UTAH LAW RELATED EDUCATION

Presents the

2025 Utah High School and Junior High Mock Trial Competition Case

Byrne v. Byrne

Case No. 2:20-cv-010118-ABR

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2025 High School and Junior High School Mock Trial Case

Case Summary 4

Special Rule 5

Complaint 7

Answer 14

Trial Stipulations 21

Stipulated Jury Instructions 26

Stipulated Relevant Law 31

Witness Declarations 40

Plaintiff Witnesses 41

Declaration, Billie Byrne 41

Declaration, Arlo Vega 47

Declaration, Augustine Oglethorpe 51

Defense Witnesses 54

Declaration, Taylor Byrne 55

Declaration, Emjay Eyestone 61

Declaration, Misha “Minne-Sota” Soto 66

Exhibits 71

Exhibit 1 ..... Certificate of Copyright Registration for the musical work “Anthrophobia.” 74

Exhibit 2.....“Anthrophobia” transcription, which is also the deposit copy supporting the copyright registration, on file with Copyright Office. 76

Exhibit 3.....Email notification of shared “Anthrophobia” sound recording. 82

Exhibit 4.....Sound recording of “Anthrophobia” attached to Exhibit 3. 84, (.mp3 file online)

Exhibit 5.....Handwritten lead sheet of “Alone Together”, written by Taylor Byrne. 86

Exhibit 6.....Commercial recording of “Alone Together.” 89, (.mp3 file online).

Exhibit 7.....“Alone Together” lead sheet, transcribed from commercial sound recording found in Exhibit 6. 91

Exhibit 8.....Statement of Terms between Taylor Byrne and StopMotion Records. 98

Exhibit 9.....Text messages between Arlo Vega and Taylor Byrne. 103

Exhibit 10.....White paper, “How does music work?” by Augustine Oglethorpe, Ph.D. 105

Exhibit 11.....Expert report of Augustine Oglethorpe, Ph.D. and Curriculum Vitae of Augustine Oglethorpe, Ph.D. 114

Exhibit 12.....List of pop music songs contained in “4 Chords” music video published by “Axis of Awesome.” 127

Exhibit 13.....Masthead of The Oquirrh Tribune. 129

Case Summary

(For informational purposes only; not to be used or referred to during trial)

Family drama, sibling rivalry, the price of fame, and… copyright law? That's right, dear mocker, copyright law. This case is a copyright infringement case, but we hope you find it as compelling and as fun as a case prosecuting a bank robbery, considering an arson, or evaluating whether a police officer engaged in excessive force.

The plaintiff is **Billie Byrne,** an introvert whose love of music was passed down to them by their musical parents. Billie's twin, and the defendant, is **Taylor Byrne**, another talented musician, but whose personality jumped out into the world as much as their voice. They were different, but got along well as they grew up. They were "wombmates." Billie always expected that Taylor would make it big, but that Billie would be Bernie Taupin to Taylor's Elton John – the trusted and loved songwriting partner who would share in their success in the background and help to make Taylor really great.

When the COVID-19 pandemic hit, Billie and Taylor were relegated to their house. Together, they decided to start recording music; they turned one of their bedrooms into a recording studio, created a group they called "Tillie Baylor," and started pumping out covers and satire songs on social media and music-sharing websites. Occasionally, they'd put out an original song, but nothing was getting lots of attention.

Then Taylor suggested that they do a cover of Rick Astley's "Never Gonna Give You Up" to try to capitalize on some of the "Rickrolling" fame the song had. It worked, and the duet became popular. Tensions then started to boil. Taylor was getting more fame, largely because they were going to social media to promote their music and brand, along with their social media manager **Emjay Eyestone.** Billie stayed home, trying to write their next hit.

Taylor and Emjay met with **Arlo Vega**, an artists and repertoire (A&R) representative from StopMotion Entertainment. Vega agreed to sign Taylor to a recording contract, but because Vega didn't think Billie added anything to the mix (and dragged Taylor down), demanded that Taylor agree to not work with Billie. Taylor and Emjay agreed to the terms.

Meanwhile, Billie was composing. Thinking about the isolation of the pandemic and the isolation caused by Taylor's newfound popularity, Billie wrote "Anthrophobia," a brooding, mixed-meter song. Billie sent a recording of it to a common email address for Taylor to listen to. Billie was practicing the song in the studio when Taylor burst in to tell Billie the news about the recording contract. It didn't go well, and Taylor left home.

Sad that they lost their wombmate and were quarantined because they were exposed to COVID, Taylor wrote "Alone Together," a pop song that deals with some of the same themes of isolation during the pandemic, but in the context of a romantic relationship. Even though the song is different, some parts of "Alone Together" share common elements with "Anthrophobia."

Taylor took "Alone Together" to their first recording session with StopMotion producer and DJ **Minne-Sota**, who helped record the song. StopMotion released "Alone Together" as Taylor's first solo single. It was hugely successful and launched Taylor's career as a pop star.

Billie claims that Taylor stole the important parts of "Alone Together" from "Anthrophobia." **Augustine Oglethorpe, Ph.D.**, a classically trained musicologist and Billie's expert witness has identified at least six instances of copying. Taylor denies the allegations, saying that they didn't even know about or hear "Anthrophobia," much less copy it. Minne-Sota, testifying for Taylor and who has expertise from their experience as a producer, disagrees with Dr. Oglethorpe's conclusions.

At its heart, the dispute in the case centers on three issues: Did Taylor hear or otherwise have access to "Anthrophobia," before they wrote "Alone Together"? If so, did Taylor "substantially" copy important elements of "Anthrophobia" in "Alone Together," such that average listeners would understand that Taylor ripped off Billie's song? And if Taylor did substantially copy, is what was copied part of the "scenes a faire" – or common themes and tropes of the subject of the songs, such that Taylor isn't responsible for copyright infringement?

Enjoy!
Case Authors &
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UPDATED SPECIAL RULE

Exhibit 4 and Exhibit 6 of the 2025 Case are audio files. Both exhibits are stipulated to be authentic and are admissible without further foundation. No objection to these exhibits will be entertained. The audio files may not be played during examinations, opening, or closing statements. If a team elects, before the case in chief of the plaintiff and as a pre-trial matter, the exhibit(s) may be played a single time.

1. Clarification

- A cell phone or MP3 device may be used to play the audio files provided in the case materials. (See Device Requirements below)
- Playing the audio files does not count against trial time.
- No audio file may be played once the trial has started.
- If one team plays an audio file, it is not necessary for the other team to play the same recording.
- Each audio file may only be played once.
- Teams may choose to play one or both of the audio files/clips.
- If both teams elect to play an audio file, per courtroom procedure, the Plaintiff team may choose to have their bailiff play the audio file(s). If they are unable to do so, the Defense team's bailiff may play the audio files.
- Example: The plaintiff wishes to play *Alone Together Clip 1* and *Anthrophobia Clip 3* before the trial begins. The defense wishes for *Alone Together Clip 1* and *Anthrophobia Clip 2* to be played before the trial. First, the plaintiff follows the pretrial procedure and plays *Alone Together Clip 1*, and *Anthrophobia Clip 3.* After this, the defense requests that their bailiff play *Anthrophobia Clip 2*, but not *Alone Together Clip 1*, as that has already been played.
- No other use of electronic devices is permitted.
- If both teams elect to not use the audio files, the audio files need not be played.
- Pursuant to the Rule of Sequestration (Rule 4.8), witnesses are constructively sequestered. As a result, witnesses are not assumed to be familiar with the contents of Exhibit 4 and Exhibit 6 on the basis that they were in the room during pre-trials. See Stipulation 14.

2. Pretrial Procedure:

If a team chooses to use the audio files, the following describes the procedure for playing Exhibit 4 and/or Exhibit 6.

1. Before the plaintiff case in chief, and as a pre-trial matter, the lead attorney for either the plaintiff (or the defense if the plaintiff does not wish to) must read to the court the statement in Stipulation 13.
   "This case is about copyright infringement. It is about whether the song, "Alone Together," written by Defendant Taylor Byrne, infringes on the song "Anthrophobia," written by Billie Byrne. It may be difficult for the court to understand the written sheet music without hearing how the music sounds. Therefore, the parties have agreed to play the audio file(s) of [Exhibit 4 and/or Exhibit 6].
   Our bailiff will now play the audio file(s) for (Exhibit 4 and/or Exhibit 6)"
2. The bailiff will play the audio files of Exhibits 4 and/ or 6.
3. (Optional) Should the defense wish to play different clip(s), they may request that their bailiff is allowed to play the desired clips.
   "The defense requests that Alone Together/Anthrophobia Clip _ (and Alone Together/Anthrophobia Clip _) also be played.

4. After the audio file has been played, devices are turned off, and bailiffs must hand electronic devices to a coach. No communication with the coach may occur.

3. Device Requirements:

- Teams may use a cell phone or MP3 device to play the sound recordings. Laptops, tablets, or other electronic devices may not be used.
- Devices must be in airplane mode. Internet access must be disabled.
- The sound files must be downloaded onto the device before trial.
- Teams may use an external speaker (optional) to play the files.
- It is the team's responsibility to ensure sufficient battery power to avoid disruptions.

4. Handling Technical Issues:

- It is recommended that, for teams that elect to play the audio file(s), they practice playing the sound recording in advance.
- If a technical issue prevents the music from playing, the opposing counsel may play the recording, or the teams may proceed without playing it.
- Coaches or other non-competing persons may not assist—violations fall under Rule 4.20 and may result in penalties.

5. Electronic Device Rules:

- Any other electronic device use (including disruptions, ringing, or misuse) will be penalized under Rules 1.2 and 6.3, with teams losing up to three points.
- Recording the trial without prior approval from the opposing team is a rule violation and may lead to forfeiture (Rule 4.23, Rule 6.3).

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UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

BILLIE BYRNE, Plaintiff, v. TAYLOR BYRNE, Defendant.	**COMPLAINT AND JURY DEMAND** Case No. 2:20-cv-010118-ABR Judge A.B. Reinhold

Plaintiff Billie Byrne, through counsel, complains against Defendant Taylor Byrne, as follows:

SUMMARY OF CASE

1. Taylor Byrne is one of the most famous pop stars today. Their big break was their first chart-topping hit, "Alone Together." Taylor claims that this song was written by Taylor "alone." But in truth, Taylor's music was much more "together," than "alone." In fact, in writing "Alone Together," Taylor stole from a song written from Taylor's prior bandmate and twin sibling, Billie Byrne. Taylor's

success with "Alone Together," and Taylor's success in general, significantly derives from Billie's expression in their song, "Anthrophobia." Because Taylor willfully infringed on Billie's copyrighted work, Taylor is liable to Billie in damages.

PARTIES, JURISDICTION, AND VENUE

2. Plaintiff is Billie Byrne, a resident of Oquirrh Peaks, Utah.

3. Defendant is Taylor Byrne,[1] a former resident of Oquirrh Peaks and a current resident of Los Angeles, California.

4. This Court has exclusive subject-matter jurisdiction over this copyright infringement lawsuit under 28 U.S.C. § 1338.

5. This court has personal jurisdiction over Taylor because Taylor still has significant assets, business, and personal contacts in this district and because a significant number of the events underlying this specific incident took place within this district such that defendant may be haled into court in this district consistent with due process.

6. Venue is proper in this district under 28 U.S.C. § 1931 because a substantial part of the events or omissions giving rise to the claim occurred in this district.

7. The allegedly infringed work, "Anthrophobia," by Billie Byrne, was registered with the U.S. Copyright Office as Registration No. UT - 31 - 4159 - 26, before this action was filed. Accordingly the registration prerequisites of 17 U.S.C. § 411 have been satisfied.

[1] The parties will be referred to by their first names throughout to avoid confusion.

FACTS

8. Billie and Taylor are twins and have a long history of making music together. From the time they were small children, Billie and Taylor would play, sing, write, and perform music together.

9. During the COVID-19 pandemic, while Billie and Taylor were quarantining at home, the two decided to make music together. They both invested in music equipment, and themselves paid for gear that their parents didn't have, couldn't provide, or couldn't afford. Billie gave up their room to move in with Taylor so they could turn Billie's room into a music studio.

10. Together, the two created a band called "Tillie Baylor." The duo recorded many songs, mostly covers and parodies, along with some original songs, and posted them to the online website Bandcamp and other social media and music sharing sites. The vast majority of these songs were either written, arranged, or produced by Billie.

11. On or about April 11, 2020, Billie arranged a version of Rick Astley's "Never Gonna Give You Up," called "Never Get to Give You Up," which Tillie Baylor recorded. Despite Billie's concerns regarding copyright, Taylor insisted that the recording of the song be published. The recording went viral, and the arrangement was heralded as the "Zoomers' Rickroll" and lauded for its originality and production.

12. After "Never Get to Give You Up" was successful, Taylor became more and more disconnected with Billie, ignoring them, and became more focused on Taylor's social media and fame.

13. To capitalize on the attention, Billie began writing an original song to propel Tillie Baylor into fame. Billie worked constantly for days, and wrote the musical work "Anthrophobia."

14. Billie sent a link to an audio recording of "Anthrophobia" through Google Docs. The email notification alerting Taylor that "Anthrobia" had been shared was read. Accordingly, upon information and belief, Taylor downloaded, and listened to, a recording of "Anthrophobia" from the shared link and therefore had access and exposure to "Anthrophobia" no later than May 22, 2020.

15. Billie was playing "Anthrophobia" in the studio on May 24, 2020, Taylor entered the studio while Billie was playing the chorus, singing lyrics from a different song. Upon information and belief, Taylor had surreptitiously been listening to more of the song before she began singing. Accordingly, Taylor heard and had access and exposure to "Anthrophobia" no later than May 24, 2020.

16. Thereafter, Taylor informed Billie that Taylor would be signed to a major record label deal, with an advance of over $250,000, but Billie would not be allowed to write, produce, or be a part of any of Taylor's future ventures.

17. This news sent Billie into a severe depression, all the while Taylor began a musical career as a pop music star.

18. Shortly thereafter, on or about July 31, 2020, Taylor wrote and released the single "Alone Together." Upon information and belief, the sound recording of "Alone Together" represented the underlying musical work of "Alone

Together." Taylor Byrne is wholly responsible for the creation of the musical work "Alone Together," and is solely responsible for its infringement of "Anthrophobia."

19. "Alone Together" is strikingly similar to "Anthrophobia" in the following, but not limited to the following, ways:

a. Use of the same overall themes of loneliness and togetherness;

b. Use of the words "Alone Together";

c. Use of many similar words and phrases, which are evident in comparing the two works;

d. Use of the same melodic structure between the pre-chorus of "Anthrophobia" and the instrumental hook repeated throughout "Alone Together";

e. Use of alternating 7/8 and 4/4 time; and

f. Use of a common chord progression in the chorus.

20. These elements are important to both "Anthrophobia" and "Alone Together." For example, both the hook and chorus of "Alone Together" are extremely important elements of any pop song, as they can actually "hook" a listener into listening to the song multiple times.

21. Upon information and belief, Taylor has made millions of dollars from "Alone Together," and the song launched their career in which they have made millions of dollars. But Taylor has not paid any royalties to their twin, who has been abandoned and lost significant sums of money by Taylor's infringement.

FIRST CAUSE OF ACTION – COPYRIGHT INFRINGEMENT
(17 U.S.C. § 501)

22. Billie incorporates by reference paragraphs 1 through 21 as if they were restated here.

23. Billie is the author, and therefore the owner of the music work "Anthrophobia." 17 U.S.C. § 201.

24. Billie has secured a valid registration for the musical work "Anthrophobia." *See* U.S. Copyright Reg. No. UT - 31 - 4159 - 26.

25. Upon information and belief, Taylor has admitted to copying "Anthrophobia" as they were creating "Alone Together."

26. Alternatively, as described in paragraphs 14 and 15 above, Taylor had access to the musical work "Anthrophobia" before Taylor wrote "Alone Together."

27. As described in paragraph 19 above, there are striking similarities between "Anthrophobia" and "Alone Together."

28. Therefore, Taylor copied "Anthrophobia" when they wrote "Alone Together."

29. The parts of "Anthrophobia" that Taylor copied when writing "Alone Together" are important, in comparison to the rest of "Anthrophobia" and "Alone Together."

30. Taylor has substantially copied Billie's work.

31. "Alone Together" therefore infringes on Billie's copyrighted work, "Anthrophobia."

32. Taylor's copying was willful, intentional, and maliciously undertaken for the purpose of excluding Billie from Taylor's success.

33. Billie is therefore entitled to an award of actual profits, future profits, costs, and attorneys fees.

PRAYER FOR RELIEF

Billie asks that the Court adjudge that Taylor's musical work "Alone Together" infringes upon Billie's musial work "Anthrophobia," and award damages, lost profits, costs, and fees, and all other legal and equitable relief as allowed by law and as deemed just by this Court.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Billie demands a trial by jury of all issues in this action triable of right by a jury.

DATED: February 1, 2021

AWESOME & AWESOME, P.C.

/s/ *Axel A. Awesome*
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UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

BILLIE BYRNE, **Plaintiff,** **v.** **TAYLOR BYRNE,** **Defendant.**	**ANSWER TO PLAINTIFF'S COMPLAINT AND JURY DEMAND** **Case No. 2:20-cv-010118-ABR** **Judge A.B. Reinhold**

Defendant, Taylor Byrne, through counsel, responds to Plaintiff's Complaint (doc. 1) and provides their affirmative defenses, as follows:

SUMMARY OF CASE

1. The statements in paragraph 1 are not relevant to the case and do not require a response. To the extent they require a response, Taylor admits to the allegations in the first sentence; denies the allegations in the second sentence; denies

the implication in the third sentence and affirmatively asserts that Taylor did write "Alone Together" themself; denies the fourth sentence; denies the fifth sentence; denies the sixth sentence; and denies the seventh sentence.

PARTIES, JURISDICTION, AND VENUE

2. Taylor admits the allegations in paragraph 2 of the complaint.

3. Taylor admits the allegations in paragraph 3 of the complaint.

4. As to the allegations in paragraph 4 of the Complaint, Taylor admits that this Court has subject-matter over the dispute but denies that plaintiff has stated a claim for trademark infringement..

5. Taylor denies the allegations in paragraph 5 of the Complaint.

6. Taylor denies the allegations in paragraph 6 of the Complaint.

7. Taylor lacks information sufficient to form a belief about the truth of the allegations in paragraph 7 of the Complaint, and therefore denies them.

FACTS

8. Taylor generally admits the allegations in paragraph 8 of the Complaint.

9. Taylor admits the allegations in paragraph 9 of the Complaint.

10. Taylor admits the allegations in the first two sentences of paragraph 10 of the Complaint. Taylor denies the allegations in the last sentence of paragraph 10.

11. In response to the allegations in paragraph 11 of the Complaint, Taylor admits that Tille Baylor performed, recorded, and distributed online a remixed,

rearranged version of of Rick Astley's "Never Gonna Give You Up," called "Never Get to Give You Up" and that some music journalists called it the "Zoomers' Rickroll." Taylor denies all other allegations in paragraph 11.

12. Taylor denies the allegations in paragraph 12 of the Complaint.

13. Taylor lacks information sufficient to form a belief about the truth of the allegations in paragraph 13 of the complaint, and therefore denies them.

14. Taylor lacks information sufficient to form a belief about the truth of the allegations in the first two sentences of paragraph 14 of the Complaint, and therefore denies them. Taylor denies the remaining allegations in paragraph 14, including the spurious allegation that Taylor ever listened to "Anthrophobia" before Billie began threatening to sue Taylor.

15. Taylor lacks information sufficient to form a belief about the truth of the allegations in the first sentence in paragraph 15 of the Complaint, and therefore denies it. Taylor admits the allegations in the second sentence of paragraph 15. Taylor denies all other allegations contained in paragraph 15, including the spurious allegation that Taylor was surreptitiously listening to Billie.

16. Taylor admits the allegations contained in paragraph 16 of the Complaint.

17. Taylor lacks information sufficient to form a belief about the truth of the allegations in paragraph 17 of the Complaint, and therefore denies them.

18. Taylor admits the allegations contained in paragraph 18 of the Complaint except for the last sentence. Taylor denies the allegations contained in the final sentence of paragraph 18 of the Complaint.

19. Taylor denies all allegations contained in paragraph 19, including the subparts.

20. Taylor denies the allegations contained in paragraph 20.

21. Taylor admits the allegations in the first sentence of paragraph 21 of the Complaint. Taylor denies the allegations in the second sentence of paragraph 21, as many other factors launched Taylor's career. Taylor admits that they have not paid Billie any royalties, but denies that they have any obligation to do so. Taylor denies all other allegations in paragraph 21.

FIRST CAUSE OF ACTION – COPYRIGHT INFRINGEMENT
(17 U.S.C. § 501)

22. Taylor incorporates by reference paragraphs 1 through 21 as if they were restated here.

23. Taylor lacks information sufficient to form a belief about the truth of the allegations contained in paragraph 23 of the Complaint, and therefore denies them.

24. Taylor lacks information sufficient to form a belief about the truth of the allegations contained in paragraph 24 of the Complaint, and therefore denies them

25. Taylor denies the allegations in paragraph 25 of the Complaint.

26. Taylor denies the allegations in paragraph 26 of the Complaint.

27. Taylor denies the allegations in paragraph 27 of the Complaint.

28. Taylor denies the allegations in paragraph 28 of the Complaint.

29. Taylor denies the allegations in paragraph 29 of the Complaint.

30. Taylor denies the allegations in paragraph 30 of the Complaint.

31. Taylor denies the allegations in paragraph 31 of the Complaint.

32. Taylor denies the allegations in paragraph 32 of the Complaint.

33. Taylor denies the allegations in paragraph 33 of the Complaint.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Billie's Complaint fails to state a claim for relief.

SECOND AFFIRMATIVE DEFENSE

Billie has failed to follow proper formalities in registering Billie's alleged copyright, and therefore her suit is barred.

THIRD AFFIRMATIVE DEFENSE

Statutory damages are barred because "Anthrophobia" was unpublished and Billie registered the copyright in "Anthrophobia" after publication of "Alone Together." 17 U.S.C. § 412.

FOURTH AFFIRMATIVE DEFENSE

To the extent that “Anthrophobia” and “Alone Together” share common elements, Billie’s copyright claim is barred because Taylor independently created “Alone Together” including any similar elements.

FIFTH AFFIRMATIVE DEFENSE

To the extent that “Anthrophobia” and “Alone Together” share common elements, Billie’s copyright claim is barred because the common elements derive from a common source.

SIXTH AFFIRMATIVE DEFENSE

To the extent that “Anthrophobia” and “Alone Together” share common elements, Billie’s copyright claim is barred because the common elements constitute unprotectable “scenes a faire”.

SEVENTH AFFIRMATIVE DEFENSE

To the extent “Alone Together” copies elements from “Anthrophobia,” those elements are protected by the doctrine of fair use.

EIGHTH AFFIRMATIVE DEFENSE

Taylor reserves the right to add additional defense to the extent their existence becomes known through the course of the litigation.

PRAYER FOR RELIEF

Taylor asks that the Court dismiss Billie's Complaint with prejudice and award Taylor costs. fees, and all other legal and equitable relief as allowed by law and as deemed just by this Court.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Taylor demands a trial by jury of all issues in this action triable of right by a jury.

DATED: March 20, 2021

PRINCE & REVOLUTION, P.C.

/s/ *Rogers A. Prince*
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UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

BILLIE BYRNE, Plaintiff, v. TAYLOR BYRNE, Defendant.	**TRIAL STIPULATIONS** Case No. 2:20-cv-010118-ABR Judge A.B. Reinhold

Plaintiff Billie Byrne, through counsel, and Defendant Taylor Byrne, through counsel, stipulate to the following facts, which will be deemed conclusively proven for trial, and the following procedures, which will be binding at trial.

Stipulation 1 All witness declarations are authentic and were signed, under oath, by the witness on the date indicated on the declaration. Further, every witness has had an opportunity to review the witness statement prior to trial, for completeness and accuracy. All witnesses indicated that their statements were accurate and complete and made no changes.

Stipulation 2 All exhibits are authentic, and no party may challenge the authenticity of any exhibit.

Stipulation 3 Exhibit 1 is an authentic Certificate of Registration from the U.S. Copyright Office for the musical work "Anthrophobia." Exhibit 1 is admissible and may be entered without further foundation by either party at any time.

Stipulation 4 Exhibit 2 is a lead sheet for "Anthrophobia"that acts as the deposit copy for the copyright registration in Exhibit 1. It is also a fair transcription of the sound recording of "Anthrophobia" (Exhibit 4) and that was attached to the email notification found in Exhibit 3. Exhibit 5 is a handwritten lead sheet for the song "Alone Together," that was used as the basis for the produced sound recording of the song, which is provided as Exhibit 6. Exhibits 1, 2, 4, 5, and 6 may be admitted without further foundation by either party at any time.

Stipulation 5 Throughout the materials, the pronoun "they" is properly used as a singular, third-person pronoun, regardless of the sex or gender of the person being referred to.[1]

Stipulation 6 Exhibit 4 is a sound recording of Billie Byrne singing "Anthrophobia" (regardless of the presumed sex or gender of the artist singing on the sound recording, and regardless of the sex or gender of the person portraying Billie Byrne at trial). Exhibit 6 is a sound recording of Taylor Byrne singing "Alone Together" (regardless of the presumed sex or gender of the artist singing on the sound recording, and regardless of the sex or gender of the person portraying Taylor Byrne at trial). No party or witness may allege that Billie Byrne is not the person singing in Exhibit 4, and no party or witness may allege that Taylor Byrne is not the person singing in Exhibit 6.

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[1] *See, e.g.*, "They," *Merriam-Webster Dictionary Online*, https://www.merriam-webster.com/dictionary/they (last visited July 4, 2024) (recognizing that the "use of *they, their, them,* and *themselves* as pronouns of indefinite gender and indefinite number is well established in speech and writing, even in literary and formal contexts" and citing to examples from Shakespeare, Jane Austen, and George Bernard Shaw); "Pronouns," *Chicago Manual of Style Online*, https://www.chicagomanualofstyle.org/qanda/data/faq/topics/Pronouns/faq0031.html (last visited July 4, 2024) (recognizing that the use of "they" as a singular, third-person pronoun is an "established usage" that "has been around for a long time").

Stipulation 7 No attorney may require that a witness sing, nor may any witness voluntarily sing during the witness's examination.

Stipulation 8 The parties have waived their rights to a jury trial under the Seventh Amendment to the U.S. Constitution. However, the parties' stipulated jury instructions may be used to argue legal points and may be used by the Court in fashioning its Findings of Fact and Conclusions of Law in rendering a decision in this case.

Stipulation 9 On July 9, 2024, Judge A.B. Reinhold denied Defendants' Motion for Summary Judgment on the issue of Defendants' fair use defense, concluding that, if Defendant Taylor Byrne copied Plaintiff Billie Byrne's protected expression, and if that copying constitutes substantial copying under the Copyright Act, that the fair use factors would favor the plaintiff: Plaintiff's work was intended for commercial distribution; Defendant's use was commercial and not nonprofit; Defendant's use impaired the commercial value of the work; the Defendant would have taken the "heart" of Plaintiff's work. If plaintiff succeeds on the copyright infringement case, then the facts would not support a fair use defense. Thus, the Court concluded, Defendants cannot raise a fair use defense at trial, and it will not be referenced or at issue in the case.

Stipulation 10 No objection may be made to the admission of any expert testimony by Misha "Minne-Sota" Soto on the ground that Soto failed to provide a formal expert report. Plaintiff reserves other objections to the admissibility of any expert opinion by Soto.

Stipulation 11 The parties stipulate that the content of Exhibit 10 is true and correct. However, Exhibit 10 is supplied only to help educate the parties and their attorneys about the basics of music notation and theory that underlie the copyright issues in this case. Exhibit 10 cannot be introduced into evidence or referred to by the parties in any way at trial.

Stipulation 12 The parties stipulate to bifurcate the liability and damages phases, and trial in this matter will relate only to liability. Should the court conclude that Defendant is liable for copyright infringement, a separate trial on damages will be convened at a later date.

Stipulation 13 To ensure that the presiding and scoring judges, factfinders, participants, and gallery have a fair understanding of the issues in the case, the following statement may be read in open court before opening statements are received, should teams elect. The reading of this statement shall not count against any party's trial time:

"This case is about copyright infringement. It is about whether the song, "Alone Together," written by Defendant Taylor Byrne, infringes on the song "Anthrophobia," written by Billie Byrne. The issue in this case is whether the sheet music is infringing, but it may be difficult for the court to understand the written sheet music without hearing how the music sounds. Therefore, the parties have agreed to play the audio file(s) of [Exhibit 4 and/or Exhibit 6].

Our bailiff will now play the audio file for (Exhibit 4 and/or Exhibit 6)"

Stipulation 14 Witnesses have seen, and are familiar with, the following exhibits. Except as otherwise provided in these stipulations, the parties reserve all other objections related to the admission of exhibits and the questioning of witnesses about the exhibits.

Witness	Exhibits the witness is familiar with
Billie Byrne	1, 2, 3, 4, 6, 7, 10, 13
Arlo Vega	5, 6, 7, 8, 9, 10
Augustine Oglethorpe	1, 2, 3, 4, 5, 6, 7, 10, 11, Declarations of Billie Byrne and Taylor Byrne
Taylor Byrne	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 13
Emjay Eyestone	3, 4, 5, 6, 7, 8, 10, 13
Minne-Sota	1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, Declarations of Billie Bynre and Taylor Byrne

Stipulation 15 No objection may be made to the admission of any expert testimony by Misha "Minne-Sota" Soto on the ground that Soto failed to provide a formal expert report. Plaintiff reserves other objections to the admissibility of any expert opinion by Soto.

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UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

BILLIE BYRNE, Plaintiff, v. TAYLOR BYRNE, Defendant.	**STIPULATED JURY INSTRUCTIONS** Case No. 2:20-cv-010118-ABR Judge A.B. Reinhold

Plaintiff Billie Byrne, through counsel, and Defendant Billie Byrne, through counsel, stipulate that the following instructions may be given to decide the case. In the event that the case is tried to the court instead of the jury, the parties agree that the Court may use these instructions to guide its Findings of Fact, Conclusions of Law, and decision in the matter.

1. **Introduction.** In this case, the plaintiff, Billie Byrne, claims ownership of a copyright and seeks damages against the defendant, Taylor Byrne for copyright infringement. The owner of a copyright has the right to exclude any other person from reproducing, distributing, performing, displaying, or preparing derivative works from the work

covered by copyright for a specific period of time. The defendant denies infringing the copyright and contends that any similarities are not protectable or were the product of independent creation, or derived from a common source.

2. **Burden of Proof.** In a criminal case, proof must be beyond a reasonable doubt, but this is not a criminal case. In a civil case such as this one, a different level of proof applies: proof by a preponderance of the evidence. This is a lower burden of proof than beyond a reasonable doubt. When a party must prove something by the preponderance of the evidence, that means that the party must persuade, through the evidence, that the fact is more likely to be true than not true. Another way of saying this is proof by the greater weight of evidence, however slight. The preponderance of the evidence is not determined simply by counting the amount of the testimony. Rather, it is determined by evaluating the persuasive character of the evidence.
3. **Evidence.** The evidence in this case consists of the sworn testimony of the witnesses, regardless of who may have called them; all exhibits received in evidence, regardless of who may have presented them; and all facts which may have been admitted or stipulated. Statements and arguments of counsel are not evidence in this case. When, however, the parties stipulate or agree as to the existence of a fact, the finder of fact must accept the stipulation and regard that fact as conclusively proved. Any evidence as to which an objection was sustained by the court, and any evidence ordered stricken by the court, must be entirely disregarded.
4. **Credibility of Witnesses.** Testimony in this case has been given under oath. The finder of fact must evaluate the believability of that testimony. The testimony of a witness may be believed in total or in part. One witness may be believed even against the testimony of many witnesses. If a witness has intentionally testified falsely about an important matter, the entire testimony of the witness may be disregarded, or only the intentionally false testimony may be disregarded. In evaluating the testimony of a witness, the following may be considered:
    a. Personal interest: Was the accuracy of the testimony affected one way or another by any personal interest the witness has in the case?
    b. Bias: Was the accuracy of the testimony affected by any bias or prejudice?

c. Demeanor: The witness's appearance, conduct, or actions can result in more or less weight being given to the testimony.
d. Consistency: Did the testimony tend to support or not support other believable evidence that is offered in the case?
e. Knowledge: Did the witness have a good opportunity to know what the witness is testifying about?
f. Memory: Does the witness's memory appear to be reliable?
g. Reasonableness: Is the testimony of the witness reasonable in light of human experience?

These considerations are not intended to limit how to evaluate testimony; however, a witness's religious beliefs is not relevant in evaluating his or her credibility.

5. **Expert opinions.** Some witnesses, because of education or experience, are permitted to state opinions and the reasons for those opinions. Opinion testimony should be judged just like any other testimony. It may be accepted or rejected in whole or in part, considering the witness's education and experience, the reasons given for the opinion, and all the other evidence in the case.
6. **Liability for infringement.** One who causes a copyrighted work to be reproduced, publicly distributed, publicly performed, or uses the copyrighted work as the basis for a derivative work (that is that builds upon or uses elements from an existing copyrighted work) without authority from the copyright owner during the term of the copyright infringes the copyright.
7. **Elements of Copyright Infringement.** In this case, Billie Byrne contends that Taylor Byrne has infringed the plaintiff's copyright. The plaintiff has the burden of proving by a preponderance of the evidence (1) that the plaintiff is the owner of the copyright, (2) that the plaintiff's work is "original," (3) that the defendant "copied" Plaintiff's work, and (4) that the copying was "substantial" to trigger liability. The parties have stipulated that Billie is the owner of the copyright in "Anthrophobia," and therefore that element need not be proved at trial.
8. **How copyright is created.** Copyright automatically attaches to a work the moment the work is fixed in any tangible medium of expression, like on paper or in a recording. The owner of the copyright may apply to register the copyright by completing a registration form and depositing a copy of the copyrighted work with the Copyright Office. After determining that the material deposited has copyrightable subject matter and that certain legal and formal

requirements are satisfied, the Register of Copyrights registers the work and issues a certificate of registration to the copyright owner.

9. **Musical Works.** A copyrighted work can be a musical work. A musical work refers to the composition itself, rather than any specific recording or performance of that composition. It encompasses the arrangement of sounds, rhythms, melodies, and harmonies that comprise the music.
10. **Copyright of expression.** Copyright protects only the *expression* of ideas. Facts, ideas, procedures, processes, systems, methods of operation, concepts, principles, or discoveries cannot themselves be copyrighted. Copyright is not violated when someone uses an idea from a copyrighted work, as long as the particular expression of that idea in the work is not copied.
11. **Originality.** A work is original if it was created independently, as opposed to being copied from another work. It must contain at least some minimal degree of creativity. The work need not be completely new. A work can be original even if it incorporates elements that are not original to the author. However, only the original elements added by the author are protected by copyright.
12. **Proof of Copying.** No matter how similar two works may be, if a defendant does not copy the protected work, there is no infringement. If the defendant's work was independently created, or if the commonalities of the defendant's work and the plaintiff's work come from a prior common source, there is no infringement. To prove that the defendant copied the plaintiff's work, the plaintiff may use direct or indirect evidence. Direct evidence includes an admission that the defendant copied the plaintiff's work. Indirect evidence is evidence showing that (a) the defendant had access to the plaintiff's copyrighted work and (b) that there are striking similarities between the defendant's work and the plaintiff's copyrighted work that raise the inference of access. But the plaintiff need not prove that the defendant intentionally or deliberately copied from the plaintiff's protected expression; liability may attach even if the defendant had access to and subconsciously copied the protected expression.
13. **Proof of Substantial Similarity.** The plaintiff must also prove that the defendant's copying of the copyrighted work was substantial. There are two subparts to the substantial similarity analysis.
    a. First, substantial similarity requires proof that the two works share a similarity of ideas and expression and are measured by external, objective criteria, discovered by breaking the works

down to their constituent elements and comparing those elements for proof of copying. This is not the same as "identical." Plaintiff does not have to show that each of the individual elements is substantially similar, but rather that there is enough similarity between the plaintiff's protected work and the defendant's work to comprise a substantial amount.

b. Second, substantial similarity must be proved by examining the total concept and feel of the works. In determining whether the defendant's copying of the copyrighted work was substantial, you may consider how important the copied portion was to the copyrighted work as a whole. If a portion of the work is very important or significant to that work, then that portion may be given more weight in determining substantial similarity, even if that portion is relatively small. On the other hand, if the copied portion is trivial, such that the average audience would not recognize the copying, then there is no substantial similarity. Substantial similarity may be found in a combination of elements, even if those elements are individually unprotected, so long as the overall impact and effect indicate substantial appropriation.

14. **Scenes a faire.** The defendant contends that, if there was copying, what was copied constitutes "scenes a faire" unprotectable under copyright law. Topics and expression that are so commonplace, so indispensable to a common theme, or so naturally associated with the treatment of a subject, that everyone needs to be able to use them in order to deal with a subject, are called "scenes a faire." For example, the idea that superheroes wear capes and masks, or that an underwater society might use sand dollars for currency and their inhabitants might ride seahorses. In addition, if expression is dictated by external constraints, such as the constraints of the western music system, those expressions are scenes a faire. Any expression deemed part of "scenes a faire" may not be considered in determining whether there was illegal copying under Instruction No. 10.

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UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

BILLIE BYRNE, Plaintiff, v. TAYLOR BYRNE, Defendant.	**STIPULATED RELEVANT LAW** Case No. 2:20-cv-010118-ABR Judge A.B. Reinhold

Plaintiff Billie Byrne, through counsel, and Defendant Taylor Byrne, through counsel, stipulate that the following statutes and case law, and no other substantive statutes or case law, may be referenced in arguments during trial in this matter.

Copyright Act

17 U.S.C. § 102[1]

(a) Copyright protection subsists, … in original works of authorship fixed in any tangible medium of expression, … from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories…:

(2) musical works, including any accompanying words; …[and]

(7) sound recordings….

(b) In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

17 U.S.C. § 106

[T]he owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

(1) to reproduce the copyrighted work in copies or phonorecords;

(2) to prepare derivative works based upon the copyrighted work;

(3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending; …

(4) in the case of … musical, … works, … to perform the copyrighted work publicly; …

(6) in the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

[1] These are citations to the United States Code, which is a compilation and organization of the permanent laws of the United States. The first number relates to the title number, "U.S.C." stands for the United States Code, and the second number indicates the particular section of the code. The Copyright Act is in Title 17 of the United States Code.

17 U.S.C. § 201

(a) Initial Ownership.—

Copyright in a work protected under this title vests initially in the author or authors of the work.

17 U.S.C. § 501

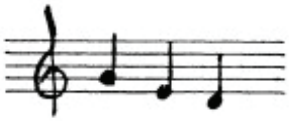
(a) Anyone who violates any of the exclusive rights of the copyright owner as provided by section 106 … is an infringer of the copyright or right of the author, as the case may be.

(b) The legal or beneficial owner of an exclusive right under a copyright is entitled, … to institute an action for any infringement of that particular right committed while he or she is the owner of it.

Case Law[2] [3]

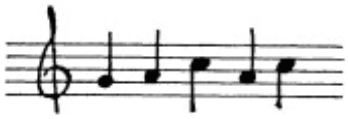
Bright Tunes Music Corp. v. Harrisongs Music Ltd., 420 F. Supp. 177 (S.D.N.Y. 1976). Ronald Mack, who wrote the song "He's So Fine" sung by the Chiffons in 1960, accused former Beatle George Harrison of copyright infringement when he wrote the song "My Sweet Lord." The Court recognized that the two songs shared two two short "motifs".

The A motif



(With the lyrics "He's so fine" vs. "My Sweet Lord.")

And the B motif



("I don't know how I'm gonna do it" vs. "I really want to see you.")

Both songs repeated the A motif 4 times. "He's so fine" then repeated the B motif 4 times; "My Sweet Lord" repeated it 3 times, followed by different music. The songs' harmonies were "identical," but were in different keys, and the specific rhythms of the motifs varied.

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[2] Some of these cases are actual decisions; others are based on real claims of copyright infringement but may have been altered from their original disputes for purposes in mock trial.

[3] A case citation has three main parts. The first lists the names of the parties. The second lists the volume, reporter, first page of the case, and, if a specific reference is being noted, the page on which the specific reference, called a "pincite" is located. The third lists the court (unless it's obvious) and the year the decision was issued. U.S. cases are published in "reporters." These are a series of books that publish written judicial opinions from select courts. U.S. Supreme Court cases are published in (among others) the U.S. Reports, which is abbreviated "U.S." Cases from the United States Courts of Appeals are published in the "Federal Reporter," which is abbreviated "F." The federal reporter has multiple "series" – Second, Third, and Fourth– because the publisher of the reporters have decided that they don't want more than 999 volumes in each reporter. So decisions reported in the second series are abbreviated "F.2d," from the third "F.3d," and from the fourth, "F.4th". Unpublished decisions from the United States Courts of Appeals are released in the "Federal Appendix," abbreviated "F. App'x." The Courts of Appeals are divided up geographically. Utah is in the 10th Circuit; decisions from other circuit courts are persuasive authority. Decisions from federal district (trial-level) courts are reported in the Federal Supplement, which also has a second and third series, and abbreviated "F. Supp." or "F. Supp. 2d" or "F. Supp. 3d." State court cases are reported differently in reporters divided up geographically, or released on-line.

One of Harrison's defenses was that he had never heard "He's So Fine," so he couldn't have copied it. The Court concluded that Harrison must have been exposed to it, because in 1963 the song was No. 1 in the United States and No. 12, in the UK (when the Beatles were actively also on the top of the charts). And even if Harrison didn't intentionally copy "My Sweet Lord," he could still be liable for "unconscious copying." "As [Harrison] tried this possibility [of a combination of notes and rhythms] and that, there came to the surface of his mind a particular combination that pleased him as being one he felt would be appealing to a prospective listener; in other words, that the combination of sounds would work. Why? Because his subconscious knew it already had worked in a song his conscious mind did not remember." *Id.* at 180.

Ferguson v. National Broadcasting Company, 584 F.2d 111 (5th Cir. 1978): Wilma Ferguson sued NBC and others, alleging that the first sixteen and the last eight measures of her composition called "Jeannie Michele" used in the theme music on an NBC TV show called "A Time to Love." Ferguson's lyrics begin "I'm in love, I'm in love, I repeat, I'm in love," and both pieces' have short musical themes that comprise repeating two-measure motives with three-note sequences that have downward and upward skips of the intervals of 4ths and 5ths at the beginning and end. Experts in the case testified that the similar motives in recurring three-note sequence were also found in the works of Johann Sebastian Bach. The Court concluded that there was no copyright infringement. "[In this case,] plaintiff fails to establish mimicry. A few notes do not a song make. … Of course, a copyright plaintiff need not establish a measure for a measure, but her proof must have some musical measurability. The evidence here shows that Jeannie Michele had precursors and predecessors…. It is not enough to place two works back to back, if both track their ancestries back to Bach."

Peters v. West, 692 F.3d 629 (7th Cir. 2012): A young, up-and-coming hip-hop artist wrote a song called "Stronger," which he sent to a colleague of the world-famous hip-hop artist Kanye West. When West subsequently released a song called "Stronger," Peters sued. He based his infringement on the fact that both songs used a variation of the line, deriving from Frederich Nietzche, "That which does not kill me only makes me stronger," that the song titles were identical, that the hooks of both songs used a similar rhyme pattern and rhyme scheme, and that both songs referred to supermodel Kate Moss as a paradigm of beauty. The court dismissed Peters' claim, because the Nietche quote derived from a common source, which had been repeatedly invoked in pop music over the past 50 years, because song titles are not copyrightable, because a poet cannot copyright a rhyme scheme, and because "analogizing to models as a shorthand for beauty is, for better or for worse, commonplace in our society. The particular selection of Kate Moss, who is very famous in her own right, adds little to the creative choice." "Plaintiff's theory is that the combination of the songs' similar hooks, their shared title, and their references to Kate Moss would permit a finding of infringement. But … in the end, we see only two songs that rhyme similar words, draw from a commonplace maxim,

and analogize feminine beauty to a specific successful model. [Because the songs] share only small cosmetic similarities … Vince P's claim for copyright infringement fails…."

Hobbs v. John,722 F.3d 1089 (7th Cir. 2013): Guy Hobbes claimed that Elton John (and his writing partner Bernie Taupin) infringed his song "Natasha" when they wrote, published, and performed their hit "Nikita." Hobbs' arguments only surrounded the lyrics–there was no claim to infringement of the music. He claimed that there were six elements of similarity: In support of this argument, Hobbs identifies the following allegedly similar elements that are found in both songs: (1) A theme of impossible love between a Western man and a Communist woman during the Cold War; (2) References to events that never happened; (3) Descriptions of the beloved's light eyes; (4) References to written correspondence to the beloved; (5) Repetition of the beloved's name, the word "never," the phrase "to hold you," the phrase "I need you," and some form of the phrase "you will never know;" and (6) A title, which is a one-word, phonetically-similar title consisting of a three-syllable female Russian name, both beginning with the letter "N" and ending with the letter "A." Even if those elements were not themselves copyrightable, Hobbs argued that, even if the individual elements were not subject to copyright protection, the "unique selection, arrangement, and combination of" the elements were infringing. The Court rejected the argument. Regarding the first four points of comparison, the Court held there was no similarity because the expression used to discuss the ideas was too different: "Although both songs contain the idea of an impossible love affair due to a conflict, each song expresses this general idea differently. That is, "Natasha" and "Nikita" tell different stories about impossible romances during the Cold War." Addressing the last two points of comparison, the court concluded that "liberal use of repetition," including repetition of "never," to hold you," and "you'll never know;" and the use of a Russian name beginning with "N" and ending with "A" were "rudimentary, commonplace, standard, or unavoidable in popular love songs."

Three Boys Music v. Bolton, 212 F.3d 477 (9th Cir. 2000): The Isley Brothers alleged that Michael Bolton's song "Love Is a Wonderful Thing" infringed upon the Isley Brothers' song of the same name. The jury agreed and awarded the Isleys more than $5 million in damages, and the Court of Appeals affirmed on review. The Isley Brothers' infringement claim was based on five protectable elements: (1) the title hook phrase (including the lyric ("Love is a wonderful thing"), rhythm (a long note on "Love" followed by shorter notes of the rest of the lyric), and pitch (a descending melodic sequence); (2) the shifted cadence; (3) the instrumental figures; (4) the verse/chorus relationship; and (5) the fade ending. Even if some of those elements were unprotectable, they can be the basis for substantial similarity if they are employed in a "unique combination" and if a jury can find that the "overall impact and effect indicate substantial appropriation."

Skidmore v. Led Zeppelin, 952 F.3d 1051 (9th Cir. 2020): This case involves the allegation that the famous opening lick to Led Zeppelin's "Stairway to Heaven" infringes on the one-page song called "Taurus," written by Randy Wolfe and performed by the band Spirit. There was no claim of any infringement of melody or lyrics, but rather the descending chromatic notes, two-note sequences, "collection" of pitches, and the chord progression of the introduction. (See highlighted notes below)

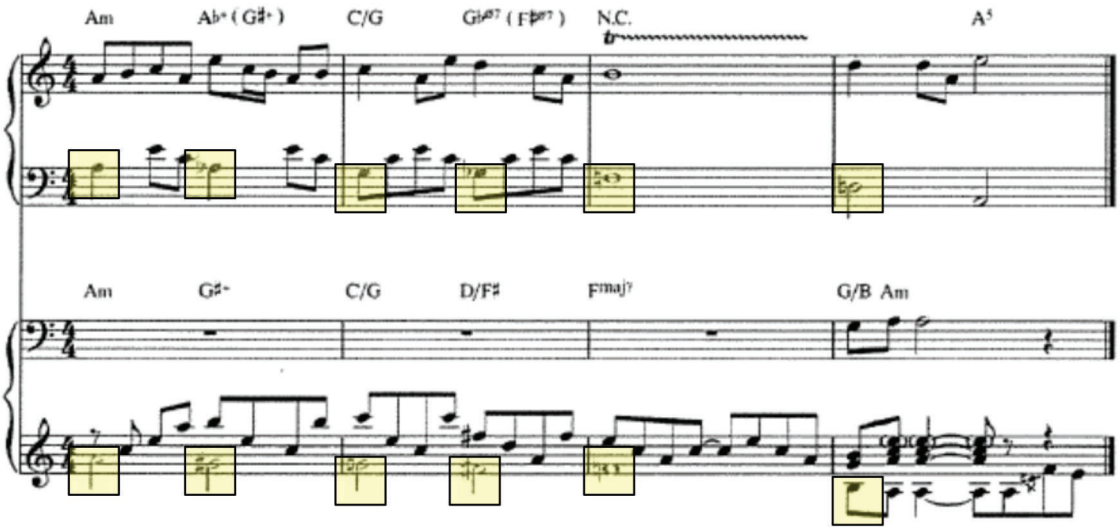
Experts testified that the claimed expression was generic (descending lines by one-half step are extremely common) and any other commonalities were coincidental: were preceded and followed by different notes to form distinct melodies. He described the purported similarity based on these note sequences as akin to arguing that "crab" and "absent" are similar words because they both have the letter pair "ab," and that the "pitch collection" is not musically meaningful because it is akin to arguing that the presence of the same letters in "senator" and "treason" renders the words similar in meaning. The jury returned a verdict for Led Zeppelin, and the Court of Appeals affirmed. Among other things, the court ruled that because Plaintiff had only registered the musical work, and not the sound recording, it would have been improper to play the jury sound recordings of "Taurus" that embellished the "Taurus" written music (and may have sounded more like "Stairway"), but it was appropriate to play the registered sheet music to compare with the allegedly infringing work.

MUSICAL EXAMPLE 1

Four-measure chord progressions

Top two lines = Section A in "Taurus" with note values halved

Lower two lines = Measures 1-4 in "Stairway"



Williams v. Bridgeport Music, 895 F.3d 1106 (9th Cir. 2018): In this case, the successors to Marvin Gaye's estate alleged that the song "Blurred Lines," written by Robin Thicke and Pharrell Williams, infringed on Marvin Gaye's "Got to Give it Up." Experts for Gaye's estate argued there was a "constellation" of eight similarities between "Got To Give It Up" and "Blurred Lines," consisting of the signature phrase, hooks, 2 hooks with backup vocals, a special theme in backup vocals 3 backup hooks, bass melodies, keyboard parts, and unusual percussion choices. For the first step of the substantial similarity analysis, the trial court excluded unprotectable elements (such as the use of a cowbell or background percussion) and excluded anything not in the deposit copy of the Gaye sheet music and concluded there was enough similar protectable expression to send the issue to a jury. Experts disagreed about whether some of the music in "Got to Give It Up," was "implied" in the sheet music, and after hearing mashups and contradictory testimony, the jury returned a verdict finding infringement. The Court of Appeals affirmed, concluding that, even if some elements were unprotectable, "a trier of fact may 'find that the over-all impact and effect indicate substantial appropriation," even if "any one similarity taken by itself seems trivial.""

One of the three judges on the panel wrote a strong dissent, beginning like this: "The majority allows the Gayes to accomplish what no one has before: copyright a musical style. "Blurred Lines" and "Got to Give It Up" are not objectively similar.

They differ in melody, harmony, and rhythm. Yet by refusing to compare the two works, the majority establishes a dangerous precedent that strikes a devastating blow to future musicians and composers everywhere. While juries are entitled to rely on properly supported expert opinion in determining substantial similarity, experts must be able to articulate facts upon which their conclusions—and thus the jury's findings—logically rely. Here, the Gayes' expert, musicologist Judith Finell, cherrypicked brief snippets to opine that a "constellation" of individually unprotectable elements in both pieces of music made them substantially similar. That might be reasonable if the two constellations bore any resemblance. But Big and Little Dipper they are not. The only similarity between these "constellations" is that they're both compositions of stars.""

Petty v. Smith, 889 F. Supp. 2d 3948, 3955 (C.D. Cal. 2016): Tom Petty sued Sam Smith, alleging that the chorus of Smith's gospel-inspired song "Stay With Me" infringed upon this classic rock song "I won't back down," because the melodic line and rhythm of the main part of the chorus were nearly identical, even though the tempos, "feel," key, and other parts of the song were different. The district court held that the similarities of the melodic line and rhythm "Won't… back… down" vs. "Stay… with… me." in the six measures in the chorus, and the fact that those measures were featured in both songs were enough to create an issue of fact for trial about whether "Stay With Me" was substantially similar under the Copyright Act. The case settled before trial, and no appeal was taken.

Plaintiff Declarations

Declaration of Billie Byrne

I, Billie Jean (Gene) Byrne, make the following declaration under penalty of perjury:

I'm 22 years old. My twin, Taylor, stole my ideas, my words, my melodies, and my fame.

Let's start at the beginning. When it comes to Taylor and me, I've pretty much always been their backup. When Taylor was born, they came out screaming, garnering all the attention. I was born 20 minutes later, and the doctors had to spank me to get me to breathe. Our parents spent all their time getting Taylor to calm down. It was only after Taylor saw me that they figured out what to do. At least, that's what I was told.

As we grew up, Taylor was the "star of the family," from minor stuff like always getting to be the first to tell our parents about our day to big stuff like performing solos in our church choir. Taylor would post a toy review on YouTube (which Taylor started doing when they were, like, 8); I wrote complaint letters to the toy manufacturer to get our money back. Taylor always raised their hand to answer questions in class (even when they were wrong); I was rewarded for my poetry I wrote when I got too bored in English class. My birthdays were bug dissections at the Natural History Museum; Taylor's were DJ'ed dance parties that were live-tweeted.

But most of the time, I didn't really mind. I enjoyed my solitude and introspection; Taylor thrived on personal interactions with others, but especially their peers. And, despite our differences, we got along really well. When we were kids, we would play together. As we got older and our friend group and interests grew apart, we'd still be there for each other. Taylor would push me to get involved in school activities; I would be their listening board when they had romantic relationship problems. Sure, we had some sibling rivalry, and I'm sure that I expressed jealousy, but we always said we were real "wombmates," and our bond was stronger than any other–with our friends, our crushes, or even our parents.

We were also connected by music. Our Mom, Stevie Rae Byrne, is a bassist. She played bass in the church band, played in an 80s cover band, and even got to back up Billy Joel when he came through town once. Dad has always loved singing too. And our parents exposed us to all sorts of music: Mozart piano trios at dinner time; Miles Davis or Dave Brubeck on rainy, indoor play days; dance parties listening to The Specials, Parliament Funkadelic, Gloria Estefan, or Wu-Tang Clan; Ozzie Ozzborne when we were cleaning the house; They Might Be Giants, James Taylor, The Rolling Stones on road trips. The whole family was at the Velour Battle of the Bands in 2008 when Imagine Dragons won. We'd get into debates about whether Flea or Paul McCartney was the better bass player, or whether Philip Glass's newest symphony was genius or just him writing minor arpeggios on repeat.

Playing music was a family affair. Taylor and I started piano when we were 6 and kept with it through high school, though I was the more diligent practicer and advanced further than they did. We both also started singing lessons when we were 10, but Taylor excelled there. They have a much more interesting voice and wider range than I do. I may be named Billie Jean (Gene), but Taylor's voice is much more Michael Jackson. Mine is more Billie Joe

Armstrong. Taylor also picked up guitar along the way. I don't think they can play more than three or four chords, but it's something.

While Taylor and my musical tastes differed as we got older, we both loved Elton John. His voice was amazing of course, but I also loved the songs he sang. My dad told me that, through almost his entire career, Elton had a songwriting partner named Bernie Taupin. Bernie wrote nearly all of Elton's hits. While Elton was crazy famous, Bernie preferred to be in the background, to be able to "drive myself to the grocery store without getting mobbed." I thought that was really cool.

The COVID-19 pandemic was hard on everyone, including my family. Of course, in-person school was canceled, just as we were getting to really make friends. Taylor and I couldn't even go to church, much less perform. Mom got laid off from her job and, sadly, kind of drifted away from the family. Dad had to take two jobs to keep us going, and it felt like he was in quarantine from us half the time from being potentially exposed at his night job at the Amazon warehouse. It was tough.

Taylor and I really became close, mostly through music. We'd sing and play together, mostly from fake books or from lead sheets we'd download off the internet. Sometimes, we'd change the words of pop or rock songs to make funny versions. We thought some sounded really good, and Taylor was always so antsy to post stuff on social media, so for our birthdays, we asked our parents to buy us some basic studio recording equipment and computer software for us to record near-professional quality tracks. Taylor and I tapped into our savings to buy the equipment our parents couldn't afford, even though that was supposed to be for college. I actually moved into Taylor's room so we could turn my room into a recording studio.

We called ourselves Tillie Baylor–portmanteaus of our names. Our first recordings were, well, not very good, but were also just doing this as a fun way to pass the time in quarantine. We did a few covers, lots of parody songs ("Rhombuses" instead of "Circles" by Post Malone; "10,000 Facemasks" instead of "10,000 Hours" by Dan+Shay), or riffs on kids' music we sang growing up (like a punk version of B-I-N-G-O), that kind of stuff. We also did a few Tillie Baylor originals. Sometimes, I'd write everything. Other times, Taylor would come up with a lyric or a chorus, and I'd fill the song in–producing, arranging, adding instruments or vocals, the whole shebang. I admit that most of my stuff was often complicated and might be considered "unapproachable" or "avant garde," but I think part of why some of those tracks didn't sound as good was that Taylor's heart was never in it when they were singing my songs.

Once we had a few of our own tracks, we set up accounts on Bandcamp (an audio streaming site for unsigned musical acts to publish recordings) and uploaded. We used Taylor's YouTube and their other socials to promote, since I never posted to any socials and my only followers were my parents. Most of the early stuff we did got, like, a few hundred downloads and streams–mostly from our school friends and family members. The stuff I wrote got even fewer–like a couple dozen. But I wasn't writing and producing for the masses–I was writing for me. For us.

One day, Taylor got this crazy idea to do a cover of Rick Astley's "Never Gonna Give You Up." You know, the Rickroll song? But Taylor said it should be pandemic-themed, with the title "Never Get to Give You Up." I thought it was cute and so we got to work. Like usual, I wrote everything, edited everything; produced everything. I made it sound enough like the original that people thought it might be, but then 10 seconds into the introduction section the whole sound changed, bouncing from trance to pop, ending with Taylor's voice layered in a Bach-like fugue. It was awesome. Taylor posted clips to their socials and it got spread around, getting a few thousand likes. Taylor said we should post the whole thing to Bandcamp. I was kinda nervous because I thought we'd get sued for copyright infringement or whatever; we didn't have the rights to the song. But Taylor assured me it'd be OK. Taylor said, "Don't be such a simp for big record companies. Our clip hasn't been taken down by YouTube yet, so I think that means they don't care. And even if they do, it's easier to ask for forgiveness than beg for permission." So we posted it.

It went viral. Fast. People used it as an alternative for Rickrolling, but people also legit listened to it because it actually commented about the effect of the pandemic on relationships. One music blogger called it the "Zoomers' Rickroll" because it was a prank and serious commentary at the same time. The blogger also liked Taylor's voice, but he said that my production was "fire." It got 600,000 downloads and streams in a month, and Taylor got followers on their socials. Our other stuff was getting more listens and downloads too.

We knew that this was our time. We had the attention of fans and important music critics, so we had to do something amazing. Taylor was already parlaying this on their socials, but they said that we needed a strong Tillie Baylor presence. So we got Tillie Baylor social media accounts,a Tillie Baylor YouTube channel, a Tillie Baylor email… all of it, and we started monetizing the streams and plays of our music.

Just in the first few days we were getting so many messages that Taylor couldn't keep up, and I didn't want to. So we called up our friend Emjay, who was in our class but had been a teen Insta influencer for a couple of years now, to manage Tillie Baillor's socials and emails. I wouldn't call them a manager per se, but they were remarkably good at leveraging the socials, saying the right things to the right people, lining up sponsorships. They even got me in on the game, introducing our fans to me, having me do some live streams of our other original stuff, stuff like that. But Emjay and Taylor were spending more and more time on socials, making sponsored posts, singing covers a capella or whatever, and I wasn't getting invited. It seemed like Emjay just didn't like me. I confronted Taylor about it, and they just said, "I'm making us famous right now. You just write us 'Your Song' and we'll be bigger than Elton and Bernie!" ("Your Song" was Elton and Bernie's first chart-topping hit they worked on together.)

That week Taylor was making live appearances on social media every day, mostly just doing promos of "Never Get to Give You Up" and the other stuff we'd released, in between responding to reaction videos and posting selfies on hikes and with our cat Milo. I was holed up in the studio trying to write the hit that would solidify our place in the pantheon of pop music. I think I stayed up 50 hours straight. Taylor was out of the house every day.

After writing inane pop song after inane pop song, I came back to what I knew. My introversion only got worse from the pandemic. I was quieter; afraid to do the things I used to do; not interested in leaving the house. I had lost most contact with my friends and classmates – school on Zoom will do that. Doomscrolling on others' social media made me feel even less connected, especially as Taylor and Emjay seemed to be finding more friends and more things to do. I remembered that one of the reasons that "Never Get to Give You Up" was so popular was that it was about the lack of relationships during the pandemic. If I'm feeling these things, I thought, so will Tillie fans. So I got to work on a song about my fears, the pandemic, and most importantly, how I could get through it with Taylor. I wanted it to be awkward and uneven, so I wrote it in ⅞ time (that feels like it's missing a beat, like Pink Floyd's "Money" or Radiohead's "2+2=5"). But I wanted the chorus to feel familiar, so I wrote it in "regular" 4/4 time and used a very common pop music chord progression that's used in "Can You Feel the Love Tonight" (and like a billion other pop songs). I wanted to focus on the universal feeling that we were all experiencing loneliness during the pandemic, and being alone with someone else is isolating but comforting as a shared experience. I tentatively titled my song "Anthrophobia," which means the fear of people. At the time, I wasn't aware of any other music about this, so I thought our fans would like it, and I liked it.

I got a couple of verses, the pre-chorus, and the chorus written and made a quick recording of me singing it. It was the middle of the night, and I didn't know where Taylor was, but I wanted to make sure they got it as soon as possible. I sent the recording, which is included as Exhibit 4, to Taylor. I'm sure I texted them, but I can't find the text message now. And I shared the recording to our Tillie email address. That notification is Exhibit 3. We all had access to the email and the password, but I never looked at that account. Taylor had been so busy with all the social media and promo stuff, I didn't know if they would be looking at their regular email. I knew they looked at the Tillie email fairly regularly though, and I figured that even if Taylor didn't see the recording, Emjay would. I added a message on the "share with" and made sure they had permission to access it. It was like 3 am and I was beat, so I went to bed. Taylor wasn't in our room when I went to sleep, and wasn't there when I woke up. The next time I checked the Tillie email, I saw that the notification was marked "read" in the inbox. I never opened it. That means that either Emjay or Taylor must have.

The next afternoon, I got up around 1:00 pm and went back to the studio to keep working on Anthrophobia. Later in the evening, I was working in the studio but felt like I was being watched. I was too in the zone to look around, but it was one of those feelings, you know? You know someone else is in the room with you. I played through the song a couple of times and then started working on a transition to the chorus. I was playing the chorus when all of a sudden I hear someone sing "Caaaaan, you feeeeel…. The looooooove, tonight". They were wearing a mask, which was unsurprising considering how often they'd been out of the house. Taylor asked me what I was doing; I said "This is our 'Your Song'. I shared the recording with the Tillie account and added music for you to listen to it. It's on—" but Taylor interrupted.

"Awesome. That song sounds great! I can't wait to sing it! But for now, I have something amazing to tell you," Taylor said. "Sorry about the mask. I've been out at some events and might have been exposed to Covid, so I'm sleeping on the couch and wearing a

mask inside. Anyway, listen, yesterday, when I was out doing promos with Emjay, Tillie got a call from Arlo Vega. Turns out, they're an A&R exec for StopMotion Records. They want to sign me to a 3-record deal!"

"Us, you mean," I said.

"Ummm. Not exactly," Taylor said. They told me that the A&R person didn't see my talent and thought my compositions and production were keeping Taylor from reaching their potential. And that StopMotion had a couple of songs "in the can" ready for "top talent" to create "something big." Plus, "Tillie Baylor is a stupid band name." "But don't worry," Taylor said, "When I take the first album triple platinum, I'll be able to call the shots, and I'm sure I can get them to let you write a song or two; maybe you can even play some instruments on a few tracks."

I didn't know whether to scream, cry, throw something, or smack Taylor right in their stupid, Insta-perfect face. I just looked at Taylor, pointed to the door, and said, through my teeth, "Go. I want to be alone." I pushed Taylor out of the studio (that used to be my bedroom), and then I trashed it. I threw all the equipment in the corner, pulled down the soundproofing, and just laid down in my bed. My parents checked in on me, but I said nothing. They said they understood and left food for a day or two. I just played video games and doomscrolled social media. A few days after Taylor told me that they had the contract, they posted on the Tillie insa account that "It was time for a rebrand" and that they'd "no longer go by Tillie; you can call me Taylor," and sent the fans to Taylor's personal, then solo artist, socials.

Slowly, I recovered. I started coming out of my room. I started talking with my parents. Taylor was nowhere to be found. My parents said that Taylor moved out because they were "going to be doing so many public events," they "didn't want to risk exposing the family to COVID." This was before the vaccine was available, but I know this was just an excuse. Taylor threw Tillie away. They threw our family away. They threw me away.

My worst fears were confirmed only two months later. My mom knocked on my door and said "Taylor called. They told me to tell you that they are releasing a song today and that you'd really feel it, or something." Reluctantly, I opened up my computer. I went to Taylor's socials, and there was a link to Taylor's new song,"that I wrote for all my Die-Hard Burn-outs," (Taylor's *new* name for *our* fans) called 'Alone Together.'" I didn't want to listen, but I did. As I did, it felt like my whole soul collected in my feet and melted out onto the ground. Sure, the song might have been about a romantic relationship, and the time signature and mood was a little different from my song, but it was still my song. "Alone Together" has measures of 7/8 time in it! There's no way that Taylor has even paid attention to a song with 7/8 time, much less knows how to write in it. And the chord progressions they used, the transitions, and nonstandard harmonic progression–that's way beyond Taylor's musicianship. I bet they can't even play half those chords on guitar. The only way they could have figured some of that out was by listening to "Anthrophobia" and stealing from it. The ideas about the shared experience of being alone in the pandemic were there. The chorus was almost identical to my song. And many of my lyrics were there, too. Being "afraid to go outside" is "agoraphobia." Taylor heard me sing "Anthrophobia," then opened that email and listened to my demo and then stole it for their

candy-pop single. I knew Taylor would do what they needed to to become famous, but I never figured they'd steal from their own family, from their wombmate, from me.

Of course, "Alone together" became hugely popular, millions of streams on Spotify and millions of views on YouTube. I didn't know what else to do, so I got a lawyer, filed a certificate of registration for "Anthrophobia," and brought this lawsuit. Taylor has sent a few texts promising to take care of me, but I don't want to be taken care of. I want to be a partner. I want to be Bernie to their Elton. If I can't, then I at least want the value of what Taylor's stolen from me.

DATED this 3rd day of June, 2024

/s/ 

Billie Byrne

Declaration of Arlo Vega

I, Arlo Vega, make the following declaration under penalty of perjury:

I'm 31 years old. I was an Artists & Repertoire (A&R) agent for StopMotion Records back in 2020. I signed Taylor Byrne to StopMotion, coordinated Taylor's first recording with the label, and helped promote them to be the stars they are today. Then I got fired. But now, I know that Taylor's stardom–all started with the song "Alone Together," due to Billie and their music making.

I have always loved music, but more importantly, I always wanted a taste of stardom. From a young age my parents introduced me to bands like ABBA and The Who, and I have been trying to make music of my own to no avail. I played in my middle and high school bands and have written my own tracks, but they weren't any good. I have been consistently unlucky in my pursuits of publishing music, but I loved the chance of stardom in music, so I had to find another way.

Business school seemed like the logical choice if I wanted to stay in the music world even if I was never going to hit it big. I started business school in 2017 at the University of Utah, but it never felt like a good fit. Even so, I chose to stick it out till 2019 when the drama between Scooter Braun and Taylor Swift started. I have always been good at finding small artists and I have always had a natural talent of guessing if they would succeed. I was listening to both Twenty-One Pilots and AJR in 2010, far before either group got big, and that's when it hit me: I wanted to be what Scooter Braun is: an artist manager. Artist recognition and management would be my path to stardom. I saw that Scooter Braun never graduated from college so I figured "What's the point of this business school anyway?" I never felt like I was learning the skills I wanted, so I dropped out of the U in September 2019 and started applying to different music production companies.

After around a month of sending out my resume with no callbacks I realized I really had no formal qualifications to find up-and-coming talent, but I knew I could recognize it when I saw it, so I started to creatively embellish my previous experience with big artists on my resume and this worked! I got callbacks from two major record companies and interviewed with both of them! Even better, a week after my interview with StopMotion Records, I was offered a job as an A&R agent! I knew this was my chance to make it big and I would not squander the opportunity I had been given.

An A&R agent is an employee of a record label responsible for scouting and overseeing the development of recording artists and songwriters signed to the label. As an A&R agent, I had the authority to scout new talent, to offer basic contracts, to line up musicians with songwriters and producers, and make suggestions (sometimes more than suggestions) about what songs an artist should record or when a record is finished. I started working at StopMotion in November of 2019, just before the COVID-19 pandemic hit the United States. My job started off slowly. I reached out to a couple small artists that I thought might have potential but I noticed many artists these days do not have the work ethic necessary to make it. My boss kept

messaging me on Teams wondering when I would actually get a big success for the record company.

My hope rose in April of 2020 when I first heard Taylor Byrne's "Never Get to Give You Up." The song was catchy and well produced, especially with their presumably limited resources, but what was particularly impressive was Taylor's ability to capitalize on the success of the song and market themselves on social media. After observing their initial success and excellent management of that success for the two weeks of internet stardom they had achieved, I reached out to Taylor Byrne on Instagram to see if they would be interested in a record deal, and Taylor indicated that they were interested in the prospect.

After hearing back from Taylor I did my due diligence into their past music and found some not-so-great stuff. At the time it appeared that Taylor predominantly made music with their twin Billie, under the stupid "Tillie Baylor" pseudonym. I listened to all their stuff, including original work that was credited to Billie, and it was clear to me that Billie's style would not have popular appeal in the way Taylor's style would. Before reaching out to Taylor to schedule a time and place to meet, I talked to StopMotion producer Minne-Sota about Taylor, and they seemed interesting in working with them, but shared the same concerns about Billie.

I drafted up a contract, called a Statement of Terms, that I hoped Taylor would sign. This isn't the formal and final record contract; the lawyers would have to sort that out.. But it would lay out the essential terms of our deal and would be binding. This was my first chance to make it big as a talent scout, and I did not want to mess anything up, so I drafted the Statement of Terms with relatively favorable terms for Taylor, except that I wanted to make sure I was getting Taylor and not any dead weight, so I included terms that prohibited Taylor from working with any songwriters or producers other than StopMotion writers or producers. In other words, a "no-Billie" clause. I saw the star potential in Taylor–and in only Taylor–and wanted a signing.

I invited Taylor and Taylor's social media manager–what's their name? I can't remember, and I really don't care—to a party in Las Vegas with many prominent people in the music scene. This was in May 2020, so everyone had been trapped inside long enough to be eager to get out to parties, but they were still underground due to the poor optics of partying during a pandemic.

Taylor and what's-their-name drove out to Vegas for the party on May 23, 2020. They had an excellent time that night. I met with Taylor and their manager. Taylor was clearly excited to talk to me. Maybe too excited. I began to think that the terms in the contract were too generous, but I just went for it. I told them I liked their voice, but not this "Tillie Baylor persona" and noted the possibility that Billie would hold Taylor back. Taylor defended their twin's talent but said, "It's just a band name, not a persona." The manager told me that they'd take care of the "Billie issue," but frankly Taylor made it seem like Billie was going to get between Taylor and a record deal.

So that night, I forwarded the Statement of Terms on to Taylor's manager. The next day, they called me and put me on the phone with Taylor. Taylor was hesitant, not so much because of the "no Billie" clause, but more because of the short time they had to decide. I said to them "You did read the section that prohibits you from working with Billie, right?" and Taylor said "Yes.

I understand that my twin probably does not have that mainstream appeal that we are going for." What I thought was going to be a tough sell ended up being an easy conversation. I may have suggested to Taylor that the time was now to sign, and if Taylor didn't get going quickly, they'd lose a window, but I never said anything about Taylor not getting a record deal if they waited a bit. I got a signed contract from Taylor later that day.

While I was surprised at Taylor's seemingly impulsive decision to sign with us, I was thrilled to have made my first signing with an up and coming superstar. After Taylor signed, I waited for Taylor to get back to me about recording their first album, but I didn't hear anything right away. I figured they must be working hard on their breakout album, so I sent them a text on July 14, 2020 indicating that the contract stipulated that they must start recording a first album by July 20, 2020 to meet the first release window. These text messages are included as Exhibit 9. Taylor and I met on July 15 to make sure everything was prepared for the recording session with Minne-Sota.

This meeting seemed normal at the time as I was still new to the profession, but some statements Taylor made during it now stand out as somewhat problematic. Taylor came prepared with what would become "Alone Together" after indicating in our texts the day before that they were having very little success without help from Billie. I asked them how they came up with the song on such short notice and they just said that "the deadline coming up motivated" them, and when I asked if they had any help from Billie they said "I've always written music with help from Billie, but this time I did not *talk* to Billie at all." They winked at me when they emphasized the word "talk," but I'll admit that, at the time, I didn't notice it. I thought it made sense. We then talked about how the song was "Minne-Sota ready."

The next day Taylor met with Minne-Sota with their draft of "Alone Together" (I was the one who came up with the name.) The session went well and a couple weeks later "Alone together" was published and went viral. Hundreds of thousands of listens in the first day due to some large Tik-Tok creators making videos using the song. My boss was thrilled I was able to discover this talent (and this money!) for StopMotion.

Taylor and I continued our working relationship for the next month or so until my boss discovered that I had "lied on my resume to get this job." That was such a complete overreaction. Sure, I embellished my experience, but I had done such a great job finding Taylor I am convinced StopMotion looked for any technicality to fire me to make sure they did not have to pay my share of discovering Taylor. My contract said I was to get 10% of all proceeds from any artists I discover for the first five years of their contract, and StopMotion was set to have to pay me hundreds of thousands of dollars if Taylor were to continue on the trajectory I put them on.

It has been a couple years since then and I have come to understand the full truth, a story that makes much more sense. I hadn't heard "Anthrophobia" before we released "Alone Together." If I had I 100% would have stopped Taylor from releasing "Alone Together," or modified our contract, or at least made sure Billie got a writing credit and royalties, or had Taylor put the hammer down and get Billie to sign something waiving any right to "Alone Together." Looking at the two songs now, I agree that Taylor stole a large amount of the inspiration of

“Alone together” from their twin Billie, and now I realize that Taylor was telling me as much in 2020. That explains how they were able to produce a draft so quickly on July 15 in our meeting, and why it was so viral on the charts. I was wrong to bar Billie from working with Taylor in our initial contract, as it is only with Billie’s influence that Taylor can write good music, and “Alone Together” is no different. Taylor stole Billie’s song to write that piece and it went viral, convincing StopMotion to look for any way to fire me and not have to pay me my commission. I understand I am unlikely to get any of what I am owed from finding Taylor and making them famous, but Billie deserves their share of the credit.

DATED this *10th* day of *June*, 2024

/s/ 

Arlo Vega

Declaration of Augustine Oglethorpe, Ph.D.

I, Augustine Oglethorpe, make the following declaration under penalty of perjury:

I am 70 years old and am a classically trained harpist playing for the Salt Lake Symphony as well as a distinguished professor of musicology at the University of Utah, where I have been since 1990. I have been hired by the plaintiff, Billie Byrne, to provide my testimony and expert report regarding the alleged copying of Billie's "Anthrophobia" to create Taylor's "Alone Together."

I grew up in New York City, and my parents taught me the harp at a young age. I fell in love with the instrument and pursued harp performance as a career well into my twenties. I attended The Juilliard School and obtained my Bachelor of Music in harp performance in 1977, and then followed up with a Master of Music from the Royal Academy of Music in London. By the end of my master's program, I knew that academia was the path for me so I pursued a Ph.D. in musicology at Princeton University and graduated in 1983. During this time I fell in love with the Baroque period and have spent my entire career studying the Baroque style and the harp's influence on it. I hopped around the country for the next seven years trying to find a stable job in academia (shockingly the demand for someone studying the harp's influence on baroque music is limited), and finally settled at the University of Utah in 1990. In 2000 I was given the rank of distinguished professor of musicology and have held that position ever since. In 2015 I decided to become an expert witness in the area of music analysis to help artists who had their work stolen or copied be compensated for the damages. In addition to my expertise in harp and baroque music, I've published in the area of baroque music's influence on popular music. I also teach introductory and advanced music theory courses and have published white papers that help lay people understand music.

As part of my preparation for the case, I have extensively analyzed both Taylor's "Alone Together" and Billie's "Anthrophobia." I charge $400 an hour for preparation time with an 8-hour minimum and $500 an hour for my time testifying in court with a 4-hour minimum. I am compensated regardless of whether Billie is successful in this lawsuit. As part of my preparation, I have written an expert report that reflects my findings. I have that report, attached as Exhibit 11, and incorporate it into my testimony here. I have no changes to it.

It is my opinion that Taylor copied "Anthrophobia" when they created "Alone Together," and that copying was substantial. As I have stated in my report, there are **six** items of similarity. I describe them thoroughly in my report, along with charts and illustrations that help explain my opinions, but I'll summarize them here.

- **Coda.** Each piece concludes with multiple short phrases following the chorus, often in major or minor third intervals, extending the chorus and creating a coda, or extended ending, rather than, say, a fade out. The notes and harmonies used in the coda are similar, too.
- **Prechorus vs. Hook Melody**. "Alone Together" copies the melody from the prechorus of "Anthrophobia" almost directly. It can be seen in the "Hook"-- the notes of the lead guitar in the introduction and the notes that support the lyric "If

you show up outside of my door; if you" and the following phrase "If you, tell me I'm supposed to do more." While these are relatively short phrases, they are critical. A pop song's "hook" is a very important part of the song, as it literally "hooks in" listeners. And the melodic hook in "Alone Together" has been basically completely lifted from the melodic line in "Anthrophobia."

- **Melodic elements of the choruses.** In my opinion, the most important, and the most egregious, example of copying is found in "Alone Together's" chorus. Both the notes and the text are essentially directly copied: "I'm all alone" going from the notes G, to D, to B, to A, in a nearly identical rhythmic pattern. I admit that the melodic *line* is slightly different–in "Anthrophobia" the line descends from G down to A, and in "Alone Together" the line rises from G to the higher-octave D before descending, but that is just a difference in octave, which can often occur because of concerns about a particular performer's vocal range, and is less musically significant. Again, because this is in the chorus of both pieces, this copying is most important, as the chorus is repeated and is often the part of a song that is most memorable for listeners.
- **Meter Idiosyncrasies.** Both songs use 7/8 time, which is a very idiosyncratic meter for pop or rock music. Further, the utilization of 7/8 time in the choruses – a long note followed by a measure of 7/8 time, which includes the short, eighth-note phrase, exists in both pieces.
- **Chord progression.** The chorus of "Anthrophobia," and the chorus and introduction of "Alone Together" both feature identical chord progression. I admit that a chord progression cannot be copyrighted, and the chord progression here is relatively common (though far from the most common chord progressions in pop music), but the choice to use the same chord progression creates a similar feel between the two songs, especially in the chorus.
- **Copied lyrics.** The second verse of both songs includes references to "swiping left and swiping right" and being "seen" through the lens of social media. I concede that "swiping" is a commonplace action on social media, but the way in which "Alone Together" uses very specific words in similar ways to "Anthrophobia" shows a degree of similarity. Further, there are multiple instances of copying, or near copying, of "Anthrophobia's" lyrics throughout "Alone Together," including in its title.

As a result, it is my opinion, to a reasonable degree of professional certainty, that Taylor Byrne copied expression in Billie Byrne's song "Anthrophobia" when creating "Alone Together." I don't know if Taylor intentionally copied "Anthrophobia," or if Taylor's appropriation was subconscious after repeatedly hearing the song performed by Billie and in the audio file Billie sent to Taylor, the amount and nature of the copying is so striking, from a musicological and music theory standpoint, that it's next to impossible that Taylor could have independently created "Alone Together."

It is also my opinion that the finder of fact needs to consider a variety of aspects of the copying here to determine whether Taylor's song infringes "Anthrophobia." Listening to the two pieces side by side might lead a jury to think that because the pieces have some fundamentally

different sounds, and there is no copyright infringement. But Billie's copyright is in the musical work, and not in the sound recording. A finder of fact should not be fooled just because Taylor had a successful producer in a recording studio record their work, and Billie's recording was done basically at Billie's piano. The fact finder needs to look deeper at what is on the page, and what expression is communicated in each piece. Billie is not some kid trying to get rich quickly, because they discovered that a note or two from their unpublished, unsuccessful work exists in some unrelated, famous work. This is a sibling whose work was abandoned by their twin, and was used at the foundation for the most important parts of what became a very successful pop song.

DATED this ***23rd*** day of ***July***, 2024

/s/ 

Augustine Oglethorpe, Ph.D.

Defense Declarations

Declaration of Taylor Byrne

I, Taylor Byrne, make the following declaration under penalty of perjury:

Hi! I'm 22 years old. These past four years have been an amazing journey for me, from singing in my church choir, making music in a bedroom in my house, and making shorts on Instagram for my friends and family to being one of the biggest pop stars right now. I owe a lot of my success to my family, and especially to my twin, Billie. They helped me become me in a lot of ways. But my success was because of my talents, my efforts, my promotion, and my ideas. I didn't even hear Billie's "Agrophobia" or whatever they called it. I wrote "Alone Together" myself, and produced it with Minne-Sota. I didn't copy Billie's song.

My family has been musical for as long as I remember. My mom played bass for a ton of famous people, and my dad is an excellent singer. While the rest of my family would get really into these deep debates about the values of different artists, I just kinda liked listening for listening's sake, and I always gravitated toward pop and rock music. I liked music that made me feel good, with good hooks and relatable lyrics. But Billie and I both loved Elton John.

Billie and I were always doing something with music. My dad helped me get solos in church, and, when I was about 10, my voice really took off. My mom said that I had that something special that she saw in artists that she gigged with, and she found a vocal coach for me. Because she didn't want Billie to feel left out, she offered lessons to Billie, too. But everyone in the family knew that I was the singer. Billie was a pretty good piano player, and I liked the poems they'd often write. But it was pretty obvious that my parents were wasting money with Billie's singing lessons.

I loved, and still love, Billie. We were "wombmates," and our bond was stronger than any other. We played together, enjoyed music together, and did stuff together. As we grew up, Billie grew quieter, more submissive, and frankly, more boring. I really, really, tried to keep Billie involved, encouraged them to go out for school activities, put themselves out there, but most of the time it was futile. By the time we got to high school, Billie barely had an Instagram account!

Speaking of Insta, I guess you can say that I'm sort of made for social media. When I was a little kid, I would dance around the house and perform and my parents would post short videos on Facebook, and all my family and friends thought they were amazing. Some of them even got shared beyond my family group. I kept performing when I was a kid because my mom said the camera loved me so much. Even when I was in elementary school, I was posting silly videos, or pretend newscasts, or whatever on YouTube. I was too late to be one of the first kids to go viral (Justin Beber beat me by a few years), but I was gaining a pretty big social media following. I think my pastor even told me that people could come to church just to hear me sing. My parents were so proud!

I could tell that Billie was getting a little resentful of some of the attention I was getting, from the world and from my parents. But most of the time, our relationship was pretty good. We'd sing and play music together sometimes. Those were some of the best memories I have of our childhood and teen years.

Once we got into high school, I'd try to get Billie more involved in school life. I'd tell them "you can do more in this life; get your pasty face out of those books and into the sun once in a while!" They didn't love that, I suppose, but it was good for them. And Billie did occasionally try to be more social. They'd hang out with Emjay and me, or help me with a post. I think they even joined the yearbook group or whatever.

Just when I thought all my work with Billie was paying off, COVID hit. Back to the basement for me. Ugh. It was the worst. And my relationship with my parents felt a little skibidi. I'm not sure why, maybe it was just because we were all cooped up with each other, but everyone was yelling and making snide comments all the time. Dad was never at home. Mom just kept saying "you need to be you; I need to be me." I took it to mean that I should keep going out and publishing on socials. I may have snuck out of the house a few times to be with friends, even though we were supposed to be quarantining. I gotta do what I gotta do. I didn't want to end up like mom, dad, and even Billie, sad and lonely. Music is great, but music is not life. Living is life.

Anyway, because we were at home all the time, Billie and I started making music together. They learned how to use DAW software to produce music–-that's way over my head–and we collabed on projects. At first, we did it just because we thought it would be funny. Most of Billie's songs were just remakes of famous music, but with nerdy lyrics. I wrote a few songs–fun stuff with easy chords I could play on my guitar with upbeat lyrics that I thought would be good to lift everyone's spirits–but Billie refused to work on them with me. They said they weren't "serious" enough. I told them that even our friends and family wouldn't listen to songs about rhombuses and death metal remixes of Old McDonald but Billie didn't seem to care. They didn't want to put any time into the music I'd written.

Still, though, we were doing pretty well. We were as close as we'd been since we'd been little kids. Billie moved into my room because we'd turned Billie's room into a recording studio. A lot of Billie's originals were really interesting, and they forced me to look beyond basic pop music. Some of their compositions were genius, and Billie was turning into a pretty good producer, too. We came up with a stage name for our project: Tillie Baylor. I wanted Taylor & The Menders; after all, I was the face and the voice of our project, and Billie didn't seem to want any of the limelight. But Billie said that we're a partnership. They were right. I could sing, but I wouldn't have anything *to sing* without Billie. I could record, but my recordings would sound awful without Billie. So Tillie Baylor it was.

I liked making music, but having my parents, my cousins, and old Mrs. Applebaum from church say, "oh, you made a song–isn't that nice!" isn't going to cut it for me. And I think Billie wanted more from music than just family fame, too. Billie wasn't going to do anything to make that happen, though, so it was all up to me.

It's not like the old days where you go to some battle of the bands and hope that some A&R person is there, or send a demo tape into a record label and sign a contract. You gotta hustle. You gotta make a name for yourself, streams, likes, downloads, clicks, before anyone with any clout is going to pay any attention to you. I learned how to market our music. Lots of people were throwing up tracks on Bandcamp, a website that allows indie artists to get their

name out and for fans to download and stream their music. With my social media presence, and our music, our fanbase was increasing, but slowly. I admit, I was getting frustrated. Between being cooped up with my family and the lack of attention Tillie Baylor was getting, I thought I would lose it.

But then our big break came from one of my ideas. I got "Rickrolled"-- some friend sent me a text message that said "free $100 Amazon gift card click here." I clicked and, of course, it was a link to the video "Never Gonna Give You Up" by Rick Astley. I was just about to close the window but then I actually listened to the song a little bit. It was catchy, fun, and within my range. Since we'd been doing funny covers of music with pandemic themes, I thought, why not? I presented the idea to Billie who thought that it might work.

I know that Billie says that they did everything on the track, but that's not true. I wrote most of the changed lyrics, and I played guitar. I even played a wicked guitar solo that Billie cut, saying it would take away from the kitsch. Billie must have been right, because that thing took off. Especially when we posted a YouTube video of us doing the little arm wave dance in trenchcoats like Rick did in the original video, only in KN95 masks. People used it not only for Rickrollling but also to announce to others that they had COVID (real or not). I think the media coined the phrase "Sickrolling." We got hundreds of thousands of streams on Bandcamp and other music platforms and views on YouTube. (I think that the video originally got taken down because of copyright, but we worked it out with Rick in the end.)

This was our moment, and I wasn't going to blow it. I was going to do whatever it took to get our name out there. We were getting thousands of responses on social, in email, all over the place. And it felt like Billie wasn't doing anything. They kept telling me that they were working on some sort of masterpiece song, "like when Bernie wrote 'Your Song' for Elton," but it was taking forever and "Never's" momentum was running out.

I remembered that Emjay was really good with branding and being an influencer on social media. I thought they might be able to take this 15 minutes of fame to 15 years. So I called them up. I gave them access to the Tille socials and our email. I admit I still had access to and occasionally read the Tillie email when I had downtime or wanted to interact personally with the fans. We also talked about how we could improve our brand and image. I think this was good for Emjay, because their own influencer path was kind of slowing down. Like, they couldn't even get companies to send them free stuff anymore. Emjay was good with us, though, streamlining email responses, getting us to use consistent branding, making social media posts, and figuring out how to get exposure (no pun intended), even during COVID.

After Emjay had words with Billie following a "Tiny Desk" concert with a local radio station, Billie left in a huff. Later that day, I found Billie, locked in our room. Billie told me that they weren't going to do any more social media stuff. I said that was okay, but I was concerned that our notoriety wouldn't last. With all the work I'd been doing to build our name, I hadn't had time to think about any more music. I told Billie that if they could just "write us a 'Your Song,' we'll be bigger than Elton and Bernie." I knew that Billie really liked Elton John, so I figured that that would be an inspiration.

I spent the next week or so with Emjay and on socials. I made a few appearances, but when I'd sing I just used our backup tracks. I figured that Billie was working on our song, and they'd made it abundantly clear that they didn't want to be in the spotlight, or around me and Emjay.

On May 23, 2020 Emjay said I had to go to this party. In *Las Vegas.* I'm all for some adventure but even this seemed a little too much. I knew I couldn't tell my parents; they'd kill me. COVID restrictions hadn't even been lifted yet. What if I went to this party and got sick and brought it back to my family? Emjay said "to keep Tillie from dying, you might have to risk someone else dying." Jeez. But Emjay was right. So I snuck out of the house, left a note for my parents telling them not to worry, put on my party clothes and a smile, and drove with Emjay to Vegas.

At the party that night, I met Arlo Vega. I think you could say I won them over. Arlo told me that they liked "Never," and my voice, but asked about the "Tille Baylor persona." I said that it wasn't a persona, it was the name of a band, because Billie and I were a group. Arlo wasn't too pleased about that, but I told Arlo that, while I know my voice is special, and I know that I can interact with fans, Billie and their talent is part of what makes me me. I walked away to get some fresh air, and I saw Emjay and Arlo talking. I don't know what they said.

We didn't have a place to stay that night, so Emjay and I crashed in my car. We got up kind of early to drive back home. Emjay was scrolling their phone and told me that Arlo sent a contract with StopMotion records for a three-record deal and a quarter of a million dollar advance! I was super excited and was just about to call Billie and my parents to tell me the good news, when Emjay told me that the contract was for me, and me alone, and that I would be required to stop working with Billie. I was furious. I pulled over and started screaming at Emjay, accusing them of sabotaging Billie's chances at fame because Emjay didn't like Billie. Emjay explained why we couldn't move forward with Billie as a group. We talked for more than an hour about it. Emjay called Arlo who told me, after I protested, that the deal was take-it-or-leave-it. Arlo threatened me that if I didn't sign in 24 hours, there'd be no deal. Arlo pressed me on excluding Billie, saying that they didn't have "mainstream appeal." Because I was sad, I might have said "yeah," or something in response. I told Arlo I had to think about it. I cried about it, and Emjay consoled me, but we both realized that the only way we were going to make it was if I signed. I could use fame and influence later to get Billie on board.

We drove home, and I told my parents about the deal. Of course, they were so pleased, but also concerned about the "No-Billie" clause. I told them the plan. My dad wanted me to get a real agent and a lawyer before I signed, but I told them that I didn't have the time. They tried to say that other opportunities would come along, but I told them that I'd made up my mind. Then, I had to tell Billie.

I heard Billie working in our studio. Because Emjay told me about the positive Covid case from the party, I put a mask on and went downstairs. I could hear some piano chords and Billie's (not so) great voice singing something, but because the door was shut it was basically indiscernible. I quietly opened the door and saw Billie at the keyboard, playing a lick over and over. It was the same chords that are in the chorus to "Can you feel the love tonight?" by Elton

John. I really couldn't hear anything else. When Billie stopped and started the chorus again, I just started singing "Caaaaan, you feeeeel…. The looooooove, tonight". I thought Billie was just playing music they liked for inspiration or to feel better, or whatever. I asked them what they were doing, and Billie said, "I'm writing 'Your Song.' It's going to be our hit." I really didn't hear any more than that. I certainly didn't hear Billie singing any words, or hear Billie play any melodies. It was just chords on a piano.

I tried to be as positive about the news as I could. I told Billie about meeting Arlo, and the contract. I told Billie that I loved them, and that the best way for *us* to be in the music business was for *me* to be in the music business first. I said that the deal was for a three-album deal, and told Billie "when the first one goes platinum, I'll call the shots and get you to write and perform on the second two. Then they'll go muti-platinum and we'll be a team."

I didn't know what to expect. Billie and I had drifted apart, but we were still twins, still "wombmates." But in that moment I felt so alone. Billie just stared at me like I was a stranger. They pointed to the door and said "Go. I made you famous, but now you're alone. And don't even think about using any of my music ever again!" Billie shoved me out of the room and slammed the door. I could hear the sound of stuff breaking inside.

I was sad, but I was also angry. Billie didn't make me famous. *I* made me famous. But I didn't know if I could do this without Bille. I knew I couldn't stay in our house, and since Emjay and I both had to quarantine, I asked if I could stay at their place. Emjay had a spare room, so I holed up there.

That night, I just felt awful. I was going to be a star, but a star by myself. I had to be alone. Billie was alone. We were "alone together." I penned out some lyrics and asked my parents to drop off my guitar at Emjay's house. Turns out I did catch Covid from the Las Vegas trip. So I spent a couple of weeks at Emjay's, recovering from the disease and from the fallout from the contract. I kept working on "Alone Together." I knew that if it were written just about siblings, and if it ended with separation, it wouldn't work as a song. So I made a few changes, made it into a romantic relationship instead of a family one, and added a hook that I thought would be catchy. What I wrote out has been provided as Exhibit 5. (Sorry about some of the doodles; I would have been neater had I known that these two pages would make me a star and would be the center of a high-profile copyright lawsuit!) I showed it to Emjay and they told me it was a banger. Emjay said that this would be my song, and under my name, so we should start publicizing under my brand. I reluctantly agreed.

Because Arlo and StopMotion wanted to capitalize on the popularity of "Never," in July Arlo texted me to get me in the studio as soon as possible to release a track while working on an EP or the full album. I met with Arlo the next day. Arlo told me that StopMotion would give me a couple of songs written by others to try out for an EP, but I brought my copy of "Alone Together." Because Arlo mentioned Billie in the text, I told them that this was my own song and I hadn't talked to Billie at all about it. Arlo liked it and told me to bring it to the meeting the next day.

I met Minne-Sota, the influential producer and DJ that StopMotion assigned to me. We hit it off right away. We talked about doing a couple of songs that had been written, and that had been lightly produced, and many of them were OK, but I told Minne that I wanted them to look at “Alone Together.” They really liked it and immediately had some production ideas. We didn’t change anything from my original–I insisted that the lyrics, chord changes, and the hook stay the same–but Minne’s production really made the track shine.

While we were in the studio, Emjay was helping rebrand, and I was singing covers and doing other stuff to keep my profile up. Emjay suggested that I name my fans. Lady Gaga had her Little Monsters. That other Taylor has her Swifties. Emjay suggested the “Burnouts”, to reinforce my name and identify, and to break from Tillie; also to go along with the general Gen Z nihilism. I went with it.

Then we released “Alone Together.” Because of Minne’s production, Emjay’s social media savvy, and StopMotion’s promotion, it became a huge hit, and was the anchor of my first EP. Of course, my entourage has expanded a lot since then, and we’re well into production on a full album and a summer tour. I’ve reached out to Billie to see if they want to help, but they refuse. And StopMotion’s still making me to honor my “No-Billie” clause, at least for one more album.

I swear, I never heard “Anthrophobia” before this lawsuit, except for those couple of chords I heard Billie pounding out in the basement. I never opened that email, read the leadsheet, or listened to the music. I admit that I had access to the Tillie Baylor email when Billie sent that link. I don’t know how it showed up as read. I never told Arlo or Minne that I wanted to get revenge on Billie, or that I needed Billie’s music, or whatever they’re saying now. “Alone together” is my song, from my feelings. I can see how Billie might have had some of those same feelings, and so I can see how we might have independently written music that had some similarities. We’re twins after all; we’ve had the same musical training; we’ve been exposed to the same music; we’ve gone through the same life experiences; we feel the same stuff; of course it’s possible that we might have the same lyrical or musical ideas. But the songs turned out completely different, and Alone Together is completely mine.

I love my family. I love Billie. I miss them so much, and it would mean the world to me if we could be a family again, even if we can’t be Tillie Baylor again. Instead, I have to defend this stupid copyright lawsuit.

DATED this ***10th*** day of ***June***, 2024

/s/ Taylor Byrne

Taylor Byrne

Declaration Emjay Eyestone

I, Emjay Eyestone, make the following declaration under penalty of perjury.

I am 22 years old, I have 25,000 followers on Instagram, and I am the personal assistant/best friend of THE Taylor Byrne.

So, I actually met Taylor and Billie our sophomore year of high school. I had moved to Utah from LA, which honestly kind of stunk because the beach is now like, 10 hours away. But anyways, I started hanging out with Taylor and we became really good friends. We were interested in the same things and they introduced me to a lot of people. I became pretty popular at our school, and Taylor was half in the popular friend group but seemed reluctant to leave Billie, who had no interest in any of the things we liked. So for most of high school, we were school friends, but Taylor would come to the occasional party I threw and we hung out there.

I was way into social media and had a decent following from my time in LA and Utah. I always had a flair for creating content so I started my own brand. I was successful at first, getting a few sponsorships and free merch from big companies. I was super organized and the videos I made consistently went viral, but honestly I was kind of awkward in front of the camera. I decided that maybe I was more of a “behind the scenes” person. I put my video-making and management skills by starting a side hustle running the local thrift shop’s social media accounts. I grew them from 150 followers to over 7,000 in like 2 weeks, which is pretty impressive because I had no budget or previous content to work with. I still occasionally did things with my personal accounts, but I mainly focused on making money for other people.

Managing social media is actually way harder than you would think. It’s a ton of work, but I am naturally good at it. You have to answer messages, be friendly but not *too* friendly, post relatable and current content, predict trends, boost your content, choose the right hashtags, create and maintain a brand, the whole shebang. And that’s just for Instagram. Email is a whole different story. I learned how to use filters and do auto-responses, which was super helpful in managing the workload. I ran the thrift stores' social media and email accounts and a few others, including my own, for a few years. I was a semi-professional by our senior year, which is why I think Taylor reached out to me about being in charge of their accounts.

When I got put in charge of running the “Tillie Baylor” Insta, their content was all over the place. They had post-punk, electronica, lo-fi, pop, even a bit of modern country, covers, and a handful of originals. That kind of variety is death when you’re trying to grow a user base. Their video “Never Get to Give You Up” in April of 2020 had gotten a lot of attention, and that’s when I was brought on to manage their sudden fame. I knew the best thing to do was to streamline content and solidify their brand. To do that, you have to be consistent and provide the people with what they want, and the people were pretty clear about what they wanted.

At the beginning, Taylor wanted to be super inclusive of Billie, but honestly, the things we posted with Billie didn’t take off as much as when we posted with just Taylor. The numbers don’t lie. Still, I am good at my job, so we were able to get things going and generate interest, even with Billie. I went *all out* on this account because I knew that from the very beginning it was

going to be big. I knew Taylor had something special and I was super excited to be a part of it. I followed their wishes and included Billie in interviews and Instagram Lives (live video broadcasts), even though Billie doesn't have the same rizz that Taylor does. I will admit, though, that Billie was always making music or other creative things. They pumped out song after song, all pretty decent but never in the "viral vein" our followers wanted. It was way too deep and sad. Taylor brought the fun and fame to their duo.

I posted a few of the depressing songs, but the Billie content never got a ton of attention, and I don't think they even really *wanted* the attention in the first place. They always went on and on about how "I'm not doing this for the followers," which seemed kind of self-important. I was really diligent though, and still booked interviews and tried to cast Billie in the best possible light. I even deleted a bunch of comments that called Billie a "clout chaser" and the "untalented twin," which I kind of agreed with, but I knew Taylor would have been upset if they had seen them.

I kind of gave up on trying to make Billie a star after they blew up on me after a Live Tiny Desk Concert that went south. I was *trying* to give some helpful suggestions—be more personable, smile, laugh, don't talk about your weird interest in boring music theory, etc—but I think they just do NOT take constructive criticism well because it went horribly. It was painfully awkward. Afterwards, they went off on me, saying I was out of line telling them what to do with THEIR music and THEIR brand. I just rolled my eyes and let them fume. I could not shield them from the negative comments, and I don't think they noticed, but we lost some followers. Just a couple hundred, which isn't a ton when you have as many as Taylor, but it was noticeable enough to me.

After that, I would always offer interviews to Billie, but I did not push them to be an active member of Tillie Baylor. If they were okay being a silent partner, it made more sense to me from a marketing standpoint. Also, Billie had started to become a hobbit, working on some pet project they refused to show me. They always looked tired but said they were "on the brink of something big" when I asked them about it. I vaguely remember them saying they would send us a copy when they had a rough cut, but I never saw it in our unread emails, which I was really diligent at checking.

Taylor and I started spending like, every day and moment together, making content, creating the most epic pop-star-persona, hanging out with other creators, going to parties and self promoting their music, all that fun stuff. Taylor left the logistics like interacting with fans and cleaning out the email junkbox to me. Obviously, they had access to all of the accounts and occasionally they would check the inboxes for important family info or to flirt with a fan, but I was mostly in charge. I kept everything very organized in various folders and to-do lists. Nothing went unanswered or unopened for more than a day. We started getting a ton of fan junk mail, so the filters were turned up super high.

Listen, you may think I'm Taylor's assistant, but I think we're more like best friends. Yeah, I get paid (now, like, a lot), but we were friends before all of this, and I think we would probably spend all of our time together even if I wasn't their assistant. We got super close and it was a great working relationship. The Insta page kept getting followers, and our own pages did

too, but it made great opportunities for collaborating with other artists. As much as I begged them to do otherwise, Billie still kept their account private and only accepted people they knew in person. Another big no-no when trying to grow your fanbase. Nobody could see Billie as likable— they were just the weird twin riding on the coattails of Taylor.

I think I can take most of the credit for getting us the sick deal with StopMotion. I am legendary at stalking people (not in a creepy way, more in a useful way), and I got us invited to a party where I knew Arlo, a producer at StopMotion was going to be. Arlo and I had messaged before, briefly, but they never brought up any contract. They mentioned they were going to be at the party and I knew I just had to get Taylor *there* and I could score us a sweet deal. I didn't even bother inviting Billie, they never wanted to go to things like that. Plus, it was in Las Vegas. Yeah, I know, a teenager showing up at a Las Vegas party isn't exactly a smart idea, but I knew there were going to be music industry folks there, and it was less than a day's drive away. My parents are also super chill and I usually have the house to myself, so that wasn't a problem for me.

Taylor was the life of the party and I managed to corner Arlo to talk deals with us. I gave my pitch (disguised as casual party talk) about how Taylor was looking for a record deal and had awesome content, an incredible voice, and an unfailing work ethic. They had never missed one party that I told them to go to!! Arlo realized who they were talking to and wanted more info. Arlo asked us about Billie, and expressed skepticism that they could be successful as a group, especially with such a silly name. Taylor reassured Arlo that Billie was a successful contributor, but I think Taylor got a little stressed or offended or something and left the conversation. I continued talking to Arlo and I told them not to worry about Billie, that we'd figure something out. Taylor never told me to say that, but I figured that's what had to be said.

After the party, we passed out in Taylor's car to get a few hours of sleep, and then drove home in the early morning hours. While Taylor was driving, Arlo (thinking I was Taylor's manager, I suppose) sent me some sort of contract that I looked over. It looked amazing! It was a three-record deal with a quarter-million-dollar advance, but I knew there was one thing that Taylor would hate: the contract was just for them, not for Billie. In fact, it specifically said that Taylor could only sing songs "self-written or composed by StopMotion-signed songwriters, composers, or other artists" and "utilize producers, collaborators, or back-up musicians employed by, or approved by, StopMotion."

When I read it to Taylor as we were driving, Taylor nearly drove off the road, first with excitement and then with sadness. We pulled over. Taylor told me they didn't want to sign without Billie and quietly asked whether I had made any promises to Arlo about Taylor going solo. I explained the situation: Billie was not good for Taylor's image, this was a good contract (probably the best we could potentially get offered), and we could revise it after Taylor got more traction. Negotiating contracts is hard at 18, and this was a good one, even if it did exclude Billie from songwriting or touring with Taylor. We talked it over for about an hour, Taylor started out hesitant, but was coming around. I got them on the phone with Arlo and they explained some of the specifics. Arlo said that if we didn't sign with them, and sign within 24 hours, StopMotion

would pull the offer and Arlo would see to it that we'd never get another record deal. I think that really made Taylor decide to sign.

We visited Taylor's family and their parents agreed to look over the contract to see if there were any red flags, but didn't find any. They were also skeptical of the "No-Billie-Included" clauses, but Taylor assured them that they would change it as soon as they got famous enough. Taylors parents said that if Taylor was sure, Taylor could sign, but Taylor had to be the one to tell Billie. Taylor signed, I called Arlo, and I went out to lunch to celebrate and to give Taylor some space.

One of my friends at the party we went to called me while I was at lunch and told me they had covid, which was totally lame because that meant Taylor and I both had to quarantine. I told Taylor, but they said they had to at least tell Billie about the incredible record deal before they went into complete lockdown.

I don't really know what happened between Taylor and Billie when they told them, but I know Taylor showed up to crash at my house that night. I asked them how it went and they just said "Fine," and went to my spare room. I assumed from Taylor's reaction that Billie had not taken the news well, which in my opinion, is so unsupportive of them. So what you're not included in the deal? You're still siblings!

Taylor kind of went into a deep depression for a few days, maybe brought on by covid symptoms. I felt great, though, and I had already prepped a bunch of content to release, so I ran the socials while Taylor had their emo moment. I changed the names of our accounts— "Taylor Byrne" always had a better ring to it than "Tillie Baylor"--- and we finally rebranded. I renamed our fans and we got through our quarantine and kept on the grind. Taylor moved in with me because it just made more sense. We didn't want to expose Taylor's family to Covid and the "rockstar lifestyle" made it kind of hard to live with people who didn't have the same schedule. Now that we were 18 and had graduated, not living at home gave Taylor a little more freedom. Also, it was super awkward with Billie and as far as I know, they didn't talk. Taylor seemed… different. After a bit of recovery, they returned to their happy, outgoing, partying self, but sometimes they locked themselves in their room. I assumed it was a Billie-related sadness, but Taylor hid it well.

Taylor emerged from their room one day and showed me an absolute banger of a song they had written in their solitude. They called it "Alone Together." The lyrics were such poetry and I knew it would be a hit. It made sense with all of the partying we had been doing. Taylor *was* never alone because of their friends, but they never had that one significant other, I mean, other than Billie, which meant they were always lonely. Such a genius!! It would be so relatable to the covid crowd and I could already see the video trends that would follow. I think the separation from Billie sparked something. Musically, it was different from anything Taylor had performed before, and maybe it was a bit safe, but it was catchy and relatable and so… Taylor.

Recording was incredible! StopMotion paired Taylor up with Minne-Sota and made some good choices with the background music. I think Taylor or StopMotion had been working on some other songs, but "Alone Together" was by far the best one. We decided to release it as a

single–even before the EP was done–and it. Blew. Up. Taylor seemed genuinely excited, for the first time in a while. They called their parents and I handled the socials. The “Byrne-outs,” the nickname I had come up with for their fans, were so gushy over Taylor’s newfound musical prose and their relatability. I was so happy to be their best friend! Their following grew by like 75% just with the drop of that song. Insta trends started popping up, just like I predicted. Heck, we even got shout outs in the mainstream media! The *Oquirrh Trib* article was just the beginning. We were so set to ride that success wave.

That is, until Billie blew up and started this pointless “copyright infringement” junk.

This lawsuit is ridiculous. Billie is and has always been jealous of Taylor since this music thing started— and probably even before then. I get it, it stinks to be the rejected sibling, and it probably stunk to be cut out of our deal, but that’s the business. And you can’t copyright an emotion, which is totally what Taylor’s song is. They shouldn’t be punished for making a super relatable, catchy song. I don’t think it’s very similar to Billie’s but even if it is, what does that matter? Taylor did it better. Billie claims that they shared their demo with us, but I never saw it, even if it was supposedly sitting in our shared drive. I didn’t listen to it, and I don’t think Taylor did either. I never heard it, at least, while we were living together. Taylor was too busy creating their own music to bother stealing Billie’s emo demos.

I’m sorry that Billie got mad like this, but Taylor didn’t deserve this bad PR. It was honestly kind of a nightmare to overcome, but everyone knew that Taylor is innocent and would never pull this. And you know how fast the media moves. Taylor was in hot water for a few weeks, max, but the Byrne-outs were there for them. And when Billie gets officially proven wrong, the Byrne-outs will *still* be here for Taylor.

DATED this ***10th*** day of ***June***, 2024

/s/ Emjay Eyestone

Emjay Eyestone

Declaration of Minne-Sota

I, Misha, “Minne-Sota” Soto, make the following declaration under penalty of perjury:

Wassup! I am 50 years old, and I am an artist, DJ, and producer at StopMotion Records. I have been with StopMotion for the past 8 years and currently work with many important artists, from all genres, Taylor Byrne being one of them.

I grew up in Elliot Twins, a high-rise housing project in Minneapolis, Minnesota. My parents were deadbeats and junkies, and… well you can imagine the rest. You think of Minneapolis as this sweet, innocent city with no crime, but that’s not the case, especially in the towers in the 80s and early 90s. Honestly, I was headed down a pretty terrible path— most of my friends were in gangs and in and out of juvie. Me too–it started with shoplifting for my parents, then stealing hubcaps off cars to get spending money for threads and kicks, to doing drug runs. Dealers liked to use kids because they would often get less heat and wouldn’t have a record once they turned 18. I also got into lots of fights, even got stabbed once. But you should have seen the other kid! I figured that this would be my life. I didn’t completely go clean when I was an adult–it’s really hard to do so in the music industry. I had a couple of DUIs, and at one of my gigs in 2010 I think, a guy started messing around with a girl in the crowd. I jumped in to stop it, but it turned out the guy was the son of the local sheriff, so they charged me with felony assault with a deadly weapon because I had a blade on me. I got probation with a promise never to go back to that county again. And I guess having a criminal record helps with your cred in the industry, so it wasn’t all bad.

Anyway, when I was 15, one of my older cousins took an interest in my well being and introduced me to GrandMaster Flash and Run-D.M.C. and showed me a different way to express the anger and emotions I was feeling. I got hooked on rap and hip hop, the Beastie Boys, and eventually Tupac and LL Cool J. I loved their edgy and relatable lyrics so much that I started rapping too. I started performing myself. Since my cousin called himself “Big Drink,” I called myself “Minne-Sota,” – a play on both where I was from (with a way better name than that Flo-Rida punk), an honor to Big Drink, and a play on my real name, too.

I got pretty good and signed a record deal with a small company in ‘94 when I was 20. I DJed on the side too. Not just rap and hip-hop, but I tried to learn and mix all sorts of music–house, EDM, you name it. I recorded for about 10 years and put out 3 LPs and 3 EPs. Don’t cha remember “Minnie to the Max” and “Downtown Minnie” and “Ooh La La La?”. They were my hits. I’m still getting royalties from them; especially when they’re featured on some 90s throwback TV show. I remember this one time where I sampled the bass lick from the David Bowie song “Under Pressure” just like Vanilla Ice did. I thought the suit was garbage–that’s how rappers and DJs worked in the 80s and 90s, and it was only like one measure of music. I didn’t think they had a case, but it all went away because I guess Vanilla Ice bought the rights to “Under Pressure” and like the homie he was, dropped the claim.

When all that got boring and touring too taxing, I decided to spend more time in the studio. I was a freelance music producer for a few years while I continued DJing, but about 8 years ago I decided I wanted something more chill, so I moved to Utah and started producing

full time with StopMotion. I am about as professional as you can get in this industry, as I have worked as an artist, DJ, and producer. I know the inner workings of every kind of music because I've been doing it for the last 35 years.

I first heard of Taylor back in 2020 when one of our former A&R reps, Arlo Vega, brought Taylor's music to my attention. Honestly, I didn't have super high expectations because Arlo was still new at the game and hadn't brought in anyone big yet, but Taylor's songwriting and homemade production quality impressed me. Arlo kept droning on and on about how Taylor could be the "next big thing." Yeah, Taylor's voice was impressive, and they definitely had star quality, but I looked through their socials and I didn't love the "Tallie Billor" persona they were going for. It didn't fit the vibe our label usually promoted. I expressed this to Arlo, but they were adamant about getting them a contract. I told them that if it were just Taylor, I bet the studio heads would agree to it, and I'd be cool with working with them, but Arlo had to figure that out first. Arlo agreed and I didn't think too much more about it.

A few weeks later, though, Arlo called me from a party in Vegas. I was kind of annoyed, partly because he interrupted my binge watch of Tiger King and partly because I didn't get an invite. Arlo was unusually giddy, especially considering it was like 1 AM and we were still in the middle of a pandemic and the music industry was still suffering. They told me that they had talked to Taylor and Taylor's manager or somebody about a possible contract. Arlo tried to calm my fears about the image and told me they had drafted a contract with a "no-Billie" clause. We've used clauses like this before, so I figured that the top brass would be on board if Taylor would sign. So I told Arlo that if Taylor would sign I'd produce their first record. I didn't think Taylor would bring anything to the table, music-wise, so I started talking with some songwriters already signed to the label to see what we could work with.

Arlo texted me the next day, a quick turnaround even for us, that Taylor had agreed to sign and was relatively unphased by the clause we had included. Arlo told me that the StopMotion execs wanted to get Taylor into a studio at some point in the next few weeks to begin production on some songs. We set up a time to meet on July 16.

On July 16, I was pleasantly surprised when Taylor showed up with a mostly fleshed out song. I mean, as fleshed out as I could have expected some 18-year-old with no experience could do. Taylor brought me a scratch piece of paper, Exhibit 5, that clearly was a result of a lot of thought. All the ideas, lyrics, melodies, and chord changes were well thought out. They even included a couple of elements that seemed advanced for a novice songwriter or producer. Not by name, of course, but they just expressed the vibe and rhythms they wanted, which all worked together quite nicely. It had all the makings of a good song— relatable and timely lyrics, catchy melody, and a pop "feel" to it. It had a "I-V-vi-IV" chord progression, which is very common in pop music, but with some fun twists.

As we worked on the song, I could tell the lyrics were coming from a raw, deeper part of Taylor. They opened up to me about some of their frustrations with the pandemic and, more specifically, with their twin Billie. Taylor seemed frustrated with the way things had turned out. They said, offhandedly, "I am so annoyed that Billie won't be supportive of me. They inspired this song, you know, the emotions about being alone, but they still can't be happy for me? What

are twins supposed to be for? Maybe Billie will understand how I feel about all this when ‘Alone Together’ gets released.” I was too busy figuring out the mix to be too involved in some 18 year-olds’ grumbling.

Taylor continued, “I wish I had Billie’s lyrical talent. I feel like if they helped me out, it would make more sense or have more… art to it. I feel kind of lost trying to do this without them.” I had had enough of the complaining and jealousy over Billie so I just told Taylor to “channel it into their music,” and after that, the production process went flawlessly. Taylor sounded incredible during recording and I added some excellent touches, if I do say so myself, to their ideas. We were in a creative flow state and I felt like I was 20 again laying down tracks! Taylor really does have a gift for music and they had a complete vision for how they wanted the song to be. There is no doubt in my mind that Taylor came up with the ideas and music that they brought to me that day. It wasn’t a rap song, but I can tell when someone is releasing emotions in their music, and that’s what “Alone Together” is— a release. After Taylor left the studio, I added some finishing touches on our final mix, played it for Taylor, and we both agreed that it would be a colossal hit.

We released the song earlier than we planned to, mainly due to insistence from Arlo, our record execs, and Taylor’s desire to get something out ASAP before “their 15 minutes” were over. They insisted that we drop this song as a single for the “Byrne-outs,” but I knew Taylor wanted it to be a chance to reconnect with Billie. I thought it was a great idea and I hoped that Billie would be supportive so that Taylor could focus on music again. It was a complete and utter shock to me that Billie decided to sue for copyright infringement, especially on a song that I worked so hard with Taylor to create.

Now, I’ve never testified as an expert before, and I don’t have a Ph.D. in musicology from a fancy college, but I have 35 years of spinning, writing, and producing music. That experience gives me lots of expertise in discussing similarities in pop and rock songs. I’ve read the report, declaration, and CV by the so-called Dr. Oglethorpe, where they say that “Alone Together” infringes Billie’s Anthro-whatever song. Let me tell you, those opinions are worthless.

The first thing that Dr. Oglethorpe ignores is that Taylor didn’t even hear Billie’s song. They assume that Taylor did, but based on what I learned from Taylor, I don’t think Taylor did.

Next, Dr. Oglethorpe ignores, I think it’s called the fair scenes doctrine. No wait, it’s a French word that I learned from David Guetta, “scenes a faire.” Like, I love DJing, right? The scenes a faire doctrine in copyright law is like knowing that certain sounds and beats, like a catchy bassline or a cool drop, are common in a lot of DJ mixes. These are ideas and techniques that DJs often use because they make the music exciting and fun to dance to.

So, while DJs can own their own mixes and the way they put songs together, they can't claim ownership over things that are common in DJing, like using a particular rhythm or mixing in certain effects. It's like saying no one DJ can own the idea of playing a funky bassline or using a certain type of beat drop because those are things lots of DJs might use in their mixes.

Dr. Oglethorpe ignores that in their opinion. So many of the individual "instances" of copying are nothing more than themes or techniques common in all pop songs, which Dr. Oglethorpe doesn't even listen to or know much about. Let's break down their opinions:

- **Extended coda.** So how exactly else do you end a song? It's super common just to repeat the last line a few times. Then it's gotta end. Dr. Oglethorpe mentions songs fading out, but, like, that hasn't been a thing since the 1990s, when producers would repeat the chorus to fade so that radio DJs could talk over the end of a song, or to fix mistakes. I should know, a lot of my music did that. Today, DJ's want to cross-fade music rather than talk over the end of a track; people streaming want the music to go all the way; and we don't need the cop out of a fade out to fix mistakes. You can't really copyright that idea of an extended coda, especially since "Anthrophobia" wasn't even a finished ending.
- **"Copied" hook.** Okay, I agree that eight out of the first ten notes in the "Alone Together" hook come from the pre chorus (if you can call it that; I call it a mess) of "Anthrophobia". But that's where the similarities end. In Dr. Oglethorpe's exhibit, did you see those capital letters over the notes? Yeah, those are the chord changes. And they're completely different. And look beyond those eight notes and you'll see differences–the hook is actually four bars long, not just two. And the time signature is different between the two excerpts, so it won't even sound the same. Lastly, the D sharp note in "Alone Together" acts as a "blues" note (minor third, or E flat) in "Alone Together," which is an extremely common switch-up, especially with bluesy guitar tunes, even if the overall song is in a major key.
- **"Copied" chorus.** Again, Dr. Oglethorpe is straining. First, they *transpose down an octave* some of the notes in the "Alone Together" chorus. Dr. Oglethorpe says that's fine from a music theory perspective, but it ain't fine from a listening perspective. Going down is not the same as going up. Second, the rhythms and the emphasis are totally different. Billie's chorus starts on beat 1 with "I'm." Beat 2 has the lyric "all'. That puts emphasis on the person being alone. "Alone together" emphasizes "all" (with the actual high note) and then "alone": So it's different. And the rest of the chorus is different too. "Anthrophobia" has "Does it make it better if we're alone together?" and "Alone Together"'s chorus is about all the people who are or aren't alone. The lyrics and rhythms are completely different. I get that some artists have paid royalties to old singers whose music might have a couple of similar notes, like Sam Smith because some YouTuber found a similarity between like 3 notes of "Stay With Me," compared to a few notes in Tom Petty's "I Won't Back Down," but like I always say, running from a fight don't make it right. I grew up sampling and mixing, and playing hits and beats underneath my rap or as part of a DJ set. If artists can't use the same few notes and rhythms from one song to another, there won't be any new songs. Here, a couple of notes means nothing.
- **7/8 time.** Yeah, like 94% of pop and rock songs are in 4/4, time, and the vast majority of the rest are in 3/4, 2/4, or 6/8 time, but there are plenty of examples of odd meters. Peter Gabriel's song "Solsbury Hill" is in 7/4 basically the whole way through. Heart's "Barracuda" has a famous 7/4 section in the middle. Heck, even the Beatles' "All you need is love," throws in 7/4 once in a while. It's not that uncommon to put in a bar of 3/4, or to lose an eighth note, to add some surprise. And to suggest that Taylor, who has as much musical experience as Billie, somehow wouldn't know about 7/8 time, is ludicrous. Taylor told me the vibe

and feeling they wanted for the song, and we made it happen. And to accomplish that, we just happened to use 7/8 time.

- **I-V-vi-IV chord progression.** This is the most ridiculous "instance" of copying. This chord progression is one of the most popular in pop and rock music. This comedy group called the "Axis of Awesome" did a compilation of songs that included that chord progression. In the course of a six-minute mashup, they played *forty-seven* songs that had that same progression, ranging from classics by the Beatles to modern rock to hip-hop and electronica to the theme song from the TV Show "America's Funniest Home Videos". I know that Ed Sheeran even played that video during his copyright infringement trial against Marvin Gaye's family that went on in the U.K. to show how you can't copy a chord progression. And, based on my understanding, both Billie and Taylor liked Elton John, who sang "Can You Feel the Love Tonight?" which featured this chord progression. The chord progression is easy to write with, familiar to listeners, but yet a little different from the norm, so I'm not surprised that both would choose it for a song that was supposed to make them famous or whatever. But it is not, however, proof of copying. I've even provided a list of songs that "Axis of Awesome" played to show songs with those same progressions, Exhibit 12.
- **Lyrics.** I think I'm more of an expert on lyrics than Dr. Ogle-my-pants or whatever. But it doesn't take an expert to see that these words aren't the same. Yeah, "swipe," "pictures" and "life." They're there. But how can you expect a teenager to describe doomscrolling social media without using those words? The feelings that they— that we ALL— experienced during the pandemic are closely aligned. Billie and Taylor are describing a universal experience. Then, out of the hundreds of words in "Alone Together," Dr. Oglethorpe picks out like 30 for comparison. Sure, the words "alone together" appear, but that idea and those words have been used a lot before. I went on Apple Music and typed in the words "Alone Together," 19 songs came back with that title! There's nothing unique about that phrase. I typed in "Me and you" in the website "lyrics.com" and it broke the site because there were so many results. These tiny similarities, which are shared with lots of songs, are way overshadowed by the differences in the pieces.

Finally, have you listened to the two songs? Read the lyrics? You can tell they're different. The ideas are different. The structures are different. "Alone Together" has a bridge, and its mood completely changes when the two people (probably in a romantic relationship) are united and can be "alone together" in the world. That's not anywhere in the weird, cynical "Anthrophobia." And, like, "Jungian and Freudian" psychology? What even is that?

"Alone Together" is successful because of Taylor's strong voice, because of their unique lyrics written to describe a relationship during a pandemic, and because of my excellent production. I personally worked alongside Taylor to create the masterpiece. The tiny crumbs from "Anthrophobia" do not make up the giant, beautiful wedding cake that is "Alone Together."

DATED this ***10th*** day of ***September***, 2024

/s/ Minn Sota

Misha "Minne-Sota" Soto

Exhibits

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UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

BILLIE BYRNE, Plaintiff, v. TAYLOR BYRNE, Defendant.	**JOINT EXHIBIT LIST** Case No. 2:20-cv-010118-ABR Judge A.B. Reinhold

Plaintiff Billie Byrne, through counsel, and Defendant Taylor Byrne, through counsel, present the following Exhibit List for trial.

Under stipulation 2, the parties agree that the exhibits are authentic and agree to refer to each exhibit as marked. Unless otherwise agreed upon, the parties do not stipulate to the admissibility of any exhibits.

Exhibit 1 Certificate of Copyright Registration for the musical work "Anthrophobia."

Exhibit 2	“Anthrophobia” transcription, which is also the deposit copy supporting the copyright registration, on file with Copyright Office
Exhibit 3	Email notification of shared “Anthrophobia” sound recording
Exhibit 4	Sound recording of “Anthrophobia,” attached to Exhibit 3 (in .mp3 format).
Exhibit 5	Handwritten lead sheet of “Alone Together,” written by Taylor Byrne
Exhibit 6	Commercial recording of “Alone Together” (in .mp3 format)
Exhibit 7	“Alone Together” lead sheet, transcribed from commercial sound recording found in Exhibit 6
Exhibit 8	Statement of Terms between Taylor Byrne and StopMotion Records
Exhibit 9	Text messages between Arlo Vega and Taylor Byrne
Exhibit 10	White paper, “How does music work?” by Augustine Oglethorpe, Ph.D.
Exhibit 11	Expert report of Augustine Oglethorpe, Ph.D. **And** Curriculum Vitae of Augustine Oglethorpe, Ph.D.
Exhibit 12	List of pop music songs contained in “4 Chords” music video published by “Axis of Awesome.”
Exhibit 13	Masthead of The Oquirrh Tribune

Exhibit 1 Certificate of Copyright Registration for the musical work "Anthrophobia."

Certificate of Registration

Mock Trial

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.

Zach Archibald

Register of Copyrights, United States of America

Registration Number
UT - 31 - 4159 - 26

Effective date of registration:
September 1, 2020

Title

Title of Work: Anthrophobia

Completion/Publication

Year of Completion: 2020

Date of 1st Publication: May 24, 2020 **Nation of 1st Publication:** United States

Author

- **Author:** Billie Byrne

Author Created: Musical work, lyrics

Work made for hire: No

Citizen of: United States **Domiciled in:** United States

Copyright claimant

Copyright Claimant: Billie Byrne
1977 Fast Lane, Oquirrh Peaks UT, 84144

Limitation of copyright claim

Not Applicable

Rights and Permissions

Organization Name: Billie Byrne Music

Address: 1977 Fast Lane, Oquirrh Peaks UT, 84144

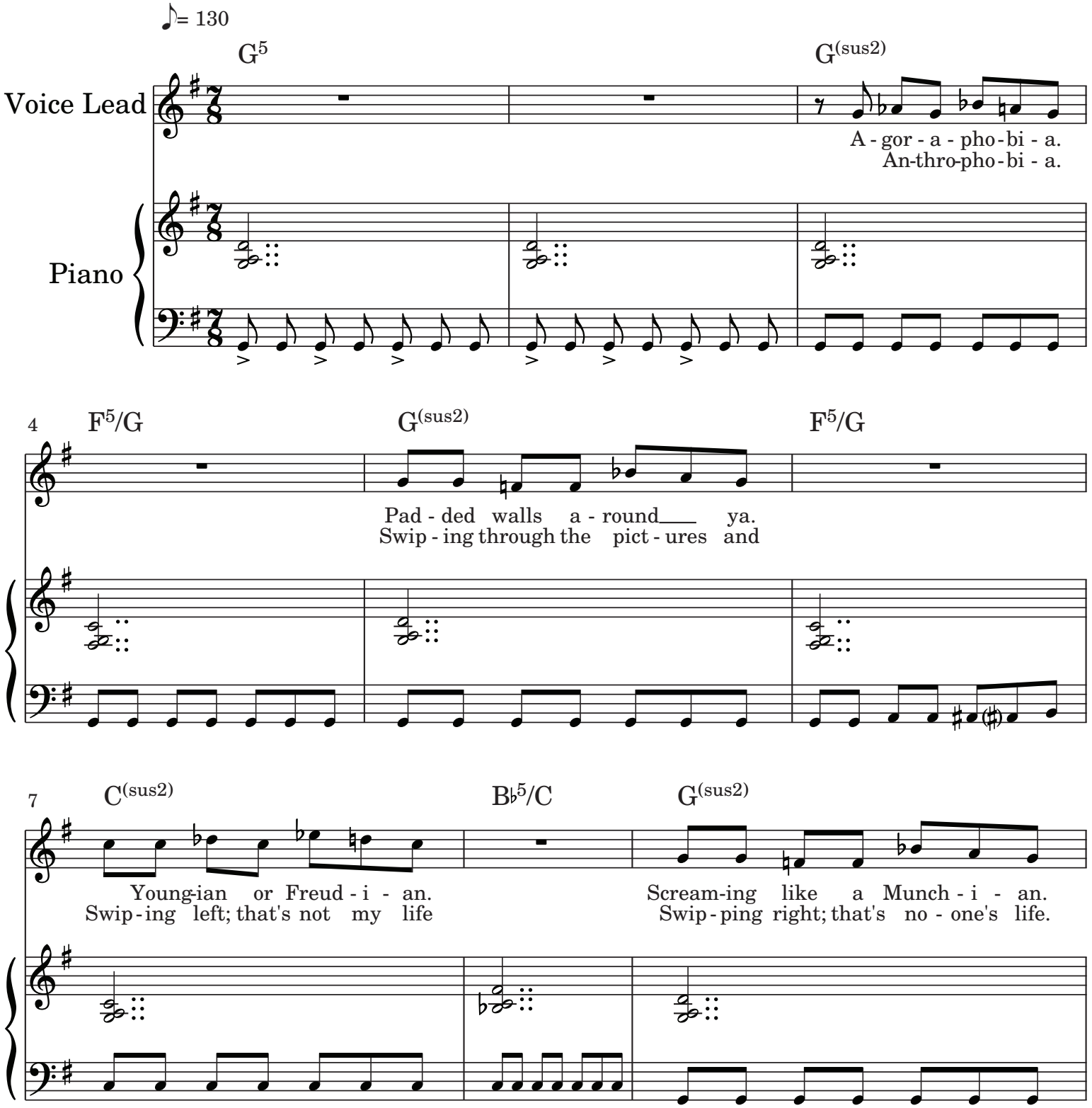
Certification

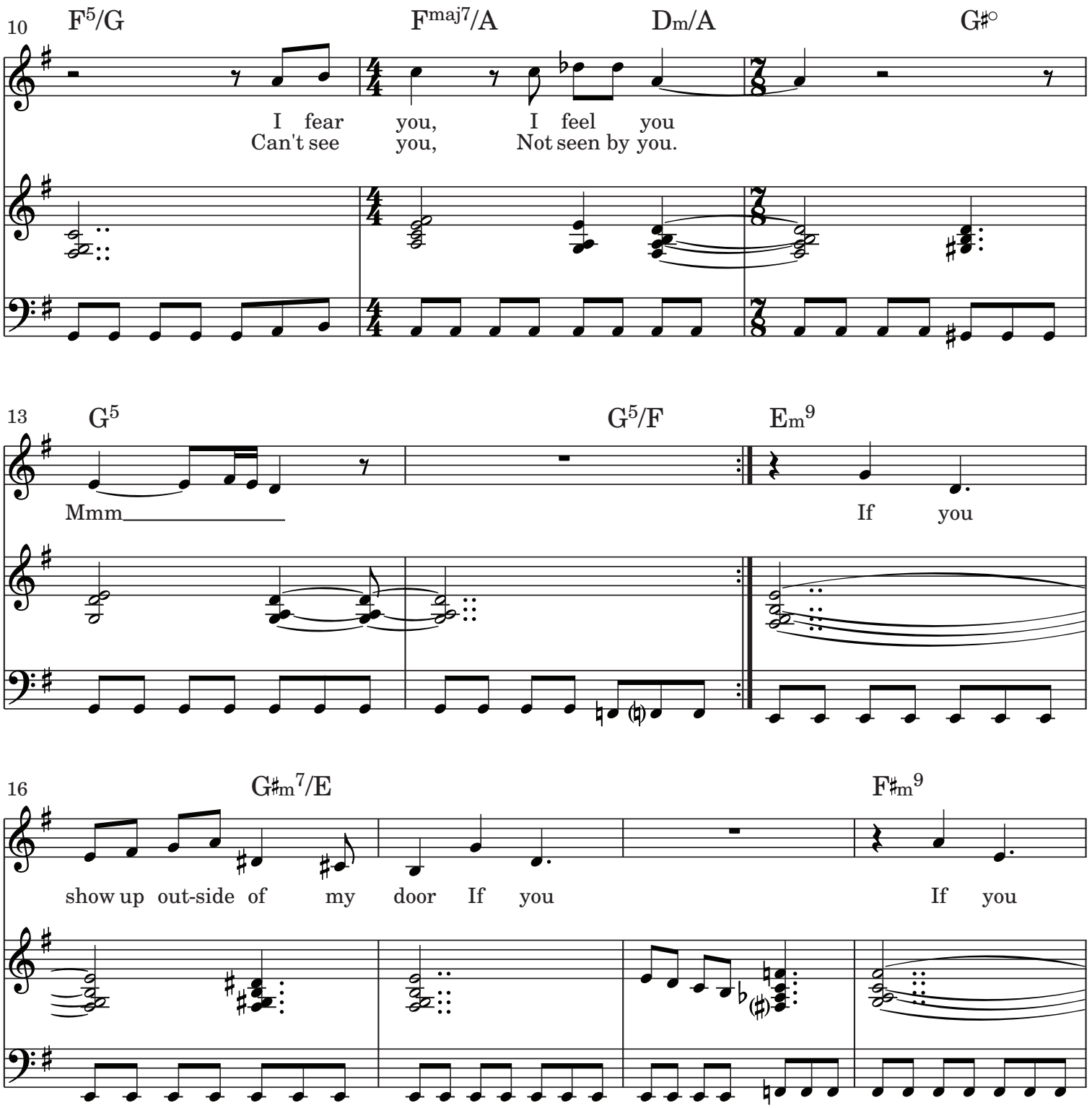
Name: Billie Byrne

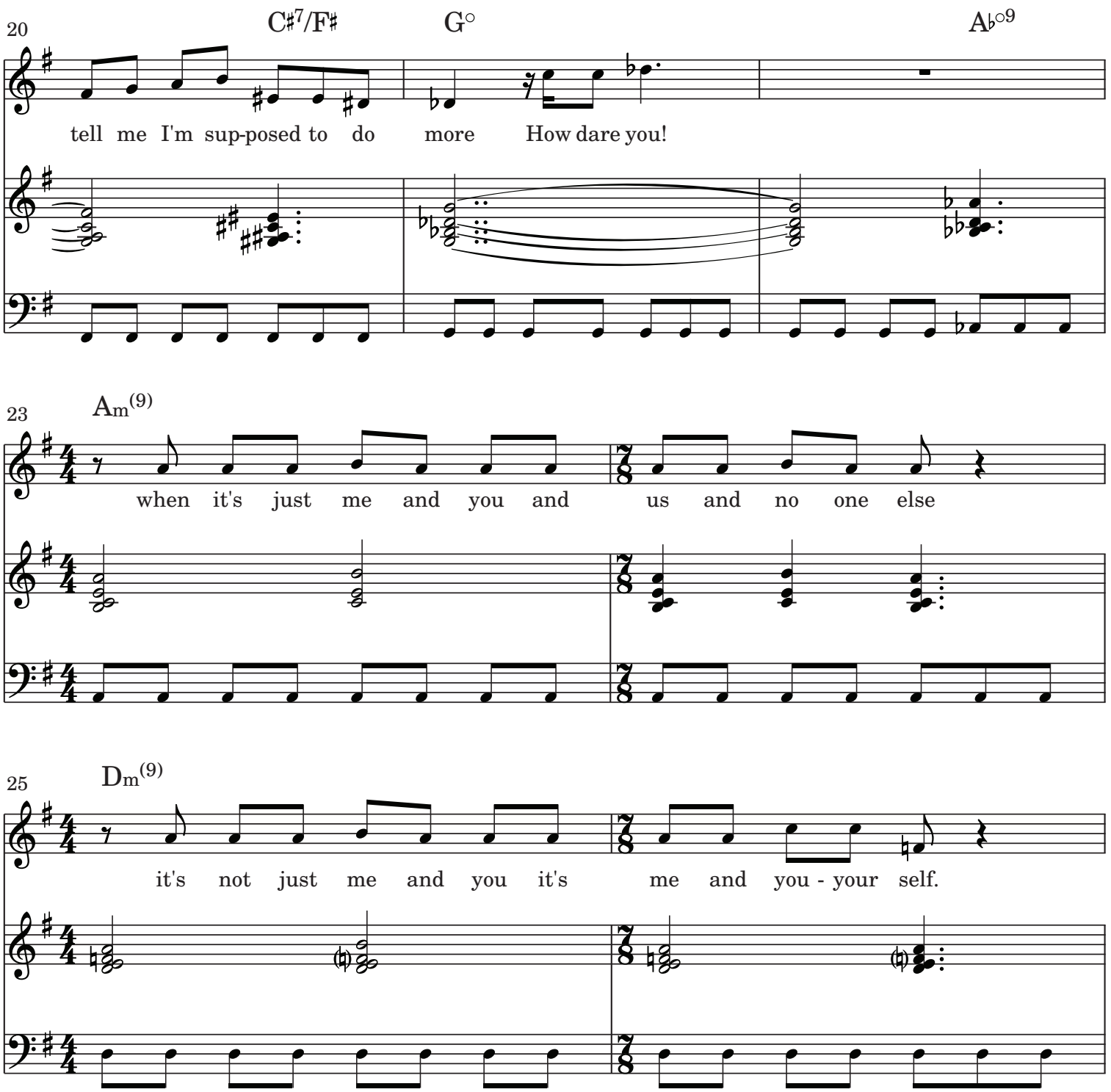
Date: August 30, 2020

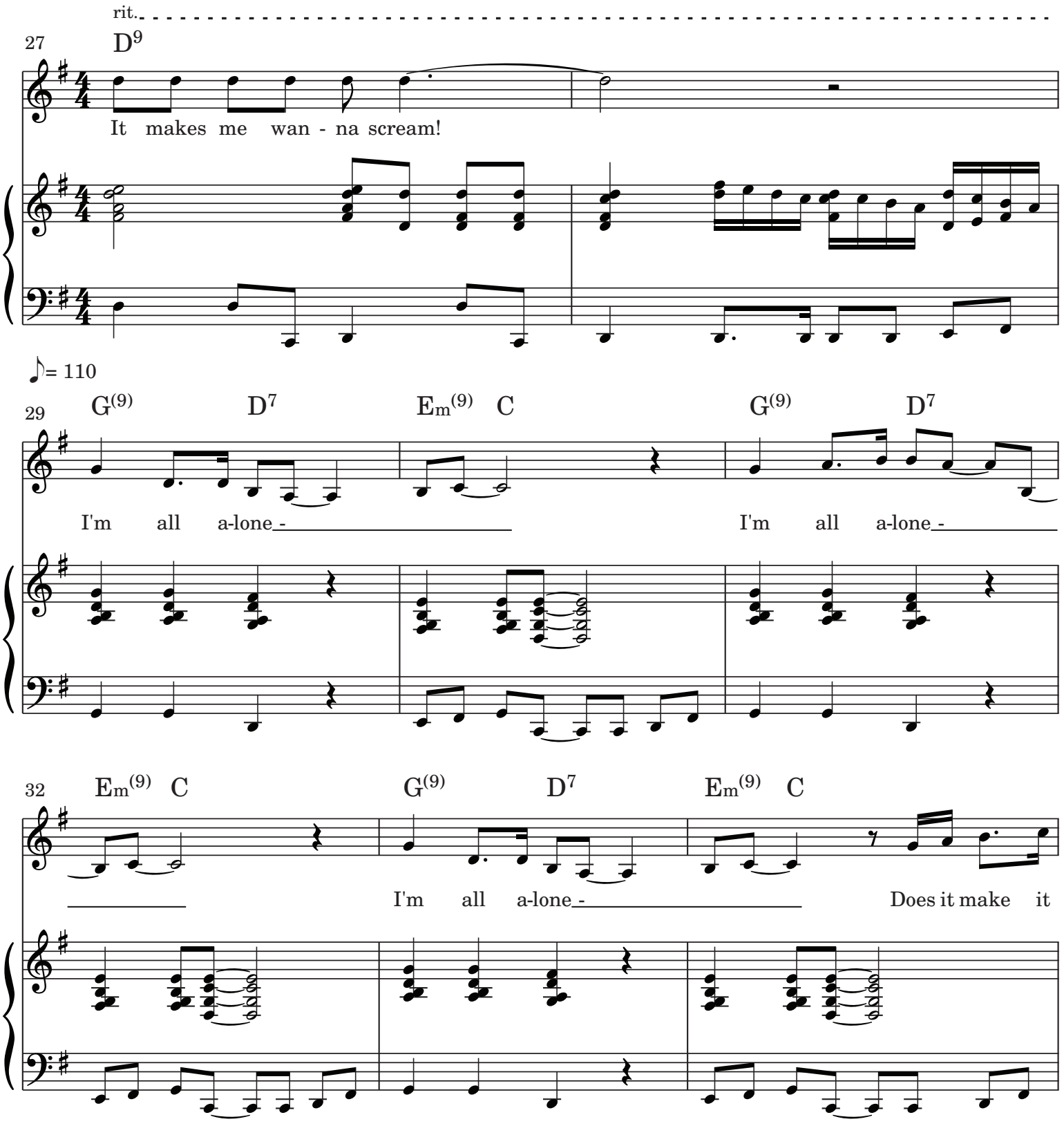
Anthrophobia

b. byrne




10
F5/G
Fmaj7/A
Dm/A
G#°
I fear you, I feel you
Can't see you, Not seen by you.
13
G5
G5/F
Em9
Mmm
If you
16
G#m7/E
F#m9
show up out-side of my door If you
If you


20
C♯7/F♯
G°
A♭°9
tell me I'm sup-posed to do more How dare you!
23
Am(9)
when it's just me and you and us and no one else
25
Dm(9)
it's not just me and you it's me and you - your self.


rit.
27
D9
It makes me wan - na scream!
♪= 110
29
G(9) D7 Em(9) C G(9) D7
I'm all a-lone - I'm all a-lone -
32
Em(9) C G(9) D7 Em(9) C
I'm all a-lone - Does it make it

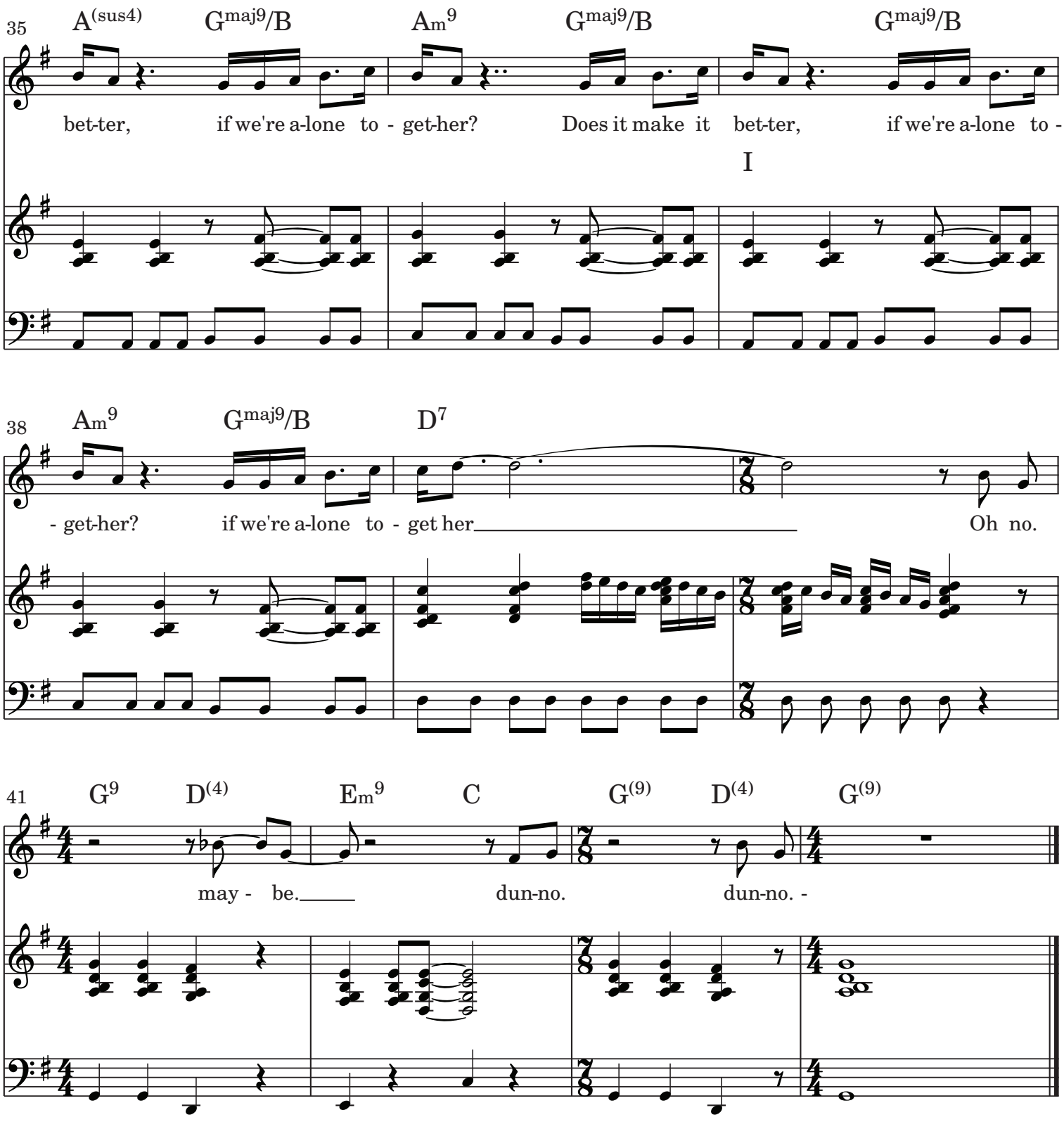

35
A(sus4)
Gmaj9/B
Am9
Gmaj9/B
Gmaj9/B
bet-ter, if we're a-lone to - get-her? Does it make it bet-ter, if we're a-lone to -
I
38
Am9
Gmaj9/B
D7
- get-her? if we're a-lone to - get her
Oh no.
41
G9
D(4)
Em9
C
G(9)
D(4)
G(9)
may - be.
dun-no.
dun-no. -

Exhibit 3 Email notification of shared “Anthrophobia” sound recording

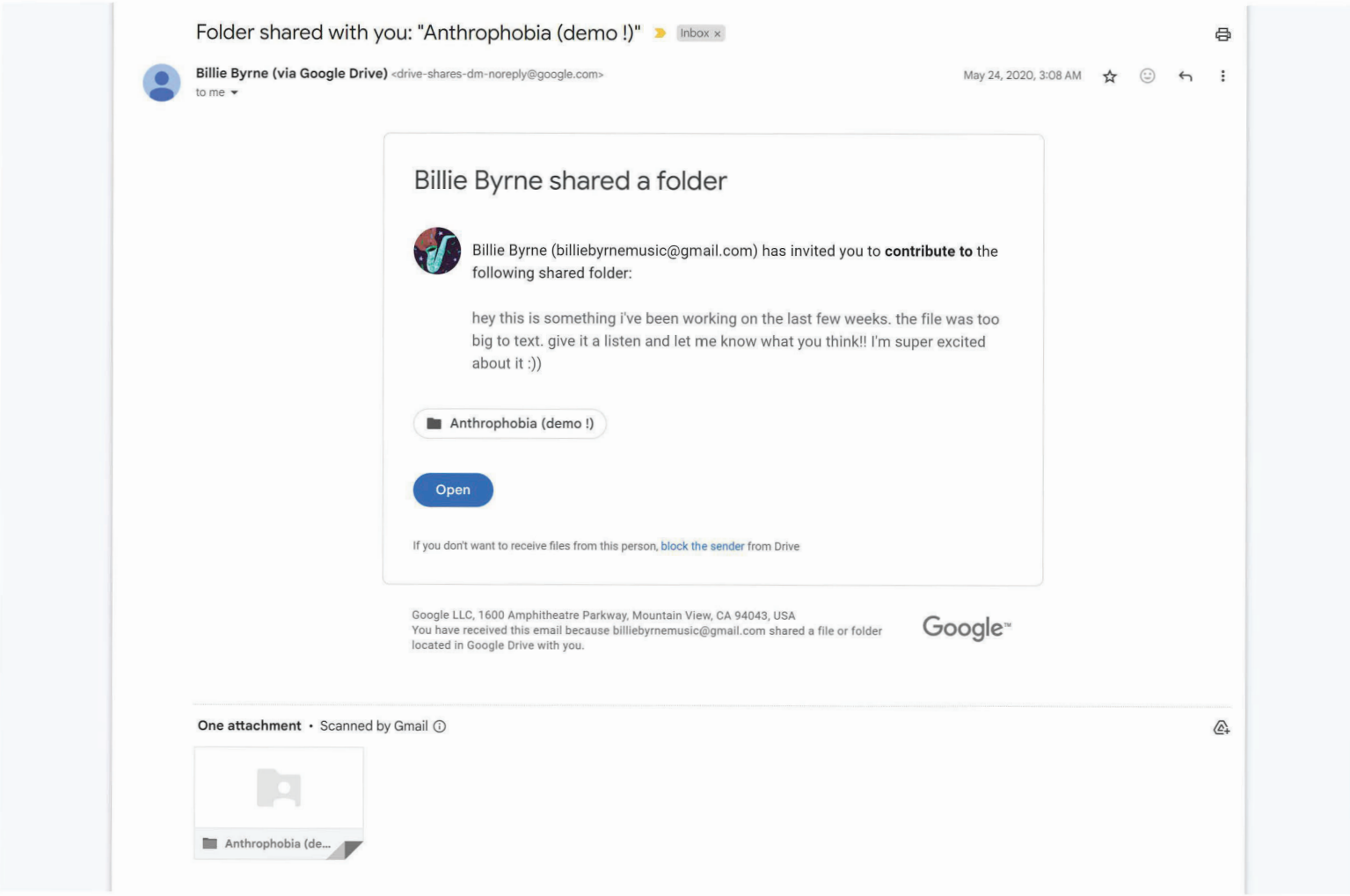


Exhibit 4 sound recording of “Anthrophobia,” (in .mp3 format).

Find exhibit 4 in the google doc folder "exhibits".

Exhibit 5 Handwritten lead sheet of "Alone Together," written by Taylor Byrne page 1

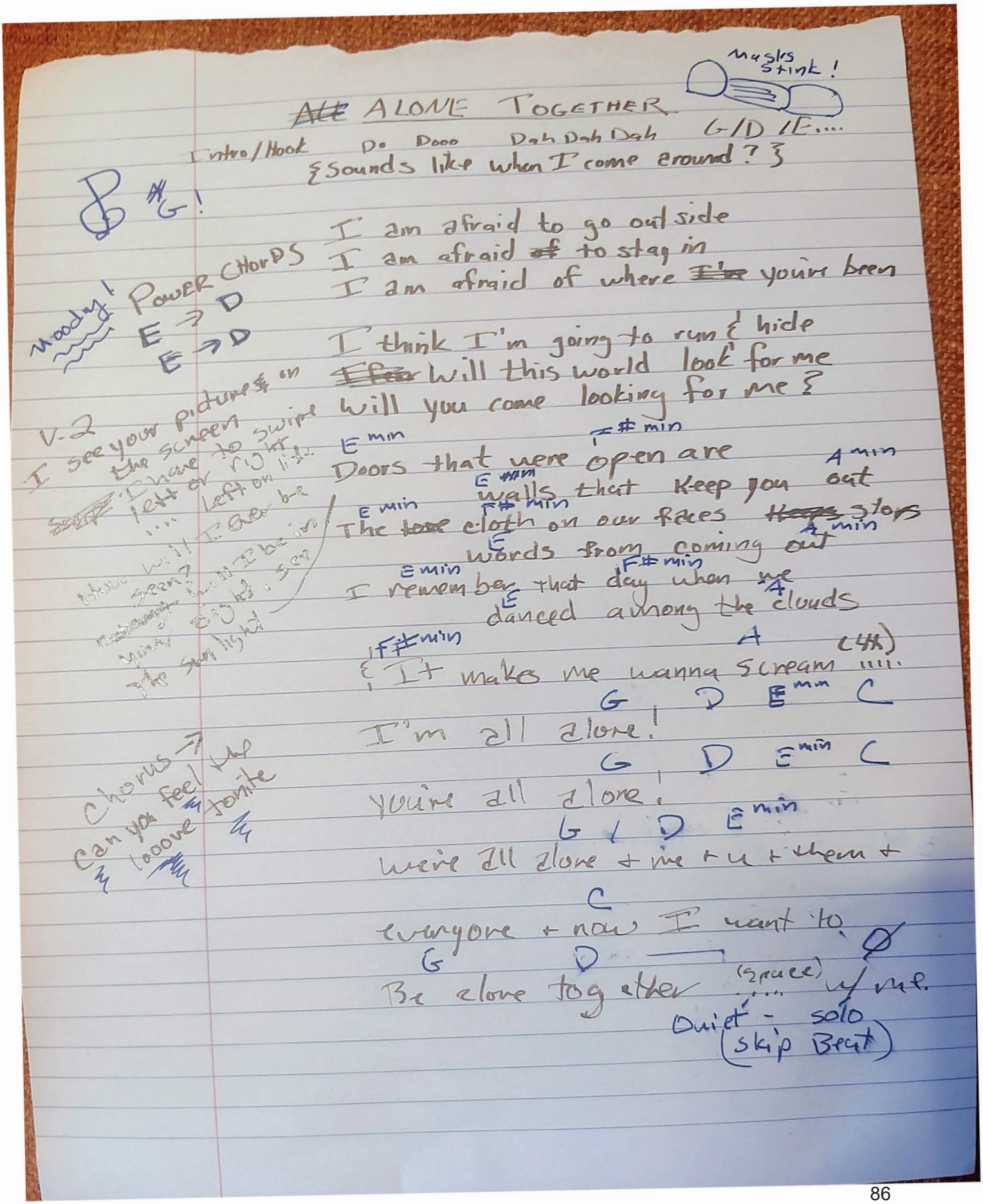


Exhibit 5 Handwritten lead sheet of "Alone Together," written by Taylor Byrne page 2

Chorus again . . . .

Bridge

make it HAPPY!

~~D?~~ C ~~One If you~~ B♭? C

One Day you'll show up @ my door

B♭ C

I'm ready for more you'll say

D C D

& then youll smile & give a sigh

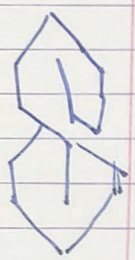
C D

youll be right ~~[illegible]~~ by my side

F# min A

& I'll Kow I'll wanna scream (x 4)

I miss my family



Chorus (New Key!) — A

ARLO

I'm ~~all~~ $\boxed{\text{NOT}}$ Alone

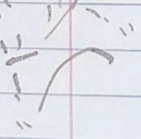


youre $\boxed{\text{NOT}}$ . . .

We're not alone & ~~you~~ me &

you & us & no one else &

So Sorry Billie



now I know you'll

Be alone together . . . . . r

w/ Me w you . . . .

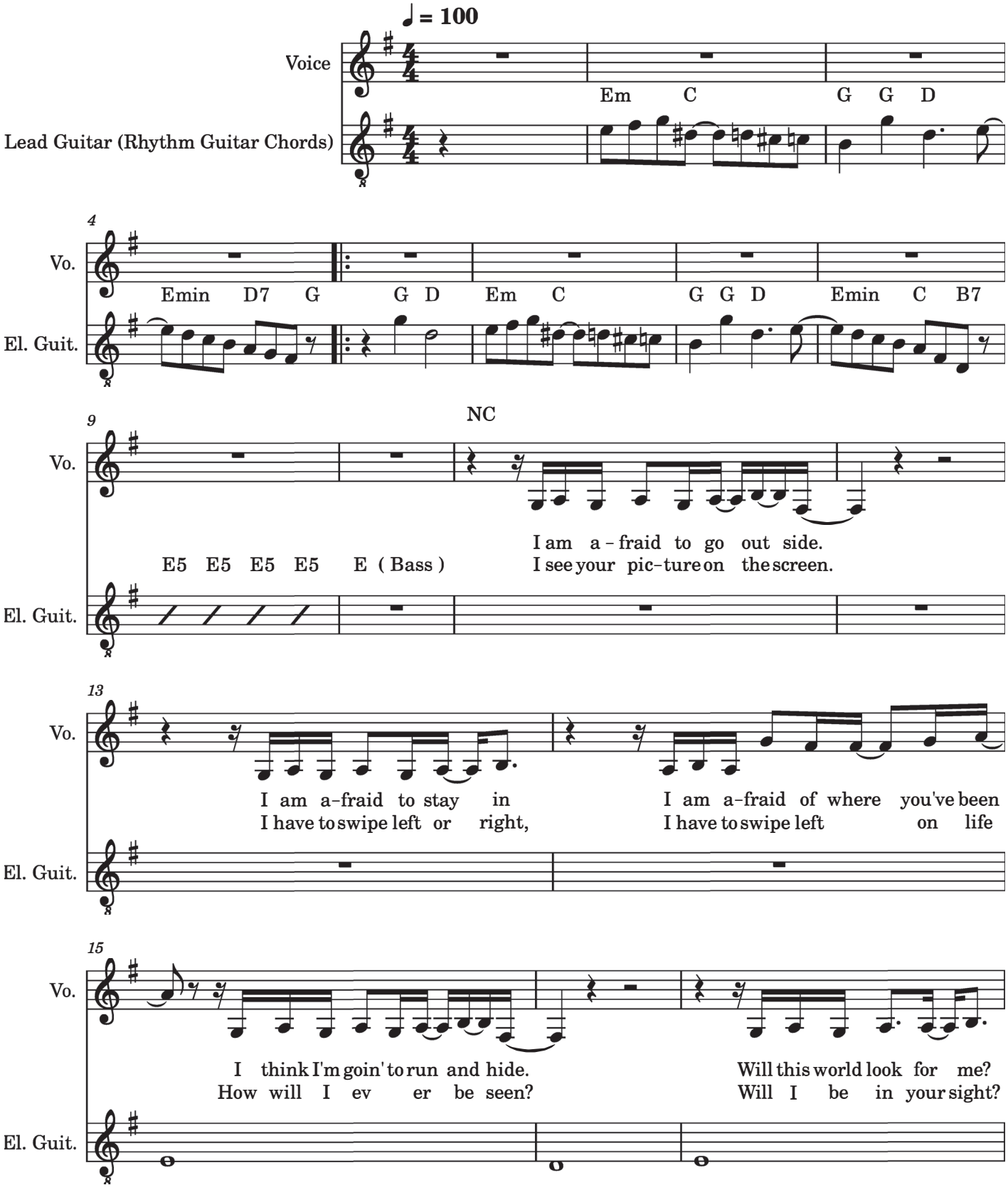
Exhibit 6 Commercial recording of “Alone Together” (in .mp3 format)

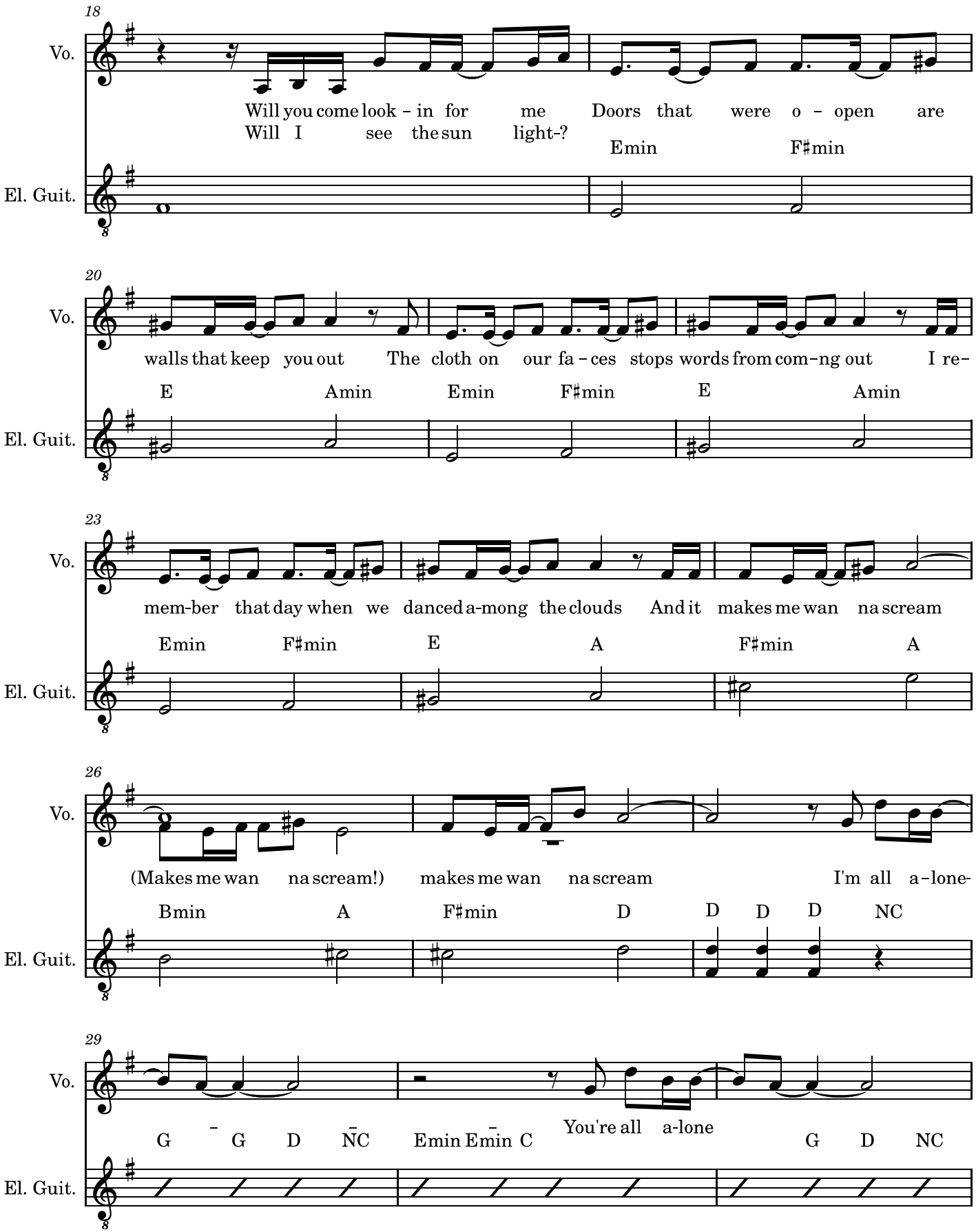
Find exhibit 6 in the google doc folder "exhibits".

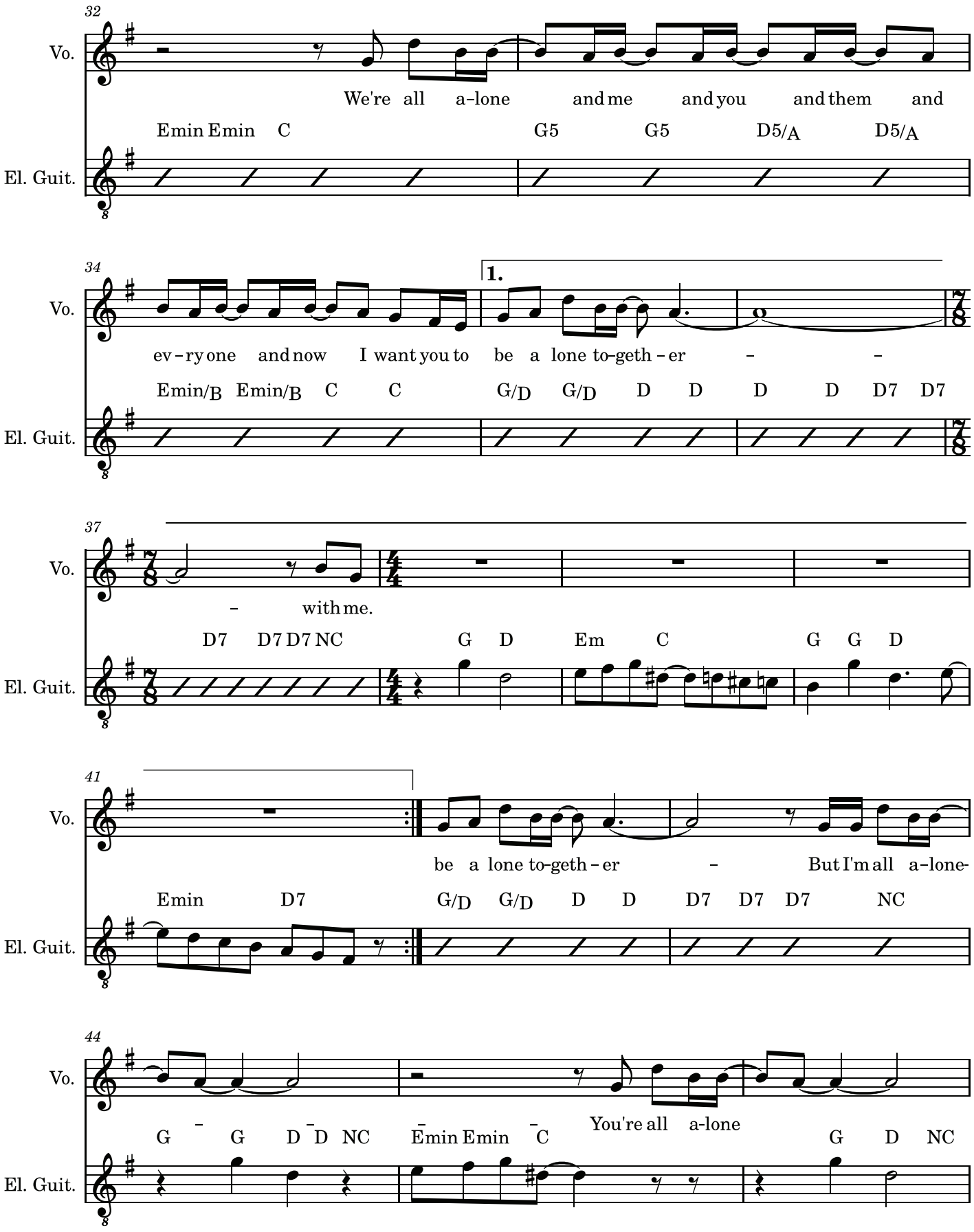
Exhibit 7 "Alone Together" lead sheet, transcribed from commercial sound recording

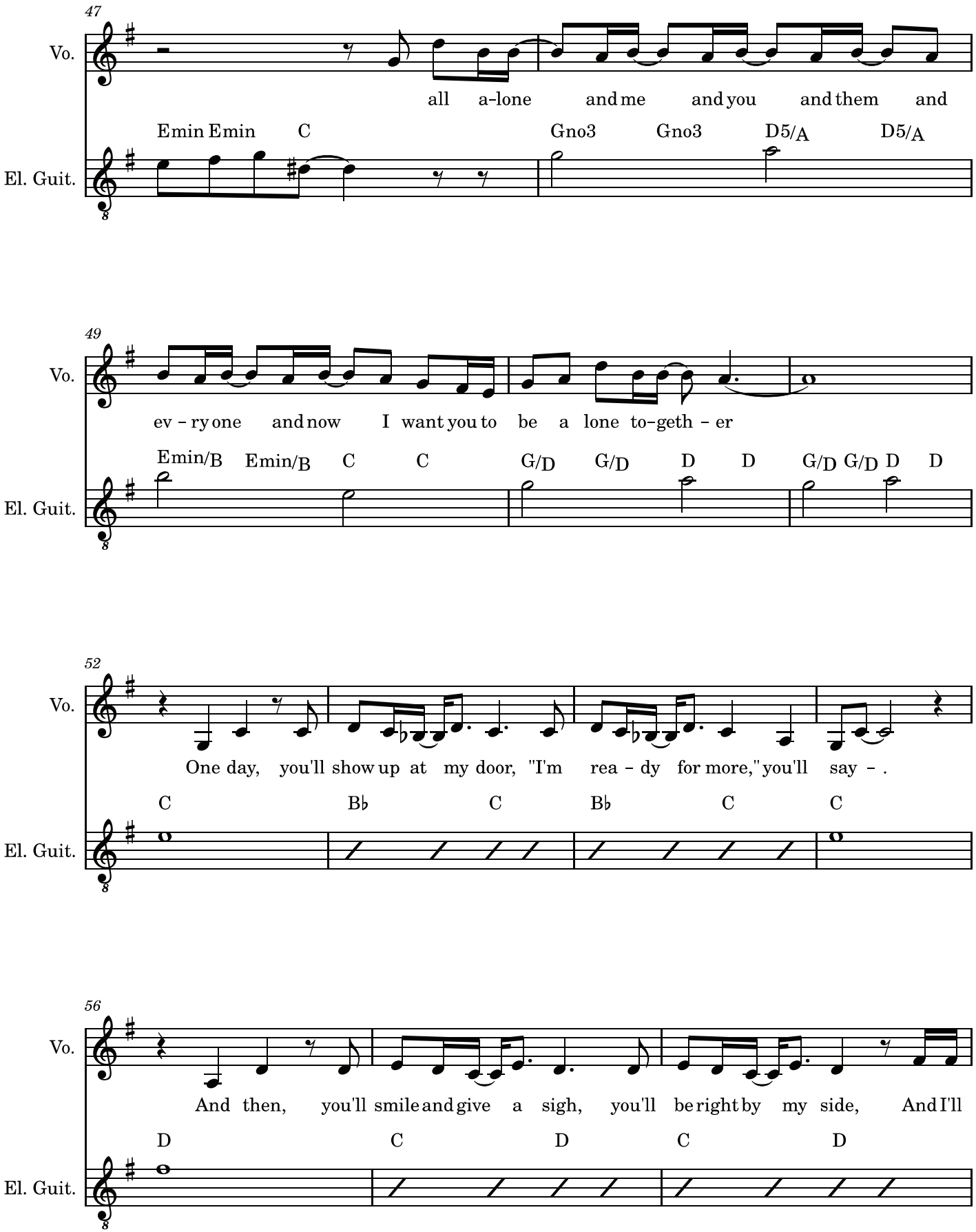
Alone Together

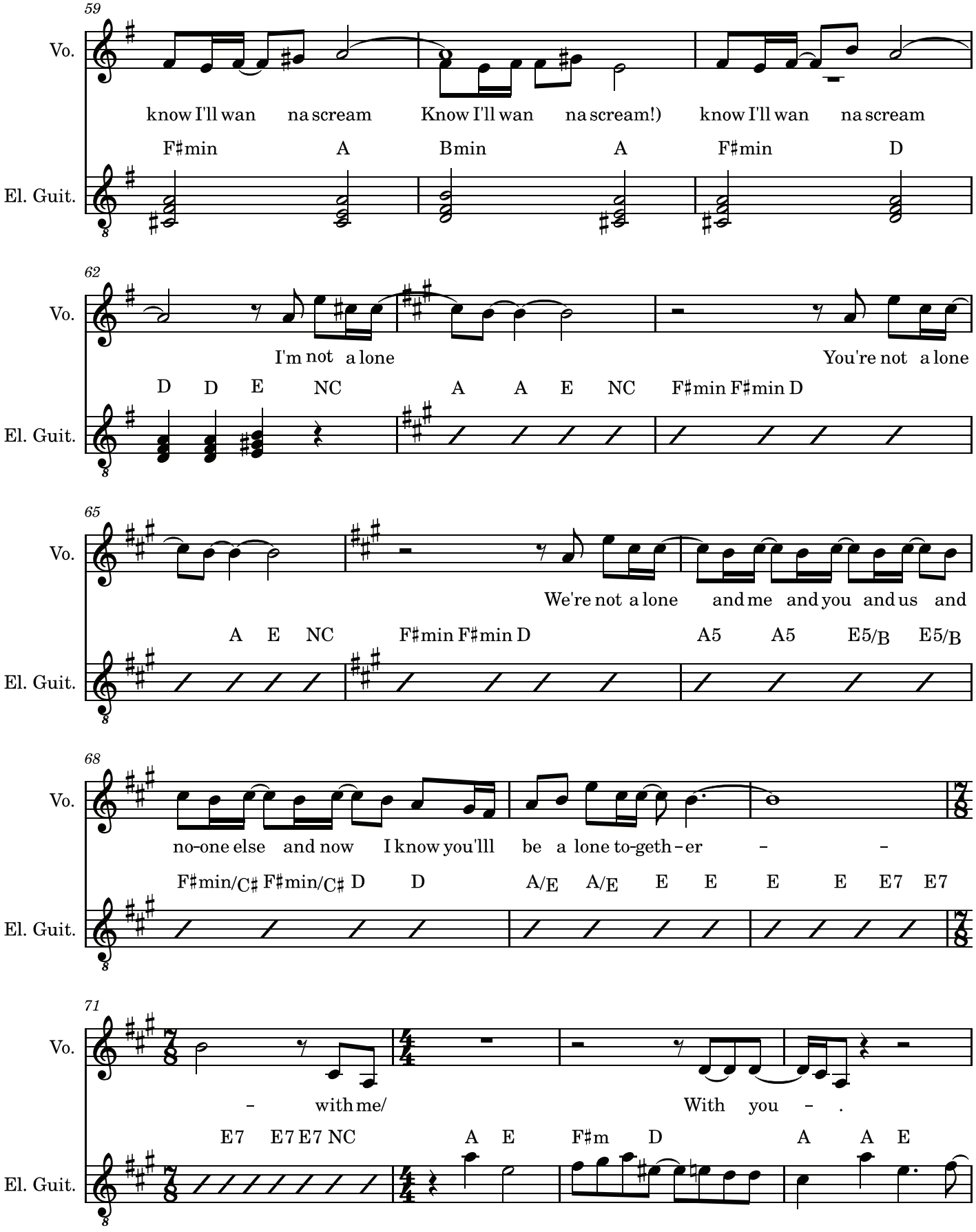
Taylor Byrne/Arr. Minne-Sota




18
Vo.
Will you come look - in for me Doors that were o - open are
Will I see the sun light-?
Emin F♯min
El. Guit.
20
Vo.
walls that keep you out The cloth on our fa - ces stops words from com-ng out I re-
E Amin Emin F♯min E Amin
El. Guit.
23
Vo.
mem-ber that day when we danced a-mong the clouds And it makes me wan na scream
Emin F♯min E A F♯min A
El. Guit.
26
Vo.
(Makes me wan na scream!) makes me wan na scream I'm all a-lone-
Bmin A F♯min D D D D NC
El. Guit.
29
Vo.
You're all a-lone
G G D NC Emin Emin C G D NC
El. Guit.


32
Vo.
We're all a-lone and me and you and them and
Emin Emin C G5 G5 D5/A D5/A
El. Guit.
34
Vo.
1.
ev-ry one and now I want you to be a lone to-geth-er - -
Emin/B Emin/B C C G/D G/D D D D D D7 D7
El. Guit.
37
Vo.
- with me.
D7 D7 D7 NC G D Em C G G D
El. Guit.
41
Vo.
be a lone to-geth-er - But I'm all a-lone-
Emin D7 G/D G/D D D D7 D7 D7 NC
El. Guit.
44
Vo.
You're all a-lone
G G D D NC Emin Emin C G D NC
El. Guit.


47
Vo.
all a-lone and me and you and them and
El. Guit.
Emin Emin C Gno3 Gno3 D5/A D5/A
49
Vo.
ev – ry one and now I want you to be a lone to-geth – er
El. Guit.
Emin/B Emin/B C C G/D G/D D D G/D G/D D D
52
Vo.
One day, you'll show up at my door, "I'm rea – dy for more," you'll say – .
El. Guit.
C B♭ C B♭ C C
56
Vo.
And then, you'll smile and give a sigh, you'll be right by my side, And I'll
El. Guit.
D C D C D


59
Vo.
know I'll wan na scream Know I'll wan na scream!) know I'll wan na scream
F♯min A Bmin A F♯min D
El. Guit.
62
Vo.
I'm not a lone You're not a lone
D D E NC A A E NC F♯min F♯min D
El. Guit.
65
Vo.
We're not a lone and me and you and us and
A E NC F♯min F♯min D A5 A5 E5/B E5/B
El. Guit.
68
Vo.
no-one else and now I know you'lll be a lone to-geth-er - -
F♯min/C♯ F♯min/C♯ D D A/E A/E E E E E E7 E7
El. Guit.
71
Vo.
- with me/ With you - .
E7 E7 E7 NC A E F♯m D A A E
El. Guit.

6

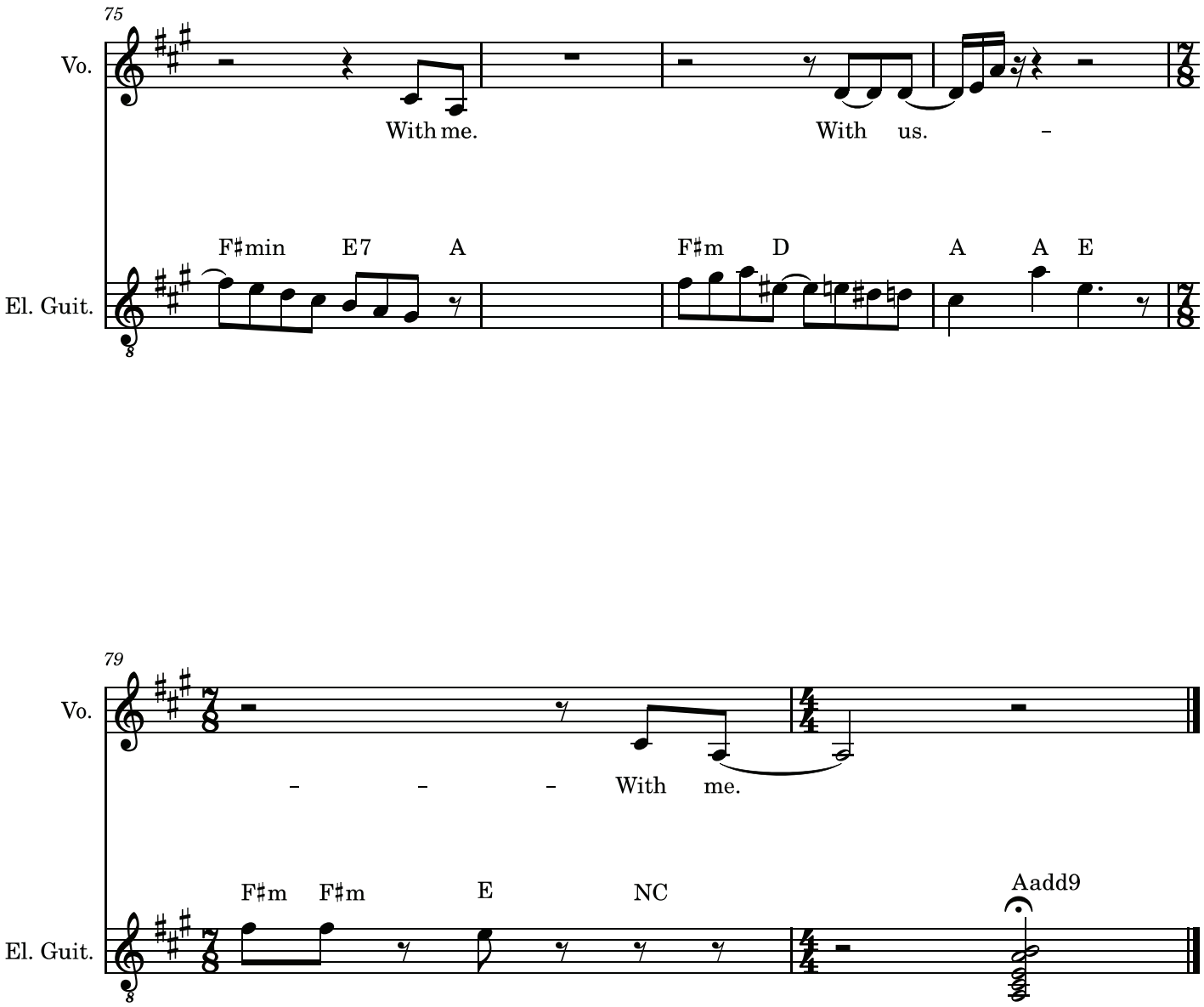

75
Vo.
With me.
With us.
F♯min E7 A F♯m D A A E
El. Guit.
79
Vo.
– – – With me.
F♯m F♯m E NC Aadd9
El. Guit.

Exhibit 8 Statement of Terms between Taylor Byrne and StopMotion Records



STATEMENT OF TERMS

This Statement of Terms (“Contract’), entered into on May 20, 2020, reflects the essential terms between StopMotion records, with an address at 3334 N 1300 E Salt Lake City, UT 84198 ("Company"), and Taylor Byrne, an individual residing at 1977 Fast Lane Oquirrh Peaks, UT 84144 ("Artist").

Recitals

WHEREAS, Company is a record label that provides recording, production, publicity, and distribution services and specializing in artists in the pop music industry; and

WHEREAS, Artist is an emerging pop star seeking a record label, production house, and distribution of musical works; and

WHEREAS, Artist desires to engage Company as their exclusive record label, production house, publicity, and distribution agent, and Company agrees to accept such engagement under the terms and conditions set forth herein and in terms included in the Master Engagement Contract, which will be negotiated in the future but which cannot override the essential terms of this Statement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereby agree as follows:

1. Representation, Distribution, and Other Work

1.1 Company will be the exclusive record label and distributor of Artist’s sound recordings and musical works and will work with Artist or their representative to secure live performances and promotional events.

2. Term

2.1 This Statement is effective beginning on June 1 2020 and lasts for five years or until three albums are produced, whichever is longer.

3. Company’s Duties

3.1 Company will provide production support, produce, distribute, and promote Artist’s albums, musical works, and sound recordings, during the Term.

4. Talent's Duties

4.1 Talent agrees to use best efforts to record and produce at least three albums for distribution within the Term and other duties as may be articulated in the Master Engagement Contract.

4.2. Talent agrees to begin recording a record of at least “Extended Play” length (5 songs) with a Company-approved producer within 60 days.

5. Commission and Payment

5.1 A&R Representative Arlo Vega will receive a commission of 10% of all earnings Artist makes for Company under contract.

5.2 Artist will receive 30% of all earnings from musical works and sound recordings produced and distributed by Company under contract. Any other amounts owed to other parties (agents, publicists, etc.) are the sole responsibility of Artist.

5.3 Company will receive 60% of all earnings from musical works and sound recordings produced under the Contract.

5.4 Artist will receive a cash advance in the amount of $250,000 upon agreeing to this Contract. Payments due and owing under paragraph 5.2 will be withheld at a 75% rate until the advance contained in paragraph 5.4 is repaid.

6. Expenses

6.1 Artist agrees to reimburse Company for any pre-approved expenses incurred in securing jobs and agrees that such reimbursement may be withheld from any distribution under paragraph 5.2 provided such expenses are documented and reasonable.

7. Exclusivity

7.1 Artist grants StopMotion Records exclusive distribution rights to Artist’s music during the Term.

7.2 Artist may only perform and record songs self-written or composed by Company-signed songwriters, composers, or other artists, and must only utilize producers, collaborators, or back-up musicians employed by, or approved by, Company.

7.3 Artist agrees to terminate any professional relationship with their twin, Billie Byrne, for the duration of the Term. That is, Artist is not to work with Billie Byrne on any music to be produced and/or distributed by Company, whether Billie Byrne is a songwriter, performer, or producer.

Company will not distribute any pre-existing work written, produced, or performed in whole or in part, by Billie Byrne, regardless of the contribution by Artist. Artist represents and warrants that any self-written or self-produced material presented to Company is Artist's own and sole work, and that no other person has or can assert any claim of ownership to said work. Artist agrees to indemnify and hold harmless Company for any claim made by any third party as a result of Company producing, promoting, copying, or distributing any of Artist's self-written or self-produced material.

8. Termination

8.1 After the expiration of the Term, either party may terminate this Contract by giving 10 days' written notice to the other party. Upon termination, Artist shall repay all advanced sums.

9. Confidentiality

9.1 Both parties agree to keep all terms of this Contract and any sensitive information confidential, except as required by law.

10. Governing Law

10.1 This Contract shall be governed by and construed in accordance with the laws of the State of Utah.

11. Miscellaneous

11.1 This Contract constitutes the entire agreement between the parties and supersedes all prior agreements. Any changes must be in writing and signed by both parties.

11.2 If any part of this Contract is found to be invalid, the remaining provisions shall continue in full force and effect. Notices required under this Contract must be in writing and sent to the addresses provided below.

IN WITNESS WHEREOF, the parties have signed this Statement of Terms as of the date first written above.

Company:

_____ */s/ Arlo Vega on behalf of StopMotion Records*

Arlo Vega
StopMotion Records
3334 N 1300 E Salt Lake City, UT 84198

Artist:

_____ */s/ Taylor Byrne*

Taylor Byrne
1977 Fast Lane Oquirrh Peaks, UT 84144

Exhibit 9 Text messages between Arlo Vega and Taylor Byrne



Exhibit 10

How does music work?

By A. Oglethorpe, Ph.D.

Background in Western melody and harmony.

Western music starts with a particular understanding of pitch, that is, how high or low a note is, and the related sound waves produced by a source. The foundations of Western music theory can be traced back to ancient Greece, where philosophers and mathematicians like Pythagoras studied the mathematical relationships of musical intervals. They observed that certain ratios of string lengths produced consonant (pleasant-sounding) sounds. Pythagoras also noted special sounds that occurred at divisions less than half or more than double. Certain ratios were understood to be more pleasing than others, and those mathematical understandings underpin western music even today.

In the Middle Ages, monks and others started developing scales– uniform notes between octaves to create melody. Starting in the 11th century, Guido of Arezzo introduced a system dividing a range of pitches into overlapping groups of six notes. Thereafter, the octave was divided into twelve equal parts (more or less). At the same time, Western music was developing scales which have seven notes between the octave ("octave" derives from the Latin word for "eighth"). Some pitches were a whole step apart (two half steps, or ⅙ of the distance between an octave). Some pitches were a half step (1/12 of the distance between an octave) apart. To make a long story short, this system of an eight-note scale, with twelve half steps between each octave, became the standard for Western music.

We've given notes letter names. A, B, C, D, E, F, and G. While we often define a pitch based on the speed of vibrations producing an "A," the note "C" is often thought of as the most central note, because it's kind of in the center of the piano keyboard, it's between our two musical "clefs" when music is written out, and because when playing in the "key of C major," all of the notes keep their "regular" names– C, D, E, F, G, A, B–they don't have to be raised a half step ("sharp") or lowered a half step (flat). And that's the key that most people studying piano learn first, because you only play "white" keys on the piano keyboard. But we'll get to all of that later.

The distance between two pitches is called an *interval*. It's again built on our eight-note scale and the twelve half-steps. The naming comes from how many steps apart the notes are. So when two notes are just one half step apart–like E and F, or F# and G–we call that a "minor second." When two notes are two half steps apart – C to D (C# is in between them), or A to B (with A# in between them), that's called a "major second." When two notes are three half steps apart (C to Eb, or E to G), that's called a "minor third." Notes four half steps (or two whole steps) apart are called a major third. Five steps (A to F, or G to C) is a perfect fourth. Six (C to F#, F to B), either an "augmented fourth," "diminished fifth" or a "tritone," because it's exactly half way in the octave. You'd think this would be a pleasant sound, but it's actually really unsettling. Seven steps (C to G, F to C, A to E) is called a "perfect fifth." Eight (C to Ab, E to C) is called a "minor sixth." Nine (C to A, F to D) is a "major sixth." Ten, (C to Bb, G to F) is a "minor seventh", Eleven, (C to B, F to E) is a "major seventh". And twelve is a "perfect octave."

Why have two notes, when you can have more? Playing more than two notes at a time is called a “chord.” In Western music, chords are fundamental to creating harmony and structure. The most basic chords are “triads,” which consist of three notes. The most basic triads consist of a “root,” (at the bottom), the third (two notes, and either three or four half steps apart), and the fifth (almost always a “perfect fifth,” with a top note that’s seven half steps apart.). For example, in the C major chord (C-E-G), C is the root, E is the third, and G is the fifth. Triads are foundational to harmony in western music. These types of triads can be classified into major and minor chords based on the interval between the root and the third:

- **Major Triad**: The interval between the root and the third is a major third (4 half steps). It has a bright and happy sound (e.g., C-E-G).
- **Minor Triad**: The interval between the root and the third is a minor third (3 hals steps). It has a more subdued or melancholic sound compared to major chords (e.g., C-E♭-G).
- **Other Chord Types**: Beyond triads, there are other types of chords that add more complexity and color to music:
    i. **Seventh Chords**: These include a fourth note, the seventh, adding richness and tension to the chord (e.g., C-E-G-B).
    ii. **Extended Chords**: Chords can be extended further with additional notes beyond the seventh, such as ninth chords (e.g., C-E-G-B-D)

These melodies, intervals, and chords all play out in a musical piece’s “key”. In western music, a "key" refers to a set of notes that form the basis of a musical composition or section of music. Understanding keys is essential for musicians and composers because they determine the relationships between notes, chords, and melodies within a piece of music.

A key will have a “key signature,” a set of sharp (#) or flat (b) symbols placed at the beginning of a staff in sheet music. These symbols indicate which notes are to be consistently raised or lowered throughout the piece. For example, the key of G major has one sharp (F#), while the key of F major has one flat (Bb). As I said before, the key of C major has no sharps or flats.

The two primary types of keys in western music are major and minor keys:

- **Major Key**: Major keys generally sound bright, happy, or triumphant. The major scale associated with each key serves as its foundation, consisting of specific whole and half steps. As I said before, the octave is divided up using the twelve half steps but seven notes. In a major key, the intervals are like this:
    i. (First note)--> Whole step to second note (major second)→ Whole step to third note (“major third” from the bottom note)--> Half step to fourth note (“perfect fourth”)--> whole step to fifth note (“perfect fifth”)--> Whole step to sixth note (“Major sixth”) → Whole step to seventh note (“major seventh’)

- **Minor Key**: Minor keys often sound darker, sadder, or more introspective. The natural minor scale associated with each key has a different pattern– whole→half→whole→whole→half→whole–whole.

Naming Keys. Keys are typically identified by their tonic note (e.g., C, G, D) and whether they are major (C major, G major) or minor (A minor, E minor).

Chord progressions: The first note of the scale of a key serves as its tonal center. It provides a sense of resolution and stability, around which melodies and harmonies revolve.

When describing chords within a key, a numbering system with Roman numerals is used. If the chord is major, upper-case Roman Numerals are used. If the chord is minor, the lower-case roman numerals are used. The triad of the key that the piece is in, is indicated with the number I (or i if it's a minor key). The triad that's based on the fourth note in the scale of the key is IV, the fifth if V, etc.

Rhythm and meter

Music isn't just playing or singing the right notes of course. It's playing the right notes *at the right time*. We call that "rhythm." It's the organization of sounds and silences in time.

Beat: The beat is the basic unit of time in music. It's like the steady "heartbeat" of the music, felt as a regular pulse. For example, when you tap your foot to music, you're often tapping to the beat.

Meter: Meter organizes beats into recurring patterns of strong and weak accents, creating a rhythmic framework for the music. Meter is usually arranged in "duple" or "triple" arrangements. A "duple" feel is where the meter has stress every two beats– think of a march with its ONE, two, ONE, two feel. A "triple" feel is where the meter has stress every three beats. Think of a waltz– ONE, two, three, ONE, two three. Those patterns can be combined into groups– for example, the most common meter in western music is 4/4 time (four beats per measure), where the first beat is usually the strongest, and the third beat is also strongest.

But there can also be complex meters. These are usually groupings of two or three together, like Dave Brubeck's "Take Five," which is in 5/4 time, with one group of three beats, followed by one group of two beats. ONE two three FOUR five. These complex meters often feel unsteady, like you're dancing with a leg that's too short, or the next measure is coming too soon or too late.

Time Signature: The time signature is a part of music notation that indicates the meter of the music. It consists of two numbers written one over the other, such as 4/4 or 3/4. The top

number indicates the number of beats per measure, and the bottom number indicates the note value that represents one beat

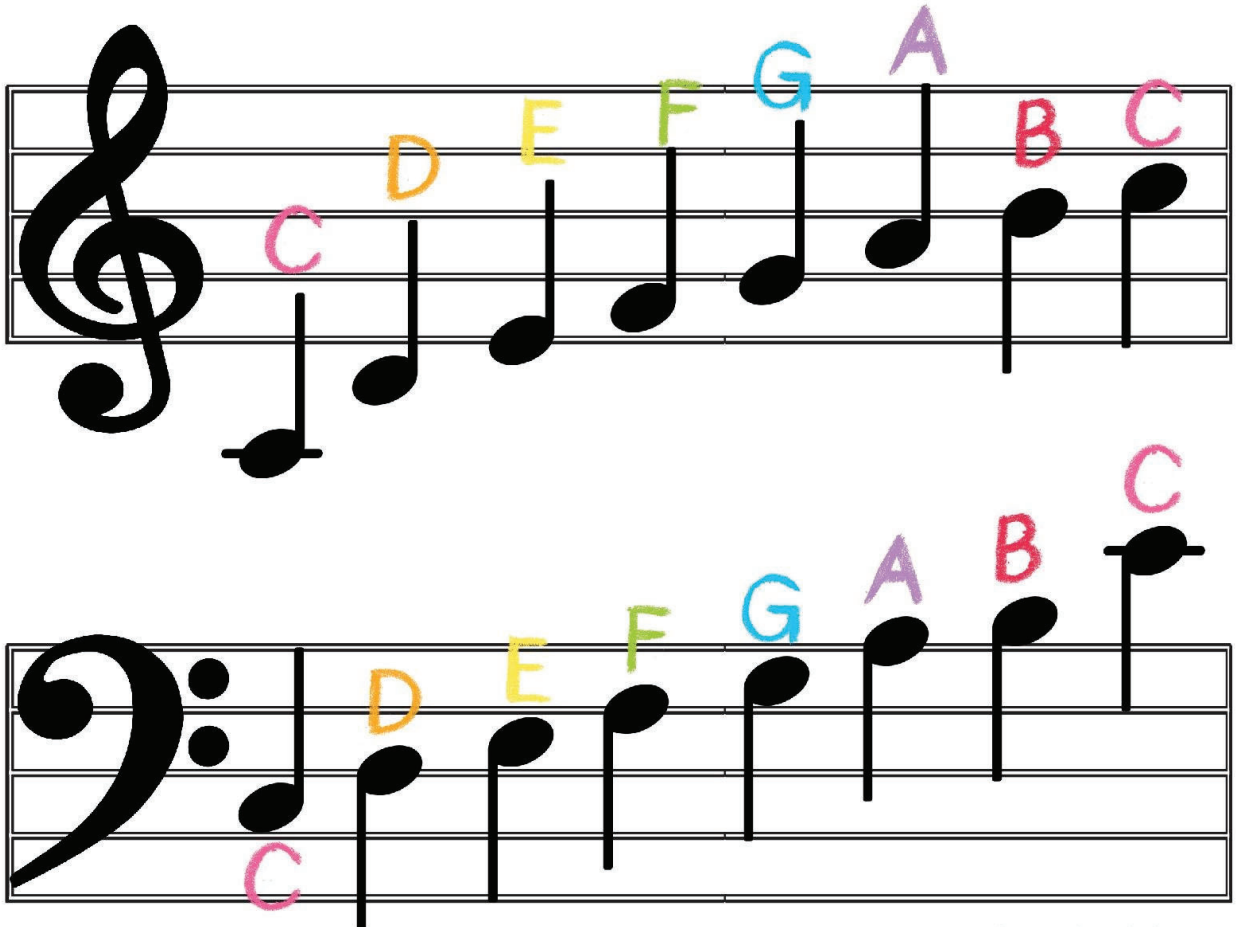
Music Notation

Pitch and meter may be represented on the written page in a common system of western music notation.

Music is commonly written on a “staff” – a notation system with five lines and four spaces. Each note (A through G) is represented on either a line or space on the staff. When the notes go above the staff we add “ledger lines” to keep the staff going higher or lower.

Now, which notes go where? The “clef” symbols tell us. While there are lots of different clefs, the two most common are the “treble clef” and the “bass clef”. The treble clef places the G on the second-to-the-bottom line of the staff, and all the rest of the notes fill around it. As a result, “middle C” rests on one ledger line below the staff.

The bass clef places “low f” on the second-to-top line of the staff, and the rest of the notes fill around it. As a result, “middle C” rests on one ledger line *above* the staff. So the bass and treble clefs can be connected at middle C. Neat!



So pitch is determined by where a note is placed on the staff; rhythms are written based on the shape of the note. While there are many, many note shapes, we'll show the basics here.

We start with a "whole note." This note looks like this:



And represents four "beats" of the basic rhythm in most music.

A "half note" looks like this:



And represents two beats of the rhythm.

A "quarter note" looks like this:



And represents one beat in basic rhythm. See how we're dividing by two each time?

An "eighth note" looks like this:



And represents one-half of the beat in basic rhythm. Two or more eighth notes may be “beamed” together and look like this:



A “sixteenth note” looks like this:



And represents one-quarter of a beat in basic rhythm. Like the eighth note, groups of sixteenth notes may be beamed together and look like this:



Whenever there's a dot next to a notehead, that indicates that the note should be held for an additional 50% of the note's original value.

So this:



Means 3 beats.

And this:



Means ¾ of a beat (or 3 eighth notes)

There are special notations for rests (when music is not being played), dynamic (how loud or soft to play), other types of expression (whether to speed up or slow down), and more, but these are the basics to get you started.

Exhibit 11 Expert Report and Curriculum Vitae

Report of Augustine Oglethorpe, Ph.D.

As required by Federal Rule of Civil Procedure 26(a)(2)(B), I, Augustine, Oglethorpe, Ph.D., provide the following Expert Report.

1. A complete statement of all opinions the witness will express and the basis and reasons for them.

It is my opinion that the song "Alone Together," written by Taylor Byrne, copied protectable expression from the song "Anthrophobia,' written by Billie Byrne, to which Taylor had access and/or heard. It is also my opinion that six elements demonstrate that there is substantial similarity between the two works The basis and reasons for these opinions are discussed in the "Discussion" section below.

2. The facts or data considered by the witness in forming them.

In forming my opinion, I have relied upon the following:

- Exhibit 2, The "Anthrophobia" lead sheet, the deposit copy of the "Anthrophobia" musical work on file with the copyright office
- Exhibit 3, the email notification of shared "Anthrophobia" sound recordings
- Exhibit 4, the sound recording of "Anthrophobia."
- Exhibit 5, the handwritten lead sheet of "Alone Together,"
- Exhibit 6, the commercial recording of "Alone Together,
- Exhibit 7 the lead sheet of "Alone Together" transcribed from the commercial recording
- The declarations of Taylor Byrne and Billie Byrne in this lawsuit.

3. Any exhibits that will be used to summarize or support them.

See the examples contained in the "Discussion" section below.

4. The witness's qualifications, including a list of all publications authored in the previous 10 years.

See my curriculum vitae, attached as Exhibit 11A.

5. A list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition.

I have testified in the following cases:

Case Name	Party	Expert Opinion	Case Result
Vega v. Mambo Prods, Inc., No. 2:22-	Mambo Productions	No infringement	Deposition taken; expert opinion challenged; case

CV-00220 (N. D. Hawaii)	(Defendant)		settled for an undisclosed amount before court ruled on admissibility of opinion.
McCrea v. CakeHole, No. 4:19-CV-9981 (N.D. New Mexico)	McCrea (Plaintiff)	Copyright infringement in rock song with 5 instances of copying in written music and sound recording	Expert opinion accepted; testified at trial; verdict for Plaintiff in the amount of $250,000.
Estate of Lenon v. Lemon, No. 6:17-CV-119990 (N.W. D. New York)	Estate of Lenon (Plaintiff)	Copyright infringement in country song based on rock song with 4 instances of copying in written music	Deposition taken; expert opinion excluded as insufficiently supported. Summary judgment entered in favor of Defendant.
Singh v. Tsong, No. 2:15-CV-0002 (N.D. Delaware)	Singh (Plaintiff)	Copyright infringement in symphony based on 20 instances of copying from previously published symphony	Deposition taken; expert opinion challenged but accepted by the court; case settled for an undisclosed amount before trial.

6. A statement of the compensation to be paid for the study and testimony in the case.

I charge a rate of $400 per hour to review case materials, research, and write my report. I charge a rate of $500 per hour, with a four-hour minimum, for trial testimony.

DISCUSSION

Copyright Standards

Though I'm no lawyer, I have to understand the basics of copyright law. I know that copyright law protects only "expressions" of ideas, and not ideas themselves. I know that someone can only claim copyright infringement if the alleged infringer actually "copied" the original work. That means if two people independently created the same work, and the second person had no knowledge of the first person's work, then there can't be copyright infringement. But a person doesn't have to intentionally copy–if the alleged infringer had access to and would have been exposed to the music, then the alleged infringer can be found liable for copying even if the copying was "subconscious."

Further, to prove infringement, a plaintiff must show that the later work actually copied the plaintiff's work. That means performing a technical analysis to see if there are similarities that have been copied. But a plaintiff must also prove "substantial infringement," meaning that,

when examining the work substantial parts were taken such that a person would understand that the second work copied the first. It doesn't have to look or sound exactly the same, of course. If a work copies portions of the earlier work, it can still be infringing. Substantial, also contrary to popular belief, doesn't mean that "51%" of the work is the same. Percentages are irrelevant, rather it has to do with the value of the copied content.

Methodology

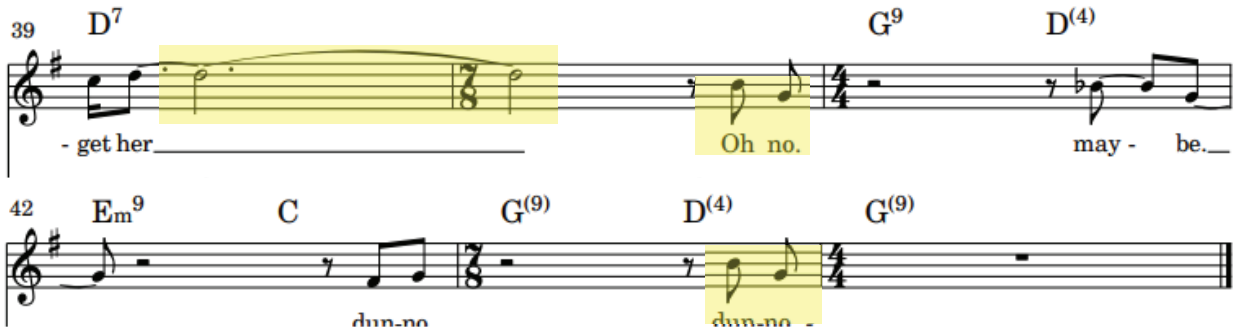
For my work, I analyzed the lead sheet of Billie Byrne's "Anthrophobia," Exhibit 2, with the transcribed lead sheet of Taylor Byrne's "Alone Together," Exhibit 7. I may have listened to the two pieces, but that was not required for my analysis because Billie is only suing for infringement of "Anthrophobia" as a *music work* (meaning the written sheet music and words) rather than as a *sound recording* (whether the recordings sound the same aurally). I looked at structure, the melody, meter idiosyncrasies, choices of harmonies and chord progressions, and the lyrics to determine what elements Taylor copied, and whether copying of those elements constitutes "substantial copying" to support a claim of infringement. I recognize that some uninformed people might think that these two songs have almost nothing in common, especially if that uninformed person is just listening to the highly produced, final version of "Alone Together" compared to Billie's personal recording of "Anthrophobia" they sent as a demo to their sibling. But when you carefully examine the elements in each song, it's not hard to find that, at their cores, the songs are essentially the same, with pieces just rearranged. I have found **six instances of copying,** and because the nature of the copying is so important, it is my opinion that Taylor substantially copied Billie's work.

Structure

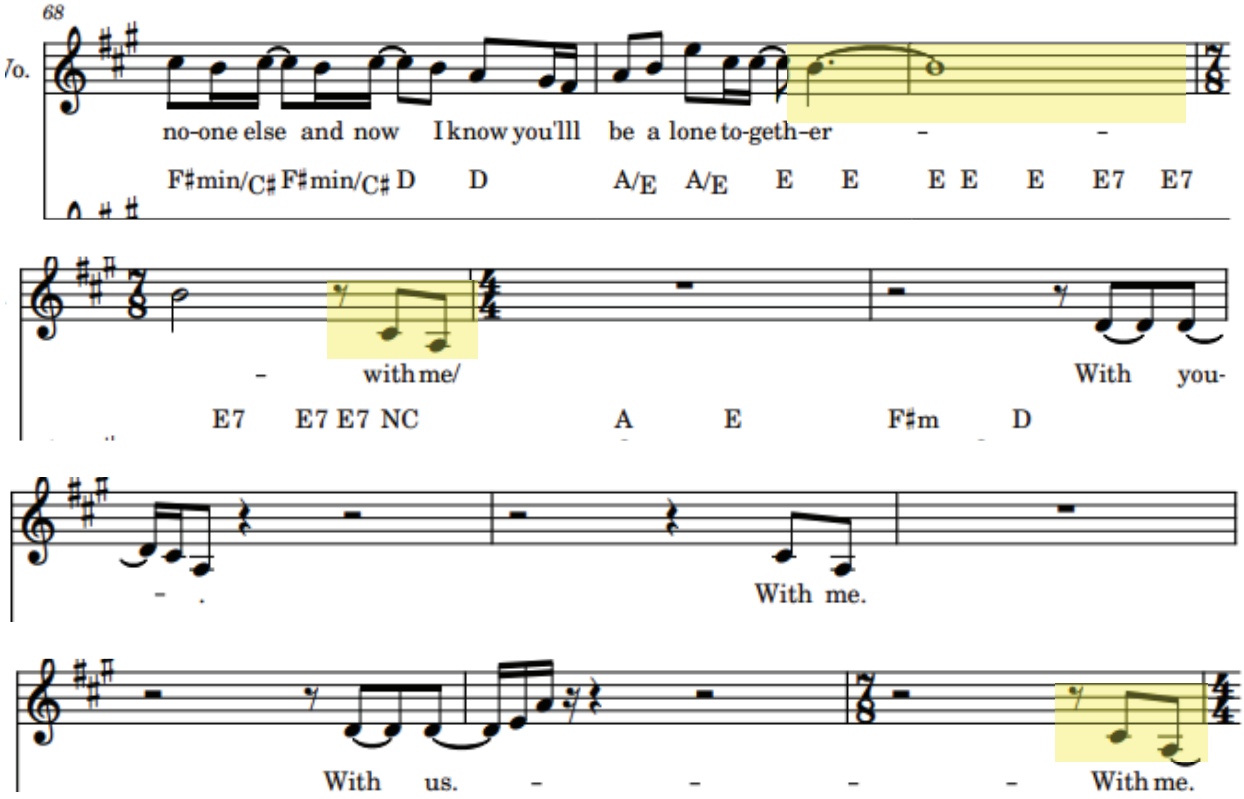
When I talk about "structure," I'm referring to the overall form of the respective pieces. This is a hard comparison in this case because "Alone Together" is a complete, longer work, and "Anthrophobia" is admittedly not fully fleshed out.

While there are significant differences in the structure of the pieces, analysis of the structure shows two similarities. **First**, both pieces have a coda extending the end of the chorus, repeating the final phrase leading to a sudden finale. This is different from, for example, popular music wherein the chorus is repeated and the music fades out, or where the music ends on a strong instrumental outro. There are also harmonic and melodic similarities in the coda shown by the highlights below.

Fig. 1. “Anthrophobia” coda



“Alone Together” coda

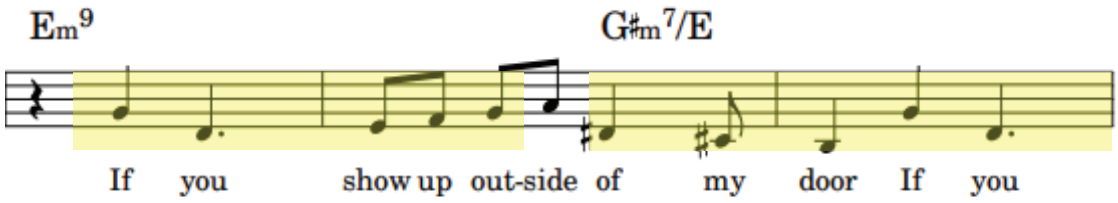


Melody

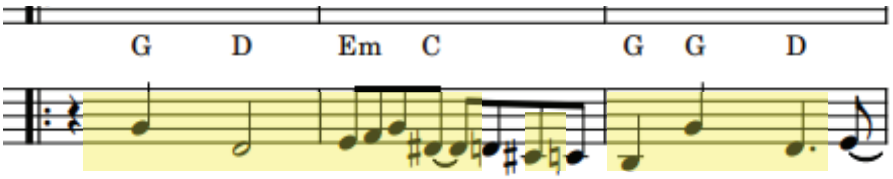
Some of the melodic similarities between the pieces might not be obvious, and Taylor’s song included new melodic elements. For example, no one would claim that the melody of each song’s verses are the same. But a careful study shows that Taylor copied significant portions of the melody of “Anthrophobia.”

My **second** instance of copying is the almost note-for-note duplication of the melody in Billie's prechorus that Taylor used at the "hook," or introduction, in "Alone Together."

Fig. 2. Prechorus in "Anthrophobia" (treble clef)



"Hook" (played by lead guitar) in "Alone Together" (treble clef, transposed down one octave)

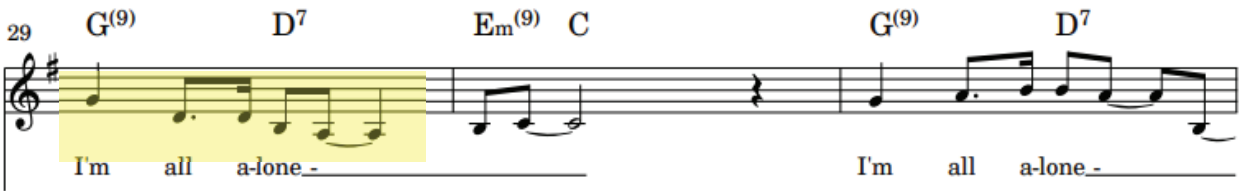


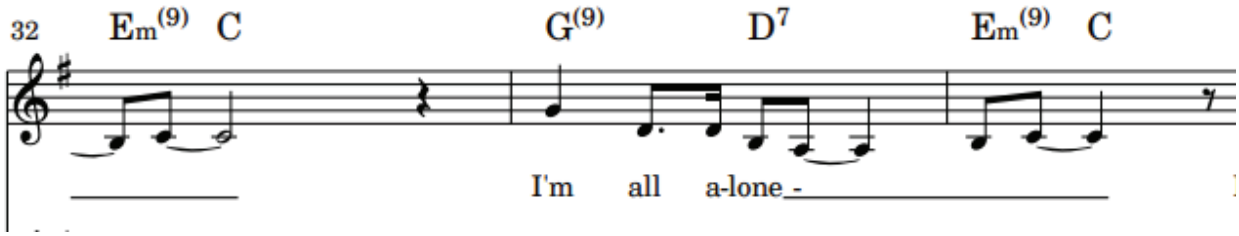
Because the time signatures of the pieces are different, the rhythms are slightly different. But these three measures are basically identical. The melody starts on a G on beat 2 of the measure, then moves down a perfect fourth to a D to take up the rest of the measure. Then both pieces feature a three-eighth note ascending line starting from E. "Alone together" cuts off the ascending line, but both end up on D sharp. This is important because D sharp is not a note that regularly appears in the key of G major. It's a unique, almost uneasy sound. Then, both sounds descend to C sharp ("Alone Together" adds a chromatic passing tone of D), and then descends to B natural. Then both pieces restart the pattern–going back up to G and down to D.

While this is only three measures, these are three incredibly important measures, especially in "Alone Together," because it forms the foundation of the hook which is the most recognizable part of a pop song.

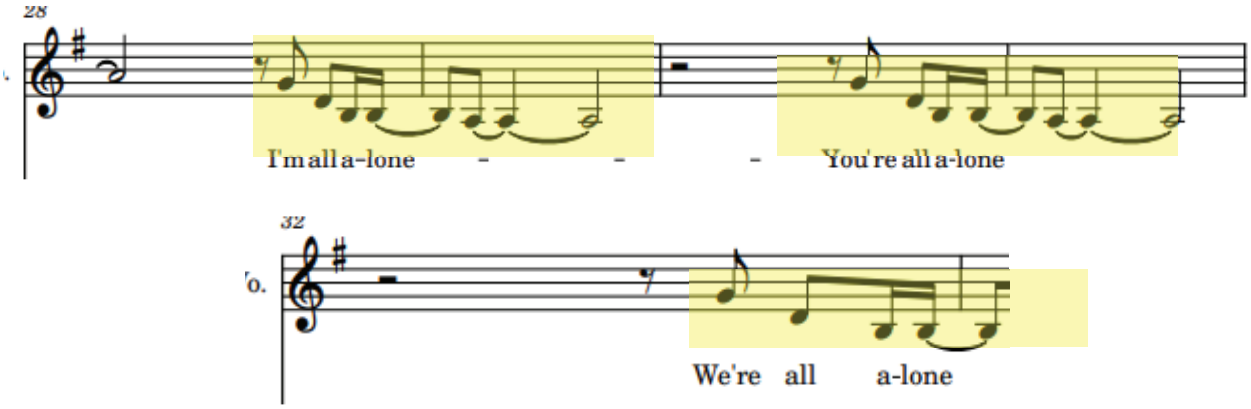
My **third** instance of copying is the most egregious–Taylor's copying of the most important melodic elements of "Anthrophobia's" chorus.

Fig. 3 Chorus in "Anthrophobia"





Chorus in "Alone Together" (treble clef, all notes except originating G transposed down one octave)



The melodic pattern is obvious. Both songs have an "all alone" theme that is repeated three times in the chorus. The melody is nearly identical: G to D to B to A. The fact that "Alone together" starts on the same G but moves up to the higher D octave in the original is of no consequence from a music theory perspective. And while the rhythms are slightly different, they both follow roughly the same rhythmic feel. "Alone together" follows that pattern two and a half times, while "Anthrophobia" inserts a contrasting pattern. But Taylor copied the "all alone" theme basically directly from "Anthrophobia." And because a chorus can be as, or even more important, than a hook, this is a critical element of copying.

Meter Idiosyncrasies

My **fourth** instance of copying is reflected in the meter idiosyncrasies featured in both songs: In particular, the use of ⅞ time.

Almost every pop song utilizes a consistent, regular meter–measures of music that have 4 (4/4 time), or less commonly, 3 or 6 (¾ or 6/8 time), beats per measure. "Anthrophobia" is written in an irregular meter – ⅞ time–for the verse, and 4/4 time for the chorus, with some sporadic appearances of ⅞ time in the chorus.

Predictably, "Alone Together" is written in 4/4. But it also features select measures of ⅞ time. This is highly unusual and surprising, particularly based on what I understand of Taylor's musical education.

The utilization of the ⅞ measures also evidences copying. See figure 1 above: Both songs features a long, held note on "Together" over a 4/4 bar, followed by a ⅞ bar, with a two eighth-note cadence ("oh no" or "with me") finishing the phrase in the chorus. That ⅞ bar–which is one eighth-note shorter than a 4/4 bar–gives an element of surprise, a hiccup to reinforce the final phrase, and is an important element in both songs.

Choices of harmonies and chord progressions

There is similarity between some of the harmonic choices made and chord progressions used in both pieces.

My **fifth** instance of copying is that "Alone Together" copies the chord progression found in "Anthrophobia's" chorus. A "chord progression" is a succession of chords, that give the music shape and consistency. It also serves a musical theory purpose of giving a song a tonal center "home base", some movement, tension, and then return to home base. Chord progressions are referred to by Roman numerals. The chord of the key of the song is numbered "I," and then upwards through seven. Capital Romans indicate major chords; lowercase indicate minor.

"Anthrophobia's" chorus uses a chord progression that I understand is not uncommon in pop music but is found less often in classical music. The chords change every two beats in the chorus, starting on the chord for the key of the piece – G major, then D major, than E minor, then C major. In Roman Numerals, this is I-V-vi-IV.

"Alone Together" uses this chord progression in the hook and in the chorus. As a result, the choruses of the two songs are very similar.

Lyrics

Finally, a close examination of the lyrics shows substantial copying. This is my **sixth** instance of copying. I admit that I am not a poet or lyricist; my expertise is in music theory and instrumental music. But the obvious instances of copying are apparent to anyone with two eyes.

Of course, if one looks over the whole of the music, you can see nearly identical themes, perhaps slightly adapted. The first verse of the songs are about being alone; the second verse is about comparing the singer's life with someone else's life displayed on social media dating apps (discussed below); the chorus describes being alone and explores the concept of being "alone together" with someone; with different resolutions. But I understand that copyright protects expression of ideas, not the ideas themselves, so I have highlighted a few instances which demonstrate copying of expression:

Importantly. there are multiple instances of copying similar words in each song's second verse:

"Anthrophobia"'s second verse	*"Alone Together"'s second verse*

Anthrophobia *Scrolling through the **pictures** and* ***Swiping left;** that's not **my life*** ***Swiping right;** that's no **one's life*** ***Can't see you**, **not seen by you**. Mmmm.*	*I see the **pictures** on your screen* *I have to **swipe left or right*** *I have to swipe **left on life*** *How will I ever **be seen**?* *Will I be in **your sight**?* *Will I see the sunlight?*

In addition, look at how many words from "Anthrophobia" are repeated, verbatim or nearly verbatim in "Alone Together." The most obvious lyrics is the phrase "alone together," which becomes the title of Taylor's song and perfectly and simply describes the theme of both songs– whether shared isolation (because of a pandemic or because of relationship problems) is possible or desirable. But as the chart below shows, there are many other instances of copying lyrics expressing the same or similar ideas.

Meas. #	"Anthrophobia" lyric	Meas. #	"Alone Together" Lyric
36-39	**"Alone together"**	**35, 42, 50, 69**	**"Alone together"**
15-17	"If you show up outside of my door"	52, 53	"One day, you'll show up at my door"
23-26	"If it's just me and you and us and no one else; it's not just me and you, it's me and no one else."	33-34, 48-49, 67-68	"And me and you and them and everyone and now" "And me and you and us and no one else"
27	"Makes me wanna scream"	25, 26, 27, 59, 60, 61	"Makes me wanna scream" / 'Know I'll wanna scream"
29-32	"I'm all alone."	28-29, 44-45	"I'm all alone" (plus multiple instances of variations on the lyric, e.g., "You're all alone"; "we're all alone"; "I'm not alone", etc.)

Conclusion

Based upon these ten instances of copying, it is my opinion that, though "Alone Together" shows some items of originality and creativity, Taylor Byrne copied the foundational blocks for the song–and the core elements that lead to its song's success– from Billie Byrne's song "Anthrophobia."

DATED this 23rd day of July, 2024 /s/ Augustine Oglethorpe, Ph.D.

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EDUCATION:

Ph.D. in Musicology, Princeton University, Dissertation: "*Counterpoint and Continuo: The Evolution of Basso Continuo Practices in Baroque Music and Their Impact on Modern Interpretation,*" Advisor: Dr. Jonathan M. Turner, Graduated: 1983

Master of Music in Harp Performance, Royal Academy of Music, London, UK, Graduated: 1979

Bachelor of Music in Harp Performance, The Juilliard School, Graduated Summa Cum Laude: 1977

EXPERIENCE:

2000-Present: Distinguished Professor of Music, University of Utah
1995-2000: Professor of Music, University of Utah
1990-1995: Associate Professor of Music, University of Utah
1990-Present: Principal Harpist, Salt Lake Symphony
1984-1990: Assistant Professor of Music, New York University
1983-1984: Visiting Assistant Professor of Music, Columbia University
1980-1982: Lecturer in Musicology, Princeton University
1978-1979: Adjunct Instructor in Harp Performance, Royal Academy of Music, London, UK

SELECTED TEACHING EXPERIENCE:

Harp Performance Studio & Private Lessons

Music Theory I, II, III, IV

Ear Training I, II,

History of Western Music I: Early Music to 1800.

Principles of Musicology (beginning and advanced classes)
Bach to Bacharach: Baroque influences on modern music (Honors College seminar)

PROFESSIONAL PUBLICATIONS:

Turner, J.M., & **Oglethorpe, A.** (2018). "*Roll Over Beethoven*: The Influence of Baroque and Early Romantic Music in 20th Century Rock Music." *Journal of Musicology*.

Oglethorpe, A. (2015). "Harmonies of the Past: Understanding Baroque Music." *Music Theory Spectrum*.

Oglethorpe, A. (2010). "Basso Continuo: Historical Perspectives and Modern Interpretations." *Early Music*.

Martin, P.T., **Oglethorpe, A.**, et al. (2007). "Counterpoint and Continuo: Analyzing the Baroque." *Musica Antiqua*.

Oglethorpe, A. (2005). "The Role of the Harp in Baroque Ensemble Music." *Historical Performance*.

Davis, K.J., **Oglethorpe, A.**, et al. (2002). "From Monteverdi to Bach: The Evolution of Baroque Styles." *Early*

Music History.

Oglethorpe, A. (1999). "Baroque Ornamentation and Performance Practice." *Performance Practice Review*.

Brown, R.E., **Oglethorpe, A.**, et al. (1996). "The Impact of Baroque Music on Modern Composition." *Contemporary Music Review*.

Oglethorpe, A. (1993). "Baroque Music and Its Influence on Later Musical Periods." *Journal of the American Musicological Society*.

Wilson, H.G., Chen, M.T., & **Oglethorpe, A.** (1991). "Baroque Counterpoint in Modern Analysis." *The Musicologist's Journal*.

Johnson, M.L., **Oglethorpe, A.**, et al. (1986). "The Development of Harp Techniques in Baroque Music." *Journal of Historical Harp Studies*.

Oglethorpe, A. (1984). "Baroque Music: Innovations and Legacy." *Review of Musicology*.

Williams, S.P., **Oglethorpe, A.**, et al. (1982). "The Harp in Baroque Orchestras." *Journal of Early Music*.

Oglethorpe, A. (1980). "The Influence of Italian Baroque on French Music." *Renaissance and Baroque Music Review*.

Baker, T.J., **Oglethorpe, A.**, et al. (1979). "Teaching Baroque Music to Modern Musicians." *Journal of Music Education*.

PROFESSIONAL AFFILIATIONS:

American Musicological Society (AMS)	Member since 1980
International Musicological Society (IMS)	Member since 1985
American Harp Society (AHS)	Member since 1977
Society for Seventeenth-Century Music (SSCM)	Member since 1990
College Music Society (CMS)	Member since 1982
Historical Performance Institute (HPI)	Member since 1988
Association for Technology in Music Instruction (ATMI)	Member since 1992

CERTIFICATIONS AND AWARDS:

Lifetime Achievement Award in Musicology	International Musicological Society, 2015
Outstanding Research Award	American Musicological Society, 2010
Golden Harp Award	American Harp Society, 2008
Certified Expert Witness in Music Analysis	American Musicological Society, 2015
Award for Excellence in Teaching	University of Utah, 2005
Fellow of the Royal Society of Musicians	Royal Society of Musicians, 2000
Distinguished Alumni Award	The Juilliard School, 1995

COMPOSITIONS:

Celestial Symphony in G Major
Premiered by the Salt Lake Symphony Orchestra, 2015

Echoes of Eternity: Concerto for Harp and Orchestra
Performed by the University of Utah Philharmonia, 2012

Nocturne Quartet
Commissioned by the International String Quartet Society, 2009

Baroque Reverie Suite for Harp
Featured in the American Harp Society National Conference, 2006

Fantasia di Arpa
Winner of the Juilliard Composition Competition, 2003

Rhapsody in Twilight
Performed at the New York University Faculty Recital, 1999

Serenade for Strings and Harp
Premiered by the University of California, Berkeley Symphony, 1995

Harmonic Convergence
Performed at the International Musicological Society Conference, 1990

Chamber Echoes: Trio for Flute, Viola, and Harp
Featured in the American Harp Society Annual Meeting, 1985

Dance of the Baroque Spirits
Recorded by the Columbia University Baroque Ensemble, 1980

GRANTS:

National Endowment for the Arts (NEA) Grant
Project: "Baroque Music Performance Practices"
Amount: $150,000
Duration: 2014-2017

American Council of Learned Societies (ACLS) Fellowship
Project: "Historical Contexts of Baroque Music"
Amount: $75,000
Duration: 2005-2006

Andrew W. Mellon Foundation Grant
Project: "Reviving Baroque Techniques in Modern Harp Performance"
Amount: $100,000
Duration: 2001-2004

Guggenheim Fellowship
Research: "Comparative Analysis of European Baroque Composers"
Amount: $90,000
Duration: 1996-1997

National Endowment for the Humanities (NEH) Grant

Project: "Baroque Ornamentation and Performance Practice"

Amount: $120,000

Duration: 1986-1988

Exhibit 12 List of pop music songs contained in “4 Chords”

Rock songs referenced by the musical satire group “Axis of Awesome” in their “4 chords” music video https://www.youtube.com/watch?v=oOIDewpCfZQ

(All these songs contain, at least in part, the chord progression I-V-vi-IV)

Journey -- "Don't Stop Believing"
James Blunt -- "You're Beautiful"
Black Eyed Peas -- "Where Is the Love"
Alphaville -- "Forever Young"
Jason Mraz -- "I'm Yours"
Train -- "Hey Soul Sister"
The Calling -- "Wherever You Will Go"
Elton John -- "Can You Feel The Love Tonight" (from The Lion King)
Akon -- "Don't Matter"
John Denver -- "Take Me Home, Country Roads"
Lady Gaga -- "Paparazzi"
U2 -- "With Or Without You"
The Last Goodnight -- "Pictures of You"
Maroon Five -- "She Will Be Loved"
The Beatles -- "Let It Be"
Bob Marley -- "No Woman No Cry"
Marcy Playground -- "Sex and Candy"
Men At Work -- "Land Down Under"
Theme from America's Funniest Home Videos
Jack Johnson -- "Taylor"
Spice Girls -- "Two Become One"
A Ha -- "Take On Me"
Green Day -- "When I Come Around"
Eagle Eye Cherry -- "Save Tonight"
Toto -- "Africa"
Beyonce -- "If I Were A Boy"
Kelly Clarkson -- "Behind These Hazel Eyes"
Jason DeRulo -- "In My Head"
The Smashing Pumpkins -- "Bullet With Butterfly Wings"
Joan Osborne -- "One Of Us"
Avril Lavigne -- "Complicated"
The Offspring -- "Self Esteem"
The Offspring -- "You're Gonna Go Far Kid"
Akon -- "Beautiful"
Timberland featuring OneRepublic -- "Apologize"
Eminem featuring Rihanna -- "Love the Way You Lie"
Bon Jovi -- "It's My Life"
Lady Gaga -- "Pokerface"
Aqua -- "Barbie Girl"
Red Hot Chili Peppers -- "Otherside"
The Gregory Brothers -- "Double Rainbow"
MGMT -- "Kids"
Andrea Bocelli -- "Time To Say Goodbye"
Robert Burns -- "Auld Lang Syne"
Five for fighting -- "Superman"
The Axis of Awesome -- "Birdplane"
Missy Higgins -- "Scar"

Exhibit 13

The Oquirrh Tribune

ISSUE 32, 2020 • The Place to Know • Oquirrh Peaks, Utah

Utah Teen Ignites Music Scene

Taylor Byrne, an Oquirrh Peak native, released their first single this past week and it has become an instant success.

You may remember Taylor as the voice of your favorite Covid trend— "Sickrolling." For all those unfamiliar with the term, "Sickrolling" means that a video appears to be something else, but then turns into a parody dance. This was originally a trend with an old 80s song, but has now been replaced with Taylor's much more timely lyrics in their song "Never Get to Give You Up."

Now, Taylor's fame has spread far beyond their social media. This single, "Alone Together," skyrocketed to the top of the charts and has taken over radio stations and TikTok trends.

"Alone Together," according to Taylor, is about the feeling of being in a crowd, yet feeling totally alone.

> "... I just want to let people know that they're not alone."

"Covid has been hard because I feel so lonely, even though I have people around me. I know other people relate to these feelings and I just wanted to let people know that they're not alone," Taylor said.

Taylor is originally from Oquirrh Peaks in western Utah and graduated, or rather, graduated "virtually" earlier this year from Oquirrh Peaks High School.

Taylor was a star student in music and academia, according to their teachers. Taylor credits much of their current success to their parents and music teachers throughout the years.

"Part of who I am today comes from how my parents raised me and the opportunities I was given. I'm so grateful for all those who listened to me at church and school and helped me get where I am now," Taylor said.

Taylor recently signed a deal with StopMotion Studios and is planning on releasing an album in the upcoming months.

Utah will continue to cheer on Taylor Byrne as they move up in, and ignite, the music world.

What's New In...

HEALTH

Potential Covid-19 Vaccine?

For the last 6 months, our country has been plagued—literally—by the Coronavirus. Teams around the country have been working tirelessly to try to find a cure. There may be some potential leads on a vaccine, which would greatly reduce the hospitalization numbers for those who contract the virus. Several companies are currently developing potential vaccines. Read more on page 6.

POP CULTURE

IMPOSTER AMONG US?

Parents may be concerned by their teens recent phone usage. This may be due to the latest gaming craze: "Among Us." Read about how this game could be connecting kids to their friends on page 9

POLITICS

U of U to Host VP Debate

The University of Utah is pleased to announce that this coming October, they will hold a Vice Presidential Debate. Hopefully no flies interfere. Details on page 4