation, rescission or annulment of the alleged recording contract, due to co-defendants non-performance with its covenants.



60. Plaintiff is granted such other and further relief as the equities of the case may require.

61. Plaintiff prays for judgment against the co-defendants for preliminary and permanent injunction ordering that co-defendants and their agents, servants, employees, successors, licensees, officers, partners, assigns, parent corporation, attorneys, and any person acting in concert or in participation with each or any of them, cease from directly or indirectly infringing Plaintiff's copyright rights.

62. Plaintiffs request that the co-defendants be held to have materially breach the recording distribution contract and infringed Plaintiffs' copyrights and merchandising rights.

63. Plaintiffs are permitted impoundment and destruction of the infringing works, elimination of the channels that have uploaded Plaintiff's audiovisuals, and elimination of all merchandise containing Anuel's name, image and/or likeness

64. Plaintiffs request that co-defendants pay Plaintiffs the costs and disbursements of this action, together with reasonable attorney's fees.

65. Any other relief this Court may deem proper.

#### **DEMAND FOR JURY TRIAL**

Pursuant to Federal Rules of Civil Procedure 38(b), Plaintiff demands a trial by jury of all issues so triable in this action.

**RESPECTFULLY SUBMITTED**

In San Juan, Puerto Rico, this 16<sup>th</sup> day of May 2017.

I HEREBY CERTIFY that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification to all parties in the case.

**s/ROBERTO SUEIRO DEL VALLE**

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