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LOS ANGELES

BY: \_\_\_\_\_

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10 ANTHONY FREDIANELLI

11 UNITED STATES DISTRICT COURT  
12 CENTRAL DISTRICT OF CALIFORNIA

13 ANTHONY FREDIANELLI, an  
14 individual,

15 Plaintiff,

16 v.

17 STEPHAN JENKINS, an individual;  
BRADLEY HARGREAVES, an  
18 individual;  
THIRD EYE BLIND, INC., a California  
19 corporation;  
3EB TOURING, INC., a California  
20 corporation;  
STEPHEN JENKINS PRODUCTIONS,  
21 INC., a California corporation;  
3EB PUBLISHING, an unknown entity;  
22 THOMAS MANDELBAUM, an  
individual;  
23 HISCOCK & BARCLAY, LLP; a New  
York limited liability partnership;  
24 DAVID RAWSON, an individual;  
ZEISLER, ZEISLER, RAWSON &  
25 JOHNSON LLP, a California limited  
liability partnership;  
26 EMI BLACKWOOD MUSIC, INC., a  
Connecticut corporation;  
27 and DOES 1-10;

28 Defendants.

Case No. **CV11 01562 R**

**COMPLAINT**

**DEMAND FOR JURY TRIAL**

BY FAX

(JURY)

1 ANTHONY FREDIANELLI hereby alleges for his complaint against  
2 STEPHAN JENKINS, an individual, BRADLEY HARGREAVES, an individual,  
3 THIRD EYE BLIND, INC., a California corporation, 3EB TOURING, INC., a  
4 California corporation, STEPHEN JENKINS PRODUCTIONS, INC., a California  
5 corporation, 3EB PUBLISHING, an unknown entity, THOMAS IRVING  
6 MANDELBAUM, an individual, HISCOCK & BARCLAY, LLP, a New York  
7 limited liability partnership, DAVID RAWSON, an individual, ZEISLER,  
8 ZEISLER, RAWSON & JOHNSON LLP, a California limited liability partnership;  
9 EMI BLACKWOOD MUSIC, INC., a Connecticut corporation, and DOES 1-10  
10 (collectively, “Defendants”) upon personal information as to Plaintiff’s own  
11 activities, and upon information and belief as to the activities of others, as follows:  
12

13 **I. NATURE OF THE CASE**

- 14 1. In early 1993 Tony Fredianelli was a founding member of the rock  
15 band Third Eye Blind. Fredianelli was Third Eye Blind’s lead guitarist.
- 16 2. Defendant Stephan Jenkins was another of the founding members.
- 17 3. Fredianelli and Jenkins co-authored many of Third Eye Blind’s early  
18 hits, including “Semi-Charmed Life” and “Motorcycle Drive By” from the band’s  
19 eponymous first album, *Third Eye Blind*, which has sold over 6,000,000 copies and  
20 “Farther” from its second album, *Blue*, which has sold 1,800,000 copies.
- 21 4. Fredianelli is suing Jenkins for a judicial declaration that Fredianelli is  
22 a co-author of several of those early hits.
- 23 5. Fredianelli left Third Eye Blind but returned to the band in late 1999.
- 24 6. Fredianelli became a full partner in the band with Jenkins, Defendant  
25 Hargreaves, and Arion Salazar in early 2003. The partners never signed a written  
26 partnership agreement because Jenkins insisted that he did not have time to  
27 negotiate one due to the band’s busy recording and performing schedule.
- 28 7. Instead, Defendant Jenkins, Defendant Hargreaves, the band’s

1 manager, Eric Godtland, and the band’s lawyer, Defendant Thomas Mandelbaum,  
2 all assured Fredianelli he was a “partner” in the band and need not concern himself  
3 with a written partnership agreement.

4 8. As a partner in the band, Fredianelli was required to—and did—pay  
5 his share of Third Eye Blind’s costs and expenses.

6 9. However, unbeknownst to Fredianelli, Jenkins—with the support of  
7 Defendant Mandelbaum and the band’s accountant, Defendant David Rawson—  
8 diverted millions of dollars in Third Eye Blind revenue arising from  
9 merchandising, licensing, and touring to various corporate entities of which he was  
10 the sole owner and beneficiary.

11 10. Jenkins also caused Third Eye Blind’s copyright and trademark  
12 registrations to be registered to his own separate corporate entities instead of to the  
13 band or an entity controlled by the partners in the band.

14 11. Following Jenkins’s misappropriation of Third Eye Blind assets and  
15 opportunities, Jenkins wrongly excluded Fredianelli from participation in Third  
16 Eye Blind and stopped paying Fredianelli his owed royalties and profits, including  
17 income from touring.

18 12. Fredianelli is suing Jenkins for breach of fiduciary arising from  
19 Jenkins’s misappropriation and self-dealing of Third Eye Blind assets and  
20 opportunities. Fredianelli also seeks an accounting from Jenkins and his various  
21 corporate entities.

22 13. Fredianelli is suing Mandelbaum and Mandelbaum’s current law firm  
23 of Hiscock & Barclay, LLP for breaching fiduciary duties owed to Fredianelli as a  
24 fiduciary and client.

25 14. Fredianelli is suing Third Eye Blind’s accountant, David Rawson, and  
26 Rawson’s accounting firm of Zeisler, Zeisler, Rawson & Johnson LLP, a  
27 California limited liability partnership because Rawson has received and is  
28 wrongfully withholding money belonging to Fredianelli.



1 continuous and systematic contacts with the state of California.

2       23. This Court has personal jurisdiction over Defendant Third Eye Blind,  
3 Inc. because Third Eye Blind, Inc. is a California corporation with its principal  
4 place of business in California and has continuous and systematic contacts with the  
5 state of California.

6       24. This Court has personal jurisdiction over Defendant 3EB Touring,  
7 Inc. because 3EB Touring, Inc. is a California corporation with its principal place  
8 of business in California and has continuous and systematic contacts with the state  
9 of California and has continuous and systematic contacts with the state of  
10 California.

11       25. This Court has personal jurisdiction over Defendant Stephen Jenkins  
12 Productions, Inc. because Stephen Jenkins Productions, Inc. is a California  
13 corporation with its principal place of business in California and has continuous  
14 and systematic contacts with the state of California.

15       26. This Court has personal jurisdiction over Defendant 3EB Publishing  
16 because 3EB Publishing is a business entity with its principal place of business in  
17 California and has continuous and systematic contacts with the state of California.

18       27. This Court has personal jurisdiction over Defendant Thomas Irving  
19 Mandelbaum because Mandelbaum has continuous and systematic contacts with  
20 the state of California and because Mandelbaum transacted business within  
21 California and committed tortious acts directed at California as alleged herein.

22       28. This Court has personal jurisdiction over Defendant Hiscock &  
23 Barclay, LLP because Hiscock & Barclay, LLP has continuous and systematic  
24 contacts with the state of California and because Hiscock & Barclay, LLP  
25 transacted business within California and committed tortious acts directed at  
26 California as alleged herein.

27       29. This Court has personal jurisdiction over Defendant David Rawson  
28 because Rawson is a resident of the state of California.



1 information and belief, Defendant Jenkins is the sole shareholder of Third Eye  
2 Blind, Inc.

3 39. Defendant 3EB TOURING, INC. is a California corporation. On  
4 information and belief, Defendant Jenkins is the sole shareholder of 3EB Touring,  
5 Inc.

6 40. Defendant STEPHEN JENKINS PRODUCTIONS, INC. is a  
7 California corporation. On information and belief, Defendant Jenkins is the sole  
8 shareholder of Stephen Jenkins Productions, Inc.

9 41. Defendant 3EB PUBLISHING is an unknown entity. On information  
10 and belief, Defendant Jenkins is the sole owner of 3EB Publishing.

11 42. Defendant THOMAS IRVING MANDELBAUM is a New York  
12 resident and an attorney licensed to practice law in the New York.

13 43. Defendant HISCOCK & BARCLAY, LLP is a New York limited  
14 liability partnership with its principal place of business in New York, New York.  
15 On information and belief, Defendant Mandelbaum is a partner with Hiscock &  
16 Barclay, LLP.

17 44. Defendant DAVID RAWSON is a California resident, and Third Eye  
18 Blind's accountant.

19 45. Defendant EMI BLACKWOOD MUSIC, INC. is a Connecticut  
20 corporation registered to do business in California. It maintains an office in this  
21 judicial district in Los Angeles, California. It is a registered claimant of several of  
22 the Third Eye Blind songs for which Fredianelli seeks a declaration of authorship.

23 46. Fredianelli is unaware of the true names and capacities of defendants  
24 sued herein as Does 1-10 and therefore sues those defendants by such fictitious  
25 names. Fredianelli will amend this complaint to allege their true names and  
26 capacities when ascertained. Fredianelli is informed and believes, and on that basis  
27 alleges that each of the fictitiously named defendants is responsible in some  
28 manner for the occurrences herein alleged, and that Fredianelli's injuries as alleged

1 herein were proximately caused by such defendants. Theses fictitiously named  
2 defendants, along with Jenkins, Hargreaves, Third Eye Blind, Inc., 3EB Touring,  
3 Inc., Stephen Jenkins Productions, Inc., 3EB Publishing, Thomas Mandelbaum,  
4 Hiscock & Barclay, LLP, David Rawson, and EMI Blackwood Music, Inc. are  
5 referred to collectively herein as “defendants”.

6 47. Each defendant aided and abetted the actions of the other defendants  
7 set forth below, in that each defendant had knowledge of those actions, provided  
8 assistance and benefitted from those actions. Each of the defendants was the agent  
9 of each of the other defendants, and in doing the things hereinafter alleged, was  
10 acting within the course and scope of such agency and with the permission and  
11 consent of the other defendants.

#### 12 13 **IV. FACTS**

##### 14 **A. Fredianelli Founded Third Eye Blind**

15 48. Third Eye Blind (sometimes abbreviated 3eb) is an American  
16 alternative rock band formed in the early 1990s.

17 49. The band is best known for the hit singles “Semi-Charmed Life”,  
18 “How’s It Going to Be”, and “Jumper”.

19 50. The band’s lead singer is Defendant Stephan Jenkins.

20 51. Tony Fredianelli was the band’s original lead guitarist and co-author  
21 of Third Eye Blind songs before the band became famous following its first major  
22 album release in 1997.

23 52. The guitarist who replaced Fredianelli in the band eventually was  
24 voted out of the band in or about January 2000, at which time Fredianelli was  
25 brought back into the band as its lead guitarist and primary songwriter.

26 53. The band’s manager from its early days was Eric Godtland.

##### 27 **B. Fredianelli Became a Partner in Third Eye Blind**

28 54. Upon Fredianelli’s return to the band in early 2000, he was brought



1 back as a salary musician. His agreement provided that he would become an  
2 “official” band member and partner again after a 2-year “probationary” period.

3 55. In March 2003, Godtland met with Fredianelli as agreed by the other  
4 band members and officially offered to Fredianelli the Third Eye Blind partnership  
5 arrangement, which Fredianelli accepted. From at least this time in March 2003,  
6 Fredianelli acted and was treated as a full partner of the band.

7 56. The band conducted all of its business operations with Fredianelli  
8 functioning as a full partner.

9 57. During this time, Jenkins began misappropriating Third Eye Blind  
10 opportunities by forming separate corporations to conduct band-related business.  
11 He did not disclose the existence of those entities to Fredianelli.

12 **C. Fredianelli Continued to Devote His Efforts to the Partnership**

13 58. For the next several years, Fredianelli’s work for and role within the  
14 band increased.

15 59. Jenkins spent much of his time on other personal projects such as real-  
16 estate speculation and interior decorating.

17 60. Hargreaves devoted most of his time to touring with another band in  
18 which he was involved.

19 61. The band’s attorney, Defendant Thomas Mandelbaum, helped arrange  
20 various publishing deals for band members, although they routinely seem to  
21 benefit Jenkins more than the other band members.

22 62. In or around mid-2006, band bassist Arion Salazar left the band  
23 leaving Fredianelli, Jenkins, and the band’s drummer Defendant Bradley  
24 Hargreaves as the only three remaining partners. Accordingly, each of the partner’s  
25 shares of the band’s revenues increased.

26 63. Throughout 2006 and 2007, Jenkins began various music projects  
27 away from the band, leaving most band responsibilities to Fredianelli.

28 64. Fredianelli took on the leadership of the band. He formed the band’s

1 first MySpace page and released instrumentals and digital-only tracks to shore up  
2 the band's declining fan base.

3 65. Fredianelli also developed "street team think tanks" in order to a new  
4 generation of Third Eye Blind fans.

5 66. Fredianelli's rebranding and marketing efforts led to a significant  
6 increase in "college band" touring revenues and resurgence in Third Eye Blind  
7 popularity.

8 67. Jenkins was dismissive of Fredianelli's efforts to develop and expand  
9 the band's fan base: "Those fans you waste your time with don't matter—They are  
10 only a few kids who are just a bunch of crybabies anyway."

11 **D. Jenkins Causes Third Eye Blind to Sue Its Long-Time Manager**

12 68. As the band's following grew, Jenkins and the band's attorney,  
13 Mandelbaum, began to lobby the band to fire their manager, Godtland, to "shop for  
14 a better record deal."

15 69. As it turned out, the "deal" Jenkins and Mandelbaum wanted was for  
16 Jenkins and Mandelbaum to cut out Godtland, have Jenkins and Mandelbaum take  
17 over as managers and for the band to sign under another new label, which Jenkins  
18 and Mandelbaum would own and control. Mandelbaum would be the new label's  
19 president.

20 70. During this time, Mandelbaum maintained an office in Los Angeles  
21 from which he represented the band and Fredianelli as an attorney and engaged in  
22 the tortious activity described herein.

23 71. By early 2008, Jenkins forced his partners Fredianelli and Hargreaves  
24 to go along with his plan to sue Godtland and force him out as band manager.  
25 Jenkins told them that "I am Third Eye Blind." Jenkins threatened that if  
26 Fredianelli and Hargreaves did not agree to sue Godtland that Jenkins would go do  
27 something else and leave the band without a lead singer and fail to deliver on the  
28 new album he had been promising to Third Eye Blind fans for years.

1           72.     At one point Jenkins declared that he already was rich and did not  
2 need Third Eye Blind anymore, but that Fredianelli and Hargreaves did, so they'd  
3 better go along or they'd lose everything. Jenkins and his lawyers met with  
4 Hargreaves in Los Angeles and convinced him to support the lawsuit against  
5 Godtland.

6           73.     Finally, in a private meeting with Fredianelli, Jenkins promised  
7 Fredianelli that if he would go along with the lawsuit and pay for it out of the  
8 band's touring revenue, that Jenkins would keep the legal fees for the proposed  
9 lawsuit against Godtland to \$100,000 or less and would finally finish the band's  
10 new record as Fredianelli had wanted.

11          74.     Jenkins even promised that if Fredianelli and Hargreaves were  
12 unhappy with the new management job Jenkins and Mandelbaum would do, that  
13 Fredianelli and Hargreaves could "fire" Jenkins and Mandelbaum.

14          75.     Fredianelli reluctantly agreed to the lawsuit.

15          76.     In June 2008, the band sued Godtland. It was around this time that  
16 Jenkins and Mandelbaum took over as managers. They immediately began to  
17 enrich themselves at the expense of Fredianelli and Third Eye Blind.

18          77.     Indeed, once Godtland was "terminated" in early 2008, Jenkins  
19 promptly secured a large publishing deal worth \$2.25 million for his portion of  
20 Third Eye Blind's catalog of songs.

21          78.     The band also released a digital musical work *Red Star* EP in  
22 November 2008 and its first full-length album in six years, *Ursa Major*, in August  
23 2009, which debuted at No. 3 on the Billboard charts.

24          79.     Fredianelli authored or co-authored many of these new songs;  
25 however, he and Jenkins never reached an agreement on a proper "split" for the  
26 songs.

27          80.     Unknown to Fredianelli, Jenkins simply registered the copyrights for  
28 these songs in the name of one of his separate corporations, telling Fredianelli only

1 that there would be “plenty of time” to figure out the fair splits for the new songs.

2 81. Throughout this time, Jenkins also used band revenues to pay for the  
3 ongoing and increasingly expensive litigation with Godtland. Contrary to Jenkins’s  
4 representation, he caused the partnership to spend well over a million dollars on  
5 the Godtland lawsuit.

6 82. In that litigation, Godtland filed crossclaims against Jenkins,  
7 Fredianelli and the band. Jenkins used the band’s funds to defend those  
8 crossclaims.

9 83. Jenkins later tendered the costs of that defense under the band’s  
10 insurance policy which had also been paid for by the band’s funds. But Jenkins  
11 failed to disclose that he had made himself the sole beneficiary on that policy.  
12 Instead of returning those funds to the partnership, Jenkins personally retained  
13 them.

14 84. The litigation against Godtland confirmed that Jenkins’s lawsuit was  
15 merely an effort to freeze out Godtland from Third Eye Blind revenues, including  
16 his portion of Jenkins’s \$2,250,000 asset sale, and avoid paying him any  
17 percentage of band publishing, touring, endorsement, and music deals.

18 85. Jenkins and the band’s Los Angeles-based litigation counsel  
19 demanded that Fredianelli perjure himself during his deposition in Los Angeles in  
20 the Godtland litigation to support the band’s case. When Fredianelli refused to  
21 comply with those demands, Jenkins began taking steps to freeze Fredianelli out of  
22 the partnership.

23  
24 **E. Jenkins and Mandelbaum Become the Band’s Managers and Begin  
Excluding Fredianelli for Their Own Benefit**

25 86. Jenkins and Mandelbaum began to exclude Fredianelli from all band  
26 discussions and effectively treated him as an outsider.

27 87. Fredianelli was no longer privy to litigation conferences regarding the  
28 status of the lawsuit that he was funding. In fact, the litigation with Godtland was

1 eventually resolved without Fredianelli even being informed of the final settlement  
2 terms, despite the fact that Fredianelli was a named party in the action.

3 88. Importantly, throughout this time, Jenkins and Mandelbaum were  
4 officially Fredianelli's manager and attorney, respectively, and had a fiduciary  
5 responsibility to him.

6 89. By April 2009, Jenkins informed Fredianelli that Fredianelli was no  
7 longer allowed on the band touring bus, and that he should ride with the crew.  
8 Jenkins similarly cut Fredianelli out of all band press appearances.

9 90. When Fredianelli attempted to discuss with Jenkins and Mandelbaum  
10 various band issues, including the ongoing split for Fredianelli's co-authorship of  
11 songs on the band's recent album, both Jenkins and Mandelbaum did nothing.

12 91. Even though Fredianelli was a full partner in the band and the band's  
13 business, in January 2008, Jenkins unilaterally cut Fredianelli's income share of  
14 band proceeds from 33.33% to 25%. Jenkins continued to reduce Fredianelli's  
15 share from there.

16 92. Jenkins and Mandelbaum refused Fredianelli any accounting of  
17 amounts spent on the Third Eye Blind litigation with Godtland.

18 93. Jenkins and Mandelbaum never paid Fredianelli his legitimate  
19 partnership share from *Red Star* EP or *Ursa Major*, which was partially recorded  
20 and mixed in Los Angeles, or the band's highly successful 2009 concert tours and  
21 related merchandising.

22 94. Following the band's 2009 New Year's Eve concert, Jenkins finally  
23 locked Fredianelli completely out of the partnership. Jenkins hired an employee  
24 guitarist to perform—in the band and business that Fredianelli co-owned—for all  
25 2010 concerts. Jenkins and Mandelbaum thereafter refused to inform Fredianelli of  
26 any 2010 Third Eye Blind events. Also, despite his role as manager, Jenkins  
27 regularly failed to advise Fredianelli of the band's travel information and other key  
28 information.

1           95. The band toured extensively throughout 2010 without Fredianelli and  
2 failed to pay him his partnership share of those revenues.

3  
4 **F. Defendant Rawson Is Improperly Withholding Fredianelli's Royalty  
Payments**

5           96. Fredianelli is entitled to receive certain royalties arising from  
6 licensing of Third Eye Blind music, including royalties arising from digital sales of  
7 that music.

8           97. Those royalties are designed to be paid to the band members,  
9 including Fredianelli, through the band's accountant, Defendant Rawson, who then  
10 is required to distribute those royalties to the band members. Fredianelli, Jenkins,  
11 and Hargreaves are each entitled to an equal one-third portion of those royalties.

12           98. Rawson also provided separate accounting services to Fredianelli for  
13 which Fredianelli made payments to Rawson's accounting firm, Defendant Zeisler,  
14 Zeisler, Rawson & Johnson LLP.

15           99. Rawson has refused to provide Fredianelli with his equal portion of  
16 those royalties.

17 **G. Third Eye Blind Trademarks**

18           100. Stephan Jenkins Productions, Inc. owns U.S. federal trademark  
19 registrations for the THIRD EYE BLIND and 3EB trademarks. Jenkins now  
20 asserts that he alone owns all things related to Third Eye Blind.

21           101. Jenkins filed applications to register these marks under his own  
22 company on September 17, 2008, around the same time he forced out Godtland  
23 and he and Mandelbaum had taken over as managers.

24 **H. Fredianelli Has Suffered Substantial Damages**

25           102. Fredianelli has suffered substantial damages as a result of Defendants'  
26 unlawful conduct.

27           103. He has been excluded from participation in the Third Eye Blind  
28 partnership and cut off from receiving income arising from royalties, licensing, and

1 touring.

2 104. Moreover, Defendants misappropriation of Fredianelli's performance  
3 and recording equipment has severely impacted his ability to work.

4 105. Defendants' conduct has cost Fredianelli all of his savings and he is  
5 on the verge of bankruptcy. And Fredianelli and his family have lost their home  
6 and are living with relatives.

7

8

9 **V. FIRST CAUSE OF ACTION**  
**BREACH OF FIDUCIARY DUTY**

10 106. Plaintiff incorporates the allegations set forth in paragraphs 1 through  
11 105 as though fully set forth herein.

12 107. This cause of action is alleged only against Defendant Stephan  
13 Jenkins.

14 108. In his capacity as a manager and partner in Third Eye Blind, Jenkins  
15 owed fiduciary duties to Fredianelli as a partner in Third Eye Blind.

16 109. Jenkins breached his fiduciary duties to Fredianelli. By way of  
17 example only, Jenkins breached his fiduciary duties to Fredianelli by  
18 misappropriating Third Eye Blind assets and opportunities for his own benefit, by  
19 siphoning of Third Eye Blind assets into his wholly owned corporations, by  
20 freezing Fredianelli out from participating in and benefitting from the Third Eye  
21 Blind partnership, and by spending partnership assets wastefully and contrary to  
22 his affirmative representations (such as spending over a million dollars on the  
23 Godtland litigation even though he promised not to spend more than \$100,000).

24 110. As a direct, proximate, and foreseeable result of Jenkins's  
25 aforementioned breaches of fiduciary duties owed to Fredianelli, Fredianelli has  
26 been damaged in an amount to be determined at trial.

27 111. Defendant Jenkins's aforementioned breaches of the fiduciary duties  
28 he owed to Fredianelli were done with oppression, fraud and/or malice as defined

1 in CAL. CIV. CODE § 3294(a).

2  
3  
4 **VI. SECOND CAUSE OF ACTION**  
5 **ACCOUNTING**

6 112. Plaintiff incorporates the allegations set forth in paragraphs 1 through  
7 111 as though fully set forth herein.

8 113. This cause of action is alleged against Defendants Jenkins, Third Eye  
9 Blind, Inc., 3EB Touring, Inc., and Stephan Jenkins Productions, Inc.

10 114. Plaintiff requests an accounting of the disposition of any and all  
11 moneys and assets Jenkins or one of his entities misappropriated from Third Eye  
12 Blind and/or from Fredianelli and the value of the royalties and profits Fredianelli  
13 is entitled to as a partner in Third Eye Blind.

14  
15 **VII. THIRD CAUSE OF ACTION**  
16 **BREACH OF FIDUCIARY DUTY**

17 115. Plaintiff incorporates the allegations set forth in paragraphs 1 through  
18 114 as though fully set forth herein.

19 116. This cause of action is alleged only against Defendant Mandelbaum.

20 117. In his capacity as a manager in and lawyer for Third Eye Blind,  
21 Mandelbaum owed fiduciary duties to Fredianelli as a partner in Third Eye Blind.

22 118. Mandelbaum breached his fiduciary duties to Fredianelli. By way of  
23 example only, Mandelbaum breached his fiduciary duties to Fredianelli by  
24 misappropriating Third Eye Blind assets and opportunities for his own benefit and  
25 by simultaneously representing Fredianelli, Jenkins and Third Eye Blind in various  
26 transactions despite the existence of an actual conflict among them and despite not  
27 having advised them of the existence of that conflict.

28 119. As a direct, proximate, and foreseeable result of Mandelbaum's  
aforementioned breaches of fiduciary duties owed to Fredianelli, Fredianelli has



1 been damaged in an amount to be determined at trial.

2 120. Mandelbaum's breaches of his fiduciary duties to Fredianelli were  
3 done with oppression, fraud and/or malice as defined in CAL. CIV. CODE § 3294(a).

4  
5  
6 **VIII. FOURTH CAUSE OF ACTION**  
**ACCOUNTING**

7 121. Plaintiff incorporates the allegations set forth in paragraphs 1 through  
8 120 as though fully set forth herein.

9 122. This cause of action is alleged against Defendants Mandelbaum and  
10 Hiscock & Barclay, LLP.

11 123. Plaintiff requests an accounting of the disposition of any and all  
12 moneys and assets Mandelbaum misappropriated from Third Eye Blind and/or  
13 from Fredianelli.

14  
15  
16 **IX. FIFTH CAUSE OF ACTION**  
**LEGAL MALPRACTICE**

17 124. Plaintiff incorporates the allegations set forth in paragraphs 1 through  
18 123 as though fully set forth herein.

19 125. This cause of action is alleged against Defendants Mandelbaum and  
20 Hiscock & Barclay, LLP.

21 126. Mandelbaum had an attorney-client relationship with Fredianelli  
22 sufficient to impose a duty of care on Mandelbaum with regard to Fredianelli.

23 127. Mandelbaum simultaneously represented Defendant Jenkins and other  
24 members of the band as well as the band itself.

25 128. Mandelbaum breached his duty to Fredianelli. By way of example  
26 only, Mandelbaum breached his duty to Fredianelli by misappropriating Third Eye  
27 Blind assets and opportunities for his own benefit, by simultaneously representing  
28 Fredianelli, Jenkins, and Third Eye Blind in various transactions despite the

1 existence of an actual conflict among them and despite not having advised them of  
2 the existence of that conflict, and by personally participating in transactions  
3 directly impacting Third Eye Blind and Fredianelli's interests.

4 129. Mandelbaum had an attorney-client relationship with Fredianelli and  
5 breached that duty while Mandelbaum was a partner at Hiscock & Barclay, LLP

6 130. As a direct, proximate, and foreseeable result of Mandelbaum's  
7 aforementioned breaches of his duty of care to Fredianelli, Fredianelli has been  
8 damaged in an amount to be determined at trial.

9 131. Mandelbaum's breaches of the duty of care he owed Fredianelli were  
10 done with oppression, fraud and/or malice as defined in CAL. CIV. CODE § 3294(a).

11  
12  
13 **X. SIXTH CAUSE OF ACTION**  
**CONVERSION**

14 132. Plaintiff incorporates the allegations set forth in paragraphs 1 through  
15 131 as though fully set forth herein.

16 133. This cause of action is alleged against Defendants Mandelbaum and  
17 Hiscock & Barclay, LLP.

18 134. Plaintiff Fredianelli owns certain files relating to his legal affairs.

19 135. Defendant Mandelbaum took possession of those files during the  
20 course of his representation of Fredianelli and has refused to return them.

21 136. As a direct, proximate, and foreseeable result of Defendants' unlawful  
22 conversion of Fredianelli's equipment, Fredianelli has been damaged in an amount  
23 to be determined at trial.

24 137. Defendants' conversion of Fredianelli's documents as described  
25 above was done with oppression, fraud, and/or malice as defined in CAL. CIV.  
26 CODE § 3294(a).

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**XI. SEVENTH CAUSE OF ACTION  
BREACH OF FIDUCIARY DUTY**

138. Plaintiff incorporates the allegations set forth in paragraphs 1 through 137 as though fully set forth herein.

139. This cause of action is alleged against Defendant Rawson and Zeisler, Zeisler, Rawson & Johnson LLP.

140. In his capacity as an accountant for Third Eye Blind, Rawson owed fiduciary duties to Fredianelli as a partner in Third Eye Blind.

141. Rawson breached his fiduciary duties to Fredianelli. By way of example only, Rawson breached his fiduciary duties to Fredianelli by improperly withholding royalties he held received in trust for Fredianelli.

142. As a direct, proximate, and foreseeable result of Rawson's aforementioned breaches of fiduciary duties owed to Fredianelli, Fredianelli has been damaged in an amount to be determined at trial.

143. Rawson's breaches of his fiduciary duties to Fredianelli were done with oppression, fraud and/or malice as defined in CAL. CIV. CODE § 3294(a).

**XII. EIGHTH CAUSE OF ACTION  
ACCOUNTING**

144. Plaintiff incorporates the allegations set forth in paragraphs 1 through 143 as though fully set forth herein.

145. This cause of action is alleged against Defendants Rawson and Zeisler, Zeisler, Rawson & Johnson LLP.

146. Plaintiff requests an accounting of the disposition of any and all royalties Rawson and/or Zeisler, Zeisler, Rawson & Johnson LLP have received or continue to receive on Third Eye Blind's behalf.

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**XIII. NINTH CAUSE OF ACTION  
CONVERSION**

147. Plaintiff incorporates the allegations set forth in paragraphs 1 through 146 as though fully set forth herein.

148. This cause of action is alleged against Defendant Rawson.

149. Plaintiff Fredianelli is entitled to receive certain royalties arising from licensing of Third Eye Blind music.

150. Those royalties are designed to be paid to the band members, including Fredianelli, through Rawson who receives them in his role as the band’s accountant.

151. Rawson has refused to provide Fredianelli with his equal portion of those royalties.

152. As a direct, proximate, and foreseeable result of Defendants’ unlawful conversion of Fredianelli’s royalty payments, Fredianelli has been damaged in an amount to be determined at trial.

153. Rawson’s conversion of Fredianelli’s royalty payments as described above was done with oppression, fraud, and/or malice as defined in CAL. CIV. CODE § 3294(a).

**XIV. TENTH CAUSE OF ACTION  
INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC  
ADVANTAGE**

154. Plaintiff incorporates the allegations set forth in paragraphs 1 through 153 as though fully set forth herein.

155. This cause of action is alleged only against Defendant Mandelbaum.

156. Plaintiff had an existing business relationship with Third Eye Blind, Stephan Jenkins, and Bradley Hargreaves.

157. Defendant Mandelbaum interfered with those relationships and caused injury to Plaintiff as a result.

1 158. Mandelbaum's interference was wrongful because he was a manager  
2 and an attorney for Third Eye Band and his conduct violated his duties to  
3 Fredianelli and the standard of care imposed on Mandelbaum as an attorney.

4 159. Mandelbaum knew about those relationships and his conduct was  
5 designed to interfere with them for his personal benefit.

6 160. As a direct, proximate, and foreseeable result of Mandelbaum's  
7 intentional interferences with Fredianelli's business relationships, Fredianelli has  
8 been damaged in an amount to be determined at trial.

9 161. Mandelbaum's intentional interference with Fredianelli's business  
10 relationships was done with oppression, fraud and/or malice as defined in CAL.  
11 CIV. CODE § 3294(a).

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14 **XV. ELEVENTH CAUSE OF ACTION**  
15 **DECLARATORY RELIEF – 28 U.S.C. § 2201**  
16 **COPYRIGHT AUTHORSHIP IN “SEMI-CHARMED LIFE”**  
17 **U.S. REG. NOS. PA0000797856 & PA0000913999**

18 162. Plaintiff incorporates the allegations set forth in paragraphs 1 through  
19 161 as though fully set forth herein.

20 163. This cause of action is alleged against Defendants Jenkins, 3EB  
21 Publishing, and EMI Blackwood Music, Inc.

22 164. A justiciable substantial controversy exists between Plaintiff on the  
23 one hand and Defendants Jenkins, 3EB Publishing, and EMI Blackwood Music,  
24 Inc. on the other hand over whether Fredianelli is an author on the works entitled  
25 “Semi-charmed life ; Jumper ; I want you ; Motorcycle drive by.” U.S. Reg. No.  
26 PA0000797856 and “Semi-charmed life; Jumper; I want you et al. By Stephan  
27 Jenkins.[sic]” U.S. Reg. No. PA0000913999. Defendant Jenkins is the only author  
28 disclosed on the registrations for those works and 3EB Publishing and EMI  
Blackwood Music, Inc. are identified as a claimant on each.

165. Fredianelli and Jenkins, 3EB Publishing, and EMI Blackwood Music,

1 Inc. have existing or genuine rights or interests upon which this Court’s judgment  
2 may effectively operate with the force and effect of a final judgment at law or  
3 decree in equity upon the legal relationships of the parties.

4 166. This proceeding is genuinely adversarial in character between  
5 Fredianelli and Jenkins, 3EB Publishing, and EMI Blackwood Music, Inc.

6 167. A declaration by the Court would terminate the controversy between  
7 Fredianelli and Jenkins, 3EB Publishing, and EMI Blackwood Music, Inc.

8 168. The parties need the Court to settle and to afford relief from  
9 uncertainty and insecurity with respect to rights, status, and other legal relations  
10 among them.

11 169. This substantial controversy is of sufficient immediacy and reality to  
12 warrant the issuance of a declaratory judgment.

13 170. This Court has the power to declare the rights, status, and other legal  
14 relations between the parties pursuant to 28 U.S.C. § 2201, *et seq.*

15 171. Accordingly, Plaintiff requests that the Court issue a judgment  
16 declaring that Fredianelli is an author on the works entitled “Semi-charmed life ;  
17 Jumper ; I want you ; Motorcycle drive by.” U.S. Reg. No. PA0000797856 and  
18 “Semi-charmed life; Jumper; I want you et al. By Stephan Jenkins.[sic]” U.S. Reg.  
19 No. PA0000913999.

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22 **XVI. TWELFTH CAUSE OF ACTION**  
23 **DECLARATORY RELIEF – 28 U.S.C. § 2201**  
24 **COPYRIGHT AUTHORSHIP IN “FARTHER”**  
25 **U.S. REG. NO. PA0001040116**

26 172. Plaintiff incorporates the allegations set forth in paragraphs 1 through  
27 171 as though fully set forth herein.

28 173. This cause of action is alleged against Defendants Jenkins, 3EB  
Publishing, and EMI Blackwood Music, Inc.

174. A justiciable substantial controversy exists between Plaintiff on the

1 one hand and Defendants Jenkins, 3EB Publishing, and EMI Blackwood Music,  
2 Inc. on the other hand over whether Fredianelli is an author on the work entitled  
3 “Blue. By Stephen Jenkins.[sic]” U.S. Reg. No. PA0001040116. Defendant  
4 Jenkins is the only author disclosed on the registrations for that work and 3EB  
5 Publishing and EMI Blackwood Music, Inc. are identified as claimants.

6 175. Fredianelli and Jenkins, 3EB Publishing, and EMI Blackwood Music,  
7 Inc. have existing or genuine rights or interests upon which this Court’s judgment  
8 may effectively operate with the force and effect of a final judgment at law or  
9 decree in equity upon the legal relationships of the parties.

10 176. This proceeding is genuinely adversarial in character between  
11 Fredianelli and Jenkins, 3EB Publishing, and EMI Blackwood Music, Inc.

12 177. A declaration by the Court would terminate the controversy between  
13 Fredianelli and Jenkins, 3EB Publishing, and EMI Blackwood Music, Inc.

14 178. The parties need the Court to settle and to afford relief from  
15 uncertainty and insecurity with respect to rights, status, and other legal relations  
16 among them.

17 179. This substantial controversy is of sufficient immediacy and reality to  
18 warrant the issuance of a declaratory judgment.

19 180. This Court has the power to declare the rights, status, and other legal  
20 relations between the parties pursuant to 28 U.S.C. § 2201, *et seq.*

21 181. Accordingly, Plaintiff requests that the Court issue a judgment  
22 declaring that Fredianelli is an author on the work entitled “Blue. By Stephen  
23 Jenkins.[sic]” U.S. Reg. No. PA0001040116.

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26 **XVII. THIRTEENTH CAUSE OF ACTION**  
27 **DECLARATORY RELIEF – 28 U.S.C. § 2201**  
28 **COPYRIGHT AUTHORSHIP IN *URSA MAJOR* SONGS**  
**MULTIPLE U.S. REG. NOS.**

182. Plaintiff incorporates the allegations set forth in paragraphs 1 through

1 181 as though fully set forth herein.

2 183. This cause of action is alleged only against Defendant Third Eye  
3 Blind, Inc.

4 184. A justiciable substantial controversy exists between Plaintiff and  
5 Defendant Third Eye Blind, Inc. over whether Fredianelli is an author and joint  
6 owner of certain songs included on Third Eye Blind's *Ursa Major* album. Third  
7 Eye Blind, Inc. is listed as the sole author of each of those works.

8 185. Fredianelli and Third Eye Blind, Inc. have existing or genuine rights  
9 or interests upon which this Court's judgment may effectively operate with the  
10 force and effect of a final judgment at law or decree in equity upon the legal  
11 relationships of the parties.

12 186. This proceeding is genuinely adversarial in character between  
13 Fredianelli and Third Eye Blind, Inc.

14 187. A declaration by the Court would terminate the controversy between  
15 Fredianelli and Third Eye Blind, Inc.

16 188. The parties need the Court to settle and to afford relief from  
17 uncertainty and insecurity with respect to rights, status, and other legal relations  
18 among them.

19 189. This substantial controversy is of sufficient immediacy and reality to  
20 warrant the issuance of a declaratory judgment.

21 190. This Court has the power to declare the rights, status, and other legal  
22 relations between the parties pursuant to 28 U.S.C. § 2201, *et seq.*

23 191. Accordingly, Plaintiff requests that the Court issue a judgment  
24 declaring that Fredianelli is an author on the songs on *Ursa Major*.

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**XVIII. FOURTEENTH CAUSE OF ACTION**  
**DECLARATORY RELIEF – 28 U.S.C. § 2201**  
**COPYRIGHT AUTHORSHIP IN *RED STAR SONGS***  
**MULTIPLE U.S. REG. NOS.**

192. Plaintiff incorporates the allegations set forth in paragraphs 1 through 191 as though fully set forth herein.

193. This cause of action is alleged only against Defendant Third Eye Blind, Inc.

194. A justiciable substantial controversy exists between Plaintiff and Defendant Third Eye Blind, Inc. over whether Fredianelli is an author and joint owner of certain songs included on Third Eye Blind's *Red Star* EP. Third Eye Blind, Inc. is listed as the sole author of each of those works.

195. Fredianelli and Third Eye Blind, Inc. have existing or genuine rights or interests upon which this Court's judgment may effectively operate with the force and effect of a final judgment at law or decree in equity upon the legal relationships of the parties.

196. This proceeding is genuinely adversarial in character between Fredianelli and Third Eye Blind, Inc.

197. A declaration by the Court would terminate the controversy between Fredianelli and Third Eye Blind, Inc.

198. The parties need the Court to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations among them.

199. This substantial controversy is of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

200. This Court has the power to declare the rights, status, and other legal relations between the parties pursuant to 28 U.S.C. § 2201, *et seq.*

201. Accordingly, Plaintiff requests that the Court issue a judgment declaring that Fredianelli is an author of the songs on *Red Star* EP.

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**XIX. FIFTEENTH CAUSE OF ACTION**  
**DECLARATORY RELIEF – 28 U.S.C. § 2201**  
**TRADEMARK OWNERSHIP IN THE THIRD EYE BLIND MARKS**  
**U.S. REGS. NO. 77,572,187; 77,572,203; and 77,572,211**

202. Plaintiff incorporates the allegations set forth in paragraphs 1 through 201 as though fully set forth herein.

203. This cause of action is alleged only against Defendant Stephan Jenkins Publishing, Inc.

204. A justiciable substantial controversy exists between Fredianelli and Stephan Jenkins Publishing, Inc. over whether Fredianelli is an owner of the Third Eye Blind trademarks including THIRD EYE BLIND® U.S. Regs. No. 77,572,187; 77,572,203; and 77,572,211. Defendant Stephan Jenkins Publishing, Inc. is the registered owner of the THIRD EYE BLIND trademarks.

205. Fredianelli and Stephan Jenkins Publishing, Inc. have existing or genuine rights or interests upon which this Court’s judgment may effectively operate with the force and effect of a final judgment at law or decree in equity upon the legal relationships of the parties.

206. This proceeding is genuinely adversarial in character between Fredianelli and Stephan Jenkins Publishing, Inc.

207. A declaration by the Court would terminate the controversy between Fredianelli and Stephan Jenkins Publishing, Inc.

208. The parties need the Court to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations among them.

209. This substantial controversy is of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

210. This Court has the power to declare the rights, status, and other legal relations between the parties pursuant to 28 U.S.C. § 2201, *et seq.*

211. Accordingly, Plaintiff requests that the Court issue a judgment

1 declaring that Fredianelli is an owner of the THIRD EYE BLIND trademarks.

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4 **XX. SIXTEENTH CAUSE OF ACTION**  
5 **DECLARATORY RELIEF – 28 U.S.C. § 2201**  
6 **TRADEMARK OWNERSHIP IN THE 3EB MARKS**  
7 **U.S. REGS. NO. 77,572,227; 77,572,238; AND 77,572,245**

8 212. Plaintiff incorporates the allegations set forth in paragraphs 1 through  
9 211 as though fully set forth herein.

10 213. This cause of action is alleged only against Defendant Stephan  
11 Jenkins Publishing, Inc.

12 214. A justiciable substantial controversy exists between Fredianelli and  
13 Stephan Jenkins Publishing, Inc. over whether Fredianelli is an owner of the Third  
14 Eye Blind trademarks including 3EB U.S. Regs. No. 77,572,227; 77,572,238; and  
15 77,572,245. Defendant Stephan Jenkins Publishing, Inc. is the registered owner of  
16 the 3EB trademarks.

17 215. Fredianelli and Stephan Jenkins Publishing, Inc. have existing or  
18 genuine rights or interests upon which this Court's judgment may effectively  
19 operate with the force and effect of a final judgment at law or decree in equity  
20 upon the legal relationships of the parties.

21 216. This proceeding is genuinely adversarial in character between  
22 Fredianelli and Stephan Jenkins Publishing, Inc.

23 217. A declaration by the Court would terminate the controversy between  
24 Fredianelli and Stephan Jenkins Publishing, Inc.

25 218. The parties need the Court to settle and to afford relief from  
26 uncertainty and insecurity with respect to rights, status, and other legal relations  
27 among them.

28 219. This substantial controversy is of sufficient immediacy and reality to  
warrant the issuance of a declaratory judgment.

220. This Court has the power to declare the rights, status, and other legal

1 relations between the parties pursuant to 28 U.S.C. § 2201, *et seq.*

2 221. Accordingly, Plaintiff requests that the Court issue a judgment  
3 declaring that Fredianelli is an owner of the 3EB trademarks.

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6 **XXI. SEVENTEENTH CAUSE OF ACTION**  
**CONVERSION**

7 222. Plaintiff incorporates the allegations set forth in paragraphs 1 through  
8 221 as though fully set forth herein.

9 223. This cause of action is alleged against Defendants Jenkins,  
10 Hargreaves, Third Eye Blind, Inc., and 3EB Touring, Inc.

11 224. Plaintiff Fredianelli owns certain valuable musical and recording  
12 equipment including several valuable guitars. Fredianelli has a right to possess that  
13 equipment.

14 225. Defendants Jenkins, Hargreaves, Third Eye Blind, Inc., and 3EB  
15 Touring, Inc. have wrongfully exercised control over Fredianelli's equipment and  
16 have applied the equipment to their own use. Specifically, they extensively used  
17 Fredianelli's equipment during Third Eye Blind's 2010 touring.

18 226. Some of Fredianelli's equipment has been returned but Defendants  
19 remain in possession of a significant amount.

20 227. As a direct, proximate, and foreseeable result of Defendants' unlawful  
21 conversion of Fredianelli's equipment, Fredianelli has been damaged in an amount  
22 to be determined at trial.

23 228. Defendants' conversion of Fredianelli's equipment was done with  
24 oppression, fraud and/or malice as defined in CAL. CIV. CODE § 3294(a).

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27 **XXII. EIGHTEENTH CAUSE OF ACTION**  
**UNJUST ENRICHMENT**

28 229. Plaintiff incorporates the allegations set forth in paragraphs 1 through

1 228 as though fully set forth herein.

2 230. This cause of action is alleged against all Defendants.

3 231. Defendants have benefitted from and been enriched by the above-  
4 alleged conduct by receiving or retaining money or property rightfully belonging to  
5 Fredianelli, by seizing opportunities rightfully belonging to Fredianelli, and/or by  
6 depriving Fredianelli of other rights to the benefit of defendants.

7 232. Defendants have knowledge of those benefits and have voluntarily  
8 accepted and retained those benefits.

9 233. Under the circumstances described herein, it would be inequitable for  
10 Defendants to retain those ill-gotten benefits without paying Fredianelli for the  
11 value of those benefits.

12 234. Fredianelli is entitled to recover the amount of Defendants' ill-gotten  
13 gains, including interest, resulting from their unlawful and inequitable conduct as  
14 alleged herein.

15 235. Fredianelli seeks the imposition of a constructive trust over all money  
16 and property by which the Defendants have been unjustly enriched as a result of  
17 their unlawful and inequitable conduct as alleged herein.

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19 **XXIII. RELIEF REQUESTED**

20 WHEREFORE, Plaintiff ANTHONY FREDIANELLI requests that the  
21 Court enter judgment against Defendants STEPHAN JENKINS, BRADLEY  
22 HARGREAVES, THIRD EYE BLIND, INC., 3EB TOURING, INC., STEPHEN  
23 JENKINS PRODUCTIONS, INC., 3EB PUBLISHING, THOMAS IRVING  
24 MANDELBAUM, HISCOCK & BARCLAY, LLP, DAVID RAWSON, ZEISLER,  
25 ZEISLER, RAWSON & JOHNSON LLP, and EMI BLACKWATER MUSIC, INC.  
26 as follows:

- 27 1. That the Court enter a Judgment awarding Plaintiff all quantifiable  
28 and measurable damages sustained by Plaintiff by reason of the

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Defendants' acts complained of herein in excess of eight million dollars (\$8,000,000).

2. That the Court enter a Judgment awarding Plaintiff punitive damages.
3. That the Court enter a Judgment declaring that Plaintiff is an author on certain Third Eye Blind songs as described herein.
4. That the Court enter a Judgment declaring that Plaintiff is an owner of certain Third Eye Blind trademarks as described herein.
5. That the Court award Plaintiff his costs and attorneys' fees.
6. That the Court grant such other, further, and different relief as the Court deems proper under the circumstances.

Dated this 22<sup>nd</sup> day of February, 2011.

Respectfully Submitted,

**NEWMAN DU WORS LLP**

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ANTHONY FREDIANELLI

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**JURY DEMAND**

Pursuant to FED. R. CIV. P. 38(b), Plaintiff Tony Fredianelli demands a trial by jury of all issues presented in this complaint which are triable by jury.

Dated this 22<sup>nd</sup> day of February, 2011.

Respectfully Submitted,

**NEWMAN DU WORS LLP**

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