

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) ESTATE OF BERTHA V. JAMES, DECEASED by the Personal Representative, Susie H. James, and BERVALMES ASSOC., INC.	DEFENDANTS THE TYLER PERRY COMPANY, INC., LIONS GATE ENTERTAINMENT CORP., LIONS GATE FILMS, INC. LIONS GATE ENTERTAINMENT, INC., TYLER PERRY, and DOES 1-20,
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) AHDOOT & WOLFSON, APC 10850 Wilshire Blvd., Suite 370 Los Angeles, California 90024 Telephone: (310) 474-9111	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify):
 6 Multi-District Litigation
 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: **JURY DEMAND:** Yes No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT:** \$excess of \$75,000

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Infringement of copyright under 17 U.S.C. Section 101 et seq

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER RELIEFS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) (405(g)) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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CV09 08712

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	State of Alabama

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	County of Los Angeles, State of Georgia, State of Delaware, British Columbia, Canada

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
County of Los Angeles, State of California	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties
Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date November 25, 2009

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

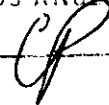
Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

FILED

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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____



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5 Facsimile: (310) 474-8585

6 Attorneys for the Plaintiffs,
7 ESTATE OF BERTHA V. JAMES, *et al.*

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9
10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12
13
14 ESTATE OF BERTHA V. JAMES,
DECEASED, by the Personal Representative
15 Susie H. James, and BERVALMES ASSOC.,
16 INC.,

17 Plaintiffs,

18 vs.

19 THE TYLER PERRY COMPANY, INC.,
20 LIONSGATE ENTERTAINMENT CORP.,
21 LIONS GATE FILMS, INC., LIONS GATE
22 ENTERTAINMENT, INC., TYLER PERRY,
and DOES 1-10,

23 Defendants.
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CASE NO. CV09 08712 JFW

VDKx

COMPLAINT FOR COPYRIGHT
INFRINGEMENT AND DEMAND FOR
JURY TRIAL

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115
20

1 Plaintiffs ESTATE OF BERTHA V. JAMES, DECEASED by the Personal
2 Representative, Susie H. James and BERVALMES ASSOC., INC., as assignee and successor to
3 the rights of Bertha V. James (collectively, "Plaintiffs") allege as follows:
4

5 **Nature of This Action**

6 1. This case involves the unauthorized use of Plaintiffs' lyrics from the song "When I
7 Think of the Goodness of Jesus," without a license. The lyrics were synchronized and reduced to
8 digital media, film and audio which Defendants distributed as part of their work "Madea Goes To
9 Jail" Perry, Tyler; 2008; Lions Gate Films.
10

11 **Jurisdiction and Venue**

12 2. This is an action for copyright infringement arising under the Copyright Act of
13 1976, 17 U.S.C. § 101 et seq., ("The Copyright Act"). This Court has exclusive subject matter
14 jurisdiction pursuant to 28 U.S.C. §§1338(a) and 1331.
15

16 3. Independently, the Court has subject matter jurisdiction over this action pursuant to
17 28 U.S.C. § 1332 because the matter in controversy exceeds \$75,000 and is between citizens of
18 different states.
19

20 4. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and
21 1400.
22

23 **The Parties**

24 5. Plaintiff Susie H. James is the Personal Representative of the Estate of Bertha V.
25 James, an individual decedent's estate in the State of Alabama.

26 6. Plaintiff BERVALMES ASSOC., INC is a duly organized corporation under the
27 laws for the State of Alabama, and the assignee and successor to the published rights of the Estate
28 of Bertha V. James.

1 7. Defendant THE TYLER PERRY COMPANY, INC. ("TPC") is a corporation
2 incorporated in the State of Georgia, doing business in the State of California. Plaintiffs are
3 informed and believe that TPC is qualified to do business in the State of California. TPC has
4 appropriated intellectual property of the Plaintiffs.
5

6 8. Defendants LIONSGATE ENTERTAINMENT CORP., a Corporation
7 Incorporated in British Columbia, Canada, LIONS GATE FILMS, INC., a Delaware Corporation,
8 LIONS GATE ENTERTAINMENT, INC., a Delaware Corporation (collectively
9 "LIONSGATE"), are doing business in the State of California. Plaintiffs are informed and believe
10 that the LIONSGATE Defendants are qualified to do business in the State of California and are
11 headquartered at 2700 Colorado Avenue, Suite 200, City of Santa Monica, County of Los
12 Angeles, California. LIONSGATE has appropriated, published and distributed intellectual
13 property belonging to the Plaintiff Estate of Bertha V. James.
14

15 9. Defendant TYLER PERRY is an individual and author of the infringing work
16 "Madea Goes to Jail," a major motion picture feature production which has used and appropriated
17 intellectual property of the Plaintiffs. Plaintiffs are informed and believe that TYLER PERRY is
18 doing business in the State of California.
19

20 10. Plaintiffs are unaware of the true names and capacities, whether individual,
21 corporate, associate, or otherwise, of defendants Does 1 through 20, inclusive, or any of them, and
22 therefore sue these defendants, and each of them, by such fictitious names. Plaintiffs will amend
23 this Complaint when the identities of these defendants are ascertained.
24
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28

1 **Background**

2 11. Plaintiffs' Decedent Bertha V. James is the author of "When I Think of the
3 Goodness of Jesus," a traditional gospel song, which was published and copy written in 1974 by
4 Elma & Carl's Publisher, Inc.
5

6 12. Plaintiff's Decedent wrote the song in 1950, and the song was copy written and
7 then incorporated in Plaintiff's Decedent's derivative work "The Golden Hour," copy written
8 1990: Txu 4C4 716; see also TX 2 939 980 and again copy written June 18, 1996; Paul 2-095-293.

9 13. Defendants through TYLER PERRY incorporated an entire verse of Plaintiff's
10 work, willfully without a license within their audiovisual work in a major motion picture feature
11 film entitled "Madea Goes to Jail," Lionsgate Studios 2008.
12

13
14 **FIRST CAUSE OF ACTION**
15 **FOR COPYRIGHT INFRINGEMENT**
16

17 14. Plaintiffs reallege and incorporate by reference each and every preceding paragraph
18 as if fully set forth herein.

19 15. Plaintiffs' decedent Bertha V. James was a published and established traditional
20 gospel artist and composer, whose works had intrinsic commercial value and inherent value in
21 terms of her own legacy in the body of traditional American gospel music.

22 16. Defendants are engaged in the business of exploitation of said tradition and legacy
23 for profit.

24 17. Defendants willfully copied lyrics of the song "When I Think of the
25 Goodness of Jesus," incorporating the entire Chorus in a monologue delivered by the main
26 character "Madea" referencing her deliverance from a jail sentence and leniency for repetitive
27 criminal conduct, in a staged court proceeding presided over by "Judge Mabeline".
28

1 18. Defendants failed to seek permission to use Plaintiffs' decedent's work, and
2 exploited same work and incorporated it in Defendants' gauche comedy.

3 19. Plaintiffs are entitled to compensation in the form of an implied license, statutory
4 damages, actual damages, punitive damages, attorneys' fees, as well as pre and post judgment
5 interest for the infringement and wrongful use of the song's lyrics and infringement of Plaintiffs'
6 ownership to the published rights of Bertha V. James.

7 20. Defendants' direct and willful acts have damaged Plaintiffs, causing
8 Plaintiffs' Decedent harm in deliberate prejudice of her property rights.
9

10
11 WHEREFORE, Plaintiffs pray for relief as follows:

- 12 A. For an award of statutory and actual damages;
13 B. For an award of exemplary and punitive damages;
14 C. For an award of Plaintiffs' costs and reasonable attorney's fees incurred in
15 connection with this action;
16 D. For pre-judgment and post-judgment interest; and
17 E. For such other and further relief as this Court deems just and proper.
18

19 DATED: November 25, 2009

AHDOOT & WOLFSON, APC

20
21 By 

22 Tina Wolfson
23 Attorneys for Plaintiffs
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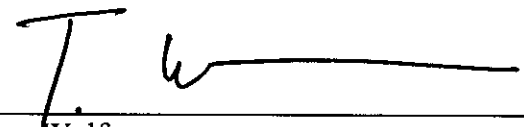
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JURY DEMAND

Plaintiffs respectfully request a jury trial on all issues triable thereby.

DATED: November 25, 2009

AHDOOT & WOLFSON, APC

By 
Tina Wolfson
Attorneys for Plaintiffs

