

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 13-24700-CIV-WILLIAMS

WILLIAM L. ROBERTS p/k/a
RICK ROSS and ANDREW HARR and
JERMAINE JACKSON collectively p/k/a
THE RUNNERS,

Plaintiffs,

v.

STEFAN KENDAL GORDY and
SKYLER AUSTEN GORDY collectively p/k/a
LMFAO and KOBALT MUSIC PUBLISHING
AMERICA, INC., a Delaware corporation, and
KIA MOTORS AMERICA, INC.,
a California corporation,

Defendants.

**PLAINTIFF'S REPLY IN SUPPORT OF MOTION TO
EXTEND DATE TO ADD PARTIES AND AMEND PLEADINGS**

Plaintiffs, by and through their undersigned attorneys, file this Reply in Support of Motion to Extend the Date to Add Parties and Amend Pleadings, and in support thereof state:

1. The so-called "20,000 pages of documents" produced by Defendants (many *thousands* of which were either blank or wholly redacted pages) do not provide the information specifically needed to determine whether Defendants' various corporate entities (including, *inter alia*, LMFAO, LLC, Nu 80's, Fu and Blu, Chebra Music, Yeah Baby Music, partyrockclothing.com and Le Freak) should be added as parties defendants. There were no agreements produced, for example, which indicate whether these entities are receiving monies from the commercial exploitation of *Party Rock*

Anthem because they are involved in the sale or distribution of the song, which is typically the reason a company would be receiving royalties. The documents identified these entities for the first time approximately two weeks prior to Skyler Gordy's deposition, who Plaintiffs naturally assumed would be able to provide testimony about the entities. Notably, *none* of these entities were listed in Defendant's initial disclosures (attached hereto as Exhibit A), nor were *any* of them they listed in Defendant's answers to interrogatories (attached hereto as Exhibit B), despite the fact that Defendants were specifically asked (in Interrogatory 2):

Identify all persons and entities who have financially benefitted from the commercial exploitation of *Party Rock Anthem* **and, as to each, describe the role played in either the creation, recording, sale, or distribution of *Party Rock Anthem* and the legal relationship, if any, that you have with respect to each named person or entity.**

Instead of answering this interrogatory in a straight forward manner, which would have revealed these entities well before the documents were produced by Defendants, Defendants chose to "re-write" the interrogatory to only include those entities *they* believe could be subject to copyright liability. Needless to say, Plaintiffs need not agree with Defendants' assessment of the universe of liable persons in this case.

2. The identification of Defendants' "business manager" on Defendants' initial disclosures, as the Court can see, is hardly illuminating as it is simply stated that certain individuals are the "past" or "current" "business manager for certain business entities of Stephan and Skyler Gordy." There is certainly no reason for Plaintiffs to know that the owner of these businesses – Defendant Skyler Gordy – would not be able to answer a single question himself about the businesses. Obviously, it is in Defendants'

best interests to object to the addition of Defendants' companies as additional parties defendants.

3. Defendants do not dispute the fact that it took them nearly three months to provide a date for Stefan Gordy's deposition and no excuse is given. Yet, Defendants seek to blame Plaintiffs for "dilatory tactics." Defendants also claim Plaintiffs have not raised any "deficiencies" in discovery that would justify the extension, yet Plaintiffs have: Defendants' initial disclosures conveniently did not list these entities who are receiving royalties from the infringing song; Defendants' answers to interrogatories did not reveal the identity of these entities when that is the information specifically requested by the interrogatory; Defendants' document production only identifies the entities and the fact they are receiving money and Defendant himself could not answer even the most basic question about these entities. These are all deficiencies which warrant the extension.

4. Moreover, Defendants' complaints about Plaintiffs' discovery obligations are not only untrue but irrelevant. As Defendants' counsel well knows, both parties have issues with each other's objections and Plaintiffs at all times intended to include their own discovery issues at the September 24, 2014 hearing before the Magistrate. Further, Defendants' counsel is also well aware of the fact that Plaintiffs are not in possession of most of the documents requested by Defendants and have assisted in the coordination of the production of the requested documents from third parties. Unlike any deficiencies Defendants may have with Plaintiff's discovery, Plaintiffs are actually being prejudiced by the deficiencies in Defendants' discovery due to the deadline to amend the complaint and add parties.

WHEREFORE, as set forth herein and in Plaintiff's Motion, it is requested that the Court enter an Order extending the date for Plaintiffs to amend pleadings or add parties until September 22, 2014, or, alternatively, for a period of 5 days from the Court's order hereon, with leave to seek further amendments, if necessary, following the deposition of Defendants' representative(s).

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By: /s/Karen L. Stetson
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Jonathan L. Gaines
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished CM/ECF system to: **BARRY LAWRENCE ROTHBERG, ESQ.**, Greenberg Traurig, 333 SE 2d Avenue, Suite 4400 Miami, FL 33131 and to **VINCENT H. CHIEFFO, ESQ.**, Greenberg Traurig LLC, 1840 Century Park East, Suite 1900, Los Angeles, CA 90067 this 11th day of August, 2014.

By: /s/ Karen L. Stetson

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

Case No. 13-24700-CIV-WILLIAMS

WILLIAM L. ROBERTS, II p/k/a RICK)
ROSS and ANDREW HARR and JERMAINE)
JACKSON collectively p/k/a THE)
RUNNERS,)

Plaintiffs,)

vs.)

STEFAN KENDAL GORDY and SKYLER)
AUSTEN GORDY collectively p/k/a LMFAO,)
KOBALT MUSIC PUBLISHING AMERICA,)
INC., a Delaware corporation, and KIA)
MOTORS AMERICA, INC., a California)
Corporation,)

Defendants.)

DEFENDANTS' INITIAL DISCLOSURES

Pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, as modified by the Court's April 14, 2014, Scheduling Order [DE 19] Defendants Stefan Kendal Gordy and Skyler Austen Gordy, Kobalt Music Publishing America, Inc., and Kia Motors America, Inc.

("Defendants") hereby provide the following initial list of names and addresses (where known and to the best of our current knowledge) of persons reasonably believed to be fact witnesses to matters relevant to this action. These initial disclosures are based solely on the information available to Defendants at the present

time based on a reasonable search, and are made without prejudice to their right to identify additional fact witnesses and to supplement or amend these initial disclosures in the future.

1. Stefan Gordy, c/o Greenberg Traurig, LLP, Vincent H. Chieffo, Esq., 1840 Century Park East, Suite 1900, Los Angeles, CA 90067-2121; email, ChieffoV@gtlaw.com, tel. 310-586-7700, ("GT").
2. Skyler Gordy c/o GT.
3. Peter Schroeder, c/o Derek C. Crownover, Esq., Crownover Firm, P.C., 54 Music Square East, Suite 300, Nashville, TN 37203; 615-577-9600; derek@crownoverfirm.com.
4. David Jamal Listenbee, c/o Gary Fine, 1416 N. La Brea, Los Angeles, CA 90028; tel. 323-906-7413; email, garypfine@gmail.com.
5. Tri Star Sports & Entertainment, 1222 16th Ave S, Suite 31, Nashville, TN 37212; tel. 615-309-0969; Lou Taylor; email, lou@team-tristar.com. Current business manager for certain business entities of Stefan and Skyler Gordy.
6. Rob Mandel, The Management Group, 9100 Wilshire Blvd., Suite 400 W, Beverly Hills, CA 90212; email, robmandel@aol.com; tel. 310-271-0300. Past business manager for certain business entities of Stefan and Skyler Gordy.
7. Nicholas Brown - GSO Business Management, LLC, 15260 Ventura Blvd., Suite 2100, Sherman Oaks, CA 91403; tel. 818-817-7495; email, nbrown@gsogroup.com. Past business manager for certain business entities of Stefan and Skyler Gordy.
8. David Schoonover, Kia Motors America, Inc. ("KMA") Manager, CRM & Digital Marketing c/o GT.

9. Kathleen Zimmerman, KMA Manager, Brand Marketing Plans & Research c/o GT.

10. Won Seok (James) Lee, KMA's Director Financial Planning & Analysis c/o GT.

11. David Angelo, Chief Creative Officer, David & Goliath, LLC ("DnG") c/o

Amelia K. Brankov and Maura Wogan, Frankfurt Kurnit Klein & Selz PC, 488 Madison Avenue, New York, NY 10022; emails, abrankov@fkks.com, mwogan@fkkslaw.com ("FKKS").

12. Colin Jeffery, Executive Creative Director, DnG, c/o FKKS.

13. Carol Lombard, Executive Producer, Managing Director DnG c/o FKKS.

14. Paul Albanese, Executive Producer DnG, c/o FKKS.

15. Philip Thirlway, VP, Business Affairs, Kobalt Music Group, Ltd. ("Kobalt"), c/o GT.

16. Chris Lakey, VP, Synchronization & New Media, Kobalt, c/o GT.

17. Sophie Watt, Client Manager, Kobalt, c/o GT.

18. Dana Mariotti, Mechanical Licensing Manager, Kobalt, c/o GT.

19. James Fitzherbert-Brockholes, Chief Financial Officer, Kobalt, c/o GT.

20. Richard Thompson, Chief Technical Officer, Kobalt, c/o GT.

21. Martin Kierszenbaum, Universal Music Group, 2220 Colorado Blvd., Santa Monica, CA 90404; tel. 310-865-1000; email, martin.kierszenbaum@umusic.com.

22. Jason Kawejsza; Universal Music Group, 2220 Colorado Blvd., Santa Monica, CA 90404; tel. 310-865-5636; email, Jason.Kawejsza@umusic.com.

23. William L. Roberts, II.

24. Andrew Harr.

25. Jermaine Jackson.

26. Bernard Rogers, 424 East Central Blvd. #301, Orlando, FL 32801.

27. Universal Music Group (Island Def Jam Music Group) representatives with knowledge of licensing of and earnings from exploitation of *Hustlin'*.

28. Sean Melia, Senior Director Business Affairs & Licensing, Sony/ATV Music Publishing, 550 Madison avenue, New York, NY 10022; tel. 212.833.8668; sean.melia@sonyatv.com.

29. Sony/ATV Music Publishing representatives with knowledge of licensing of and earnings from exploitation of *Hustlin'*.

30. Warner Chappell Music, Inc representatives with knowledge of licensing of and earnings from exploitation of *Hustlin'*; 10585 Santa Monica Boulevard, Los Angeles, CA 900025; tel. 310.441.8600

31. Trac 'n' Field Entertainment, LLC representatives with knowledge of licensing of and earnings from exploitation of *Hustlin'*; 424 E. Central Blvd., Orlando, FL 32801

32. First 'n' Gold Music, Inc. representatives with knowledge of licensing of and earnings from exploitation of *Hustlin'*; 919 Fourth Street, Miami Beach, FL 33139

33. 3 Blunts Lit At Once representatives with knowledge of licensing of and earnings from exploitation of *Hustlin'*.

34. 4 Blunts Lit At Once representatives with knowledge of licensing of and earnings from exploitation of *Hustlin'*.

35. Leonard Zackheim, Esq., current address not know but internet search reveals the following addresses: 6187 NW 167 Street H-28, Miami, FL 33015; 680 NE 172nd Terrace, North

CASE NO.: 1:13-CV-24700-KMW

Miami Beach, FL 33162; and, 2000 Island Blvd. Apt. 610, Aventura, FL 33160. Tel.

954.920.3761.

36. Ricky D. Ross, address unknown.

Dated: May 1, 2014

GREENBERG TRAURIG, P.A.

*Attorneys for Defendants Stefan Kendal Gordy,
Skyler Austen Gordy, Kobalt Music Publishing
America, Inc., and Kia Motors America, Inc.*

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **DEFENDANTS'**
INITIAL DISCLOSURES was served via U.S. Mail upon all counsel of record, on May 1,
2014.

By: _____
VINCENT H. CHIEFFO

IN THE UNITED STATES DISTRICT COURT
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Case No. 13-24700-CIV-WILLIAMS

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("Defendants") hereby provide the following initial list of names and addresses (where known and to the best of our current knowledge) of persons reasonably believed to be fact witnesses to matters relevant to this action. These initial disclosures are based solely on the information available to Defendants at the present

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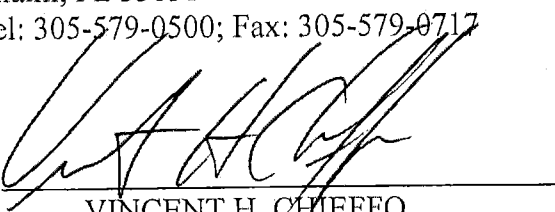
Dated: May 1, 2014

GREENBERG TRAURIG, P.A.

Attorneys for Defendants Stefan Kendal Gordy, Skyler Austen Gordy, Kobalt Music Publishing America, Inc., and Kia Motors America, Inc.

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By: _____
VINCENT H. CHIEFFO

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)	
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vs.)	
)	
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AUSTEN GORDY collectively p/k/a LMFAO,)	
KOBALT MUSIC PUBLISHING AMERICA,)	
INC., a Delaware corporation, and KIA)	
MOTORS AMERICA, INC., a California)	
Corporation,)	
)	
Defendants.)	

DEFENDANT SKYLER AUSTEN GORDY'S RESPONSES TO PLAINTIFFS'

FIRST SET OF INTERROGATORIES

Pursuant to Rule 33 of the *Federal Rules of Civil Procedure*, Defendant SKYLER AUSTEN GORDY ("Skyler Gordy") hereby responds to Plaintiffs WILLIAM L. ROBERTS, II p/k/a RICK ROSS ("ROSS") and ANDREW HARR and JERMAINE JACKSON collectively p/k/a THE RUNNERS'S ("THE RUNNERS"), First Set of Interrogatories as follows:

PRELIMINARY STATEMENT

Discovery and investigation are continuing. Skyler Gordy reserves the right to modify or update these responses and objections as discovery and investigation continue. This preliminary statement is incorporated by reference into each of the specific responses below. To the extent Skyler Gordy references documents being produced by defendants, Skyler Gordy will supplement these responses with specific references to bates-labeled documents.

GENERAL OBJECTIONS

Skyler Gordy objects to each of the Interrogatories on the following grounds:

1. Skyler Gordy objects to the Interrogatories to the extent they seek the disclosure of confidential communications, information and/or documents protected by the attorney-client privilege, tax return privilege, the attorney work product doctrine, or any other privilege.
2. Skyler Gordy objects to the Interrogatories to the extent they infringe upon the privacy rights of Skyler Gordy or of other individuals or entities, and to the extent they seek information documents of a confidential or proprietary nature including, without limitation, trade secrets.
3. Skyler Gordy objects to the Interrogatories to the extent they are vague, ambiguous, overbroad, assume inaccurate facts or allegations, unduly burdensome, oppressive, harassing, cumulative, not reasonably calculated to lead to the discovery of admissible evidence, or call for a legal conclusion.
4. Skyler Gordy objects to these Interrogatories to the extent that they seek information pertaining to the revenue generated from the exploitation of *Party Rock Anthem* outside of the United States and its territories, and will not produce such information. Any inadvertent production of this information does not waive this objection and should not be construed as an admission that such information is relevant to Plaintiffs' calculation of alleged damages in this lawsuit.

Each of the objections set forth above is hereby incorporated into each of the specific responses set forth below to the extent such objections are or become applicable.

RESPONSES TO INTERROGATORIES

Interrogatory No. 1:

State the total dollars earned from the commercial exploitation of *Party Rock Anthem*.

Response to Interrogatory No. 1:

Skyler Gordy objects to this interrogatory as vague and ambiguous as to the phrase “total dollars earned” and for purposes of this Interrogatory, Skyler Gordy interprets this to mean revenues generated from the exploitation of *Party Rock Anthem* in the United States and its territories. Subject to the foregoing objection, Skyler Gordy responds as follows:

Skyler Gordy is unaware of the total amount earned by all persons and entities from *Party Rock Anthem*. However, among the documents being produced in response to Plaintiffs’ Requests for Production are schedules and royalty statements from which the Defendants’ total revenue collected from exploitation of *Party Rock Anthem* within the United States and its territories can be calculated.

Interrogatory No. 2:

Identify all persons and entities who have financially benefitted from the commercial exploitation of *Party Rock Anthem* and, as to each, describe the role played in either the creation, recording, sale, or distribution of *Party Rock Anthem* and the legal relationship, if any, that you have with respect to each named person or entity.

Response to Interrogatory No. 2:

Skyler Gordy objects to this interrogatory as vague and ambiguous as to the phrase “all persons and entities who financially benefitted” and interprets this request to mean monetary

gain by persons and entities who participated in the creation, recording, sale or distribution of *Party Rock Anthem*. Subject to the forgoing objections, Skyler Gordy responds as follows:

Skyler Gordy identifies the following individuals and entities who received financial gain as a result of their participation in the creation, recording, sale, or distribution of *Party Rock Anthem*.

- Interscope Records (Record Label)
- Kobalt Music Publishing America, Inc. (Administrator)
- Skyler Austen Gordy (co-writer)
- Stefan Kendal Gordy (co-writer)
- David Jamahl Listenbee (co-writer)
- Peter Schroeder (co-writer)

Interrogatory No. 3:

Describe when and the circumstances under which you first became aware of Everyday I'm Hustlin'.

Response to Interrogatory No. 3:

Skyler Gordy is not aware of and does not recall the first time he became aware of the commonly used phrase Everyday I'm Hustlin'.

Interrogatory No. 4:

Identify all sound recordings featuring either a performance by you or a work of authorship by you (either in part or in whole) which utilizes either a third party sample or interpolation and, as to each, please identify:

- (a) the work either sampled or interpolated;
- (b) whether a license fee was paid;

(c) whether such use constituted “fair use.”

Response to Interrogatory No. 4:

Skyler Gordy objects to this interrogatory as overly broad and unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence because it seeks information about sound recordings that are not at issue in this lawsuit and do not relate to any of the legal issues in this lawsuit.

Interrogatory No. 5:

Please state the total dollars earned as a result of clothing items or any other merchandise bearing the phrase “Everyday I’m Shufflin’” and identify all persons or entities who profited from such sales.

Response to Interrogatory No. 5:

Skyler Gordy objects to this interrogatory as vague and ambiguous as to the term “total dollars earned” but interprets this to mean revenue received. Skyler Gordy further objects to this interrogatory as irrelevant on the grounds that the sale of merchandise bearing the phrase “Everyday I’m Shufflin’” sold by individuals or entities that are not a party to this lawsuit or a company affiliated with a party to this lawsuit is not related to the claims in this lawsuit. Subject to the foregoing objections, Skyler Gordy responds as follows:

Skyler Gordy is unaware of the total revenue generated by merchandise bearing the phrase “Everyday I’m Shufflin’” because Skyler Gordy does not know every individual that sold merchandise bearing this phrase. However, among the documents produced in response to Plaintiffs’ Requests for Production of Documents are schedules from which the revenue received by Skyler Gordy, Stefan Gordy, or companies affiliated with Skyler Gordy or Stefan Gordy for merchandise bearing the phrase “Everyday I’m Shufflin’” can be calculated.

Interrogatory No. 6:

Please identify all witnesses to the creative process of writing the musical composition *Party Rock Anthem*.

Response to Interrogatory No. 6:

Skyler Gordy objects that this Interrogatory is vague and ambiguous as to the phrase “witnesses to the creative process.” Skyler Gordy further objects to this request as overly burdensome to the extent that it seeks to require Skyler Gordy to identify individuals whose identify is not presently known to Skyler Gordy. Subject to the foregoing objections, Skyler Gordy identifies the following individuals who participated in the writing and recording of *Party Rock Anthem*:

- Skyler Austen Gordy (co-writer)
- Stefan Kendal Gordy (co-writer)
- David Jamahl Listenbee (co-writer)
- Peter Schroeder (co-writer)

Interrogatory No. 7:

Please identify the party or parties you claim are “indispensable” pursuant to your affirmative defenses herein.

Response to Interrogatory No. 7:

The copyright registrations for *Hustlin’* identify the following individuals and entities that are not parties to this litigation:

- First and Gold Publishing

- 3 Blunts Lit at Once
- Trac-N-Field Entertainment, LLC
- Bernard Rogers
- 4 Blunts Lit at Once

Interrogatory No. 8:

Please identify by date, location and venue all performances of *Party Rock Anthem*.

Response to Interrogatory No. 8:

Skyler Gordy objects to this request as vague and ambiguous as to the term “performances” and interprets this as performances by LMFAO of *Party Rock Anthem*. Skyler Gordy further objects to this request as overly broad and unduly burdensome because *Party Rock Anthem* was played by DJs, radio stations, and individuals, around the world since its release and Skyler Gordy has no way of identifying all of the instances in which it was performed.

Subject to the foregoing objections, Skyler Gordy responds as follows:

Skyler Gordy will produce documents that identify LMFAO’s concerts from the time *Party Rock Anthem* was released to the present. Skyler Gordy cannot confirm the concerts at which *Party Rock Anthem* was performed.

Interrogatory No. 9:

Please identify the person(s) or entity(ies) responsible for determining whether any material utilized in *Party Rock Anthem* needed to be licensed.

Response to Interrogatory No. 9:

Interscope Records

Todd Douglas, Interscope Records

Interrogatory No. 10:

Please identify by case style, case number and court all civil lawsuits to which you, or any company that you are an officer or director of, have been or presently are a named party.

Response to Interrogatory No. 10:

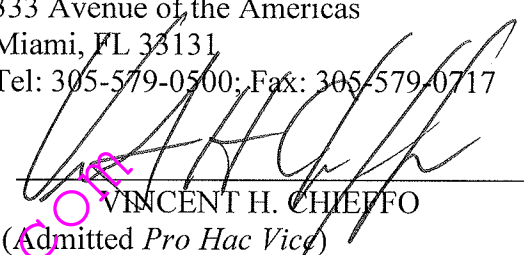
RPMGRP, Inc. v. Stefan Gordy, et al., Case No. SC116427, California Superior Court, Los Angeles Division (Mar. 23, 2012).

Dated: July 3, 2014

GREENBERG TRAURIG, P.A.
*Attorneys for Defendants Stefan Kendal Gordy,
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333 Avenue of the Americas
Miami, FL 33131
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By: _____

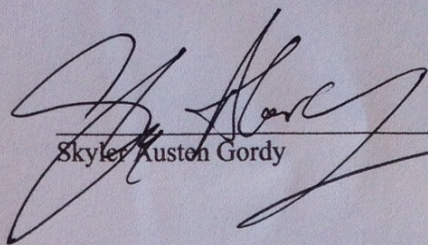

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CASE NO.: 1:13-CV-24700-KMW

VERIFICATION OF RESPONSES TO INTERROGATORIES

I certify under penalty of perjury under the laws of the United States that the foregoing responses and answers to Plaintiffs' First Set of Interrogatories to Skyler Austen Gordy are true and correct.

Dated: 7-3-14



Skyler Austen Gordy

VERIFICATION OF RESPONSES TO INTERROGATORIES

I certify under penalty of perjury under the laws of the United States that the foregoing responses and answers to Plaintiffs' First Set of Interrogatories to Skyler Austen Gordy are true and correct.

Dated: _____

Skyler Austen Gordy

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **DEFENDANT SKYLER AUSTEN GORDY'S RESPONSES TO PLAINTIFFS' FIRST SET OF INTERROGATORIES** was served via U.S. Mail upon all counsel of record, on July 3, 2014.

By _____

VINCENT H. CHIEFFO