

H.E.R. Is Named As Defendant in Copyright and Sound Recording Infringement Lawsuit Filed by Take 6

Take 6's Hit "Come Unto Me" from their GRAMMY Winning Album Has Been Sampled and Copied by H.E.R. and "Could've Been" Writers

ATLANTA, GA, USA, June 9, 2022 /EINPresswire.com/ -- A lawsuit has been filed in the United States District Court, Southern District of New York (Civil Action No. 7:22-cv-03175-PMH) by Omerror Dawson and 10-time GRAMMY winners Take 6 against songwriters Gabriella Sarmiento Wilson, known professionally as H.E.R., Dernst Emile, Hue Wayne Strother a/k/a "Soundz Fire", Davis A. Harris d/b/a Progressive 86, and each of their publishing and record companies Sony ATV Sounds, LLC, Sony Music Entertainment, Inc., EMI April Music, Inc., BMG Platinum Songs US, DII Music, LLC, I Am Her Publishing, Next Up Music Group, Tailored 4U Music, Universal Music Corporation and WC Music Corp.

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James Walker, Jr.

The case is based on wrongful copyright infringement for H.E.R.'s song "Could've Been" featuring Bryson Tiller. Omerror Dawson, who wrote Take 6's "Come Unto Me," which was sampled in "Could've Been", as well as Take 6 members Alvin Chea, Cedric Dent, Mark Kibble, Claude McKnight, David Thomas, and Mervyn Warren, who were collectively known as Take 6, as well as Mervyn Warren Music, are the plaintiffs. Dawson and Mervyn Warren are the owners of the copyright for "Come Unto Me", registered in 1990.

The multi-count complaint was prepared by attorney James Walker, whose action against H.E.R. for similar charges for the 2016 song "Focus" was settled favorably for his clients in the same court in 2021. According to the current suit, "Could've Been" is comprised of substantially similar compositional, rhythmic and lyrical elements of Take 6's recording "Come Unto Me." Musicologist and super producer Kevin Bond reviewed the two songs and concluded, "It appears very clear to me that the two songs are very similar. It is obvious that someone lifted the Take 6 sample and must be held accountable." "It is most unfortunate that after months of trying to resolve this, Take 6, one of the most iconic groups in music history, is left with no alternative but filing this serious lawsuit," according to lead attorney Walker. He added, "We are also seeking a

permanent injunction so that the album be pulled and the label freeze any royalties in connection with the album 'Focus', on which the song in question appears."

Take 6's album "So Much To Say", on which "Come Unto Me" appeared, won their third GRAMMY of 10 wins, for Best Contemporary Soul Gospel Album at the 33rd GRAMMY Awards in 1990. The legendary group has also received 10 Dove Awards, a Soul Train Award and has been inducted into the Gospel Music Hall of Fame.

H.E.R.'s "Could've Been" was released initially on her EP entitled "I Used To Know HER: The Prelude" in 2018 and again on the compilation album "I Used To Know HER" the following year. It reached #2 on U.S. Billboard Adult R&B charts, was nominated for several awards, and sold over 2 million copies, indicating significant financial success for each of the defendants. It is alleged that original segments of "Come Unto Me" have been sampled in the song "Could've Been". Further, the suit also claims, "The use of Plaintiffs' (Take 6's) vocals and imitation of their distinctive brand was unauthorized and unlawful."

In addition to her own recordings, H.E.R.'s representatives licensed the song in question to numerous entities including Napster, Wal-Mart, among others and for use as cell phone ringtones to the financial detriment of Take 6 and the writers of "Come Unto Me." Thus, the suit calls for a full accounting of fees and royalties generated by the work from record sales, sheet music editions, synchronization fees, performance royalties, PRO income, and all other revenue sources.

The plaintiffs are suing for compensatory, statutory and punitive damages as well as injunctive relief for copyright infringement and appropriation of likeness for an undisclosed amount and are seeking a jury trial.

JoAnn Geffen
JAG PR
+1 818-905-5511
jgeffen@jagpr.com

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