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Dear Members,

Well, another year comes to an end, or for those in the entertainment industry, this is that time of year when registration fees increase for South by Southwest (SXSW).

As a member, we welcome your attendance at our fifth annual TESLAW SXSW Mixer! This annual networking event will be held on Thursday, March 14, 2014 from 4:00 p.m. to 6:00 p.m. at the Iron Cactus (Sixth Street/Trinity). Even if you are not attending SXSW, any member can attend the mixer. Drinks and appetizers are provided.

Also, in time for the holidays, we have TESLAW's "Rock Star Attorney" merchandise for sale. If you are interested in ordering directly, [e-mail](#) for more information.

Finally, many thanks to our e-newsletter contributors and editors! We hope that you enjoy this edition of the e-newsletter and we welcome your thoughts and comments about TESLAW at any time.

Very truly yours,
[Catherine Hough](#), Chair
Entertainment and Sports Law Section

TESLAW Member Spotlight



Shannon Jamison is a Texas and California licensed entertainment attorney based in Dallas, Texas. Shannon graduated cum laude from the Dedman School of Law at SMU in 2001, and initially practiced litigation for a regional Texas law firm in downtown Dallas. Shannon started The Jamison Law Firm, P.C. in 2002, and her practice has focused primarily on independent television and film projects. She recently took on the role of general counsel for a triathlon industry organization based in California.

Shannon has been actively involved with the State Bar of Texas Entertainment & Sports Law Section since 2004, and most recently served as the chair of the section in 2012-2013.

Shannon has been married to her husband, Kent, for over 15 years and they have 4 children, ages 6, 8, 22, and 24. In her free time, she enjoys spending time with family and friends, traveling, and pretty much anything fitness-related.

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To be considered for the TESLAW Member Spotlight please submit a short bio (no more than 200 words) and photograph to [Victoria Helling](#).

Trying to Define the Term “Album” in Artist/Label Recording Agreements **Case Note by Stan Soocher**

A recording agreement traditionally requires an artist to deliver a specified number of albums to a record company. But in the current era of consumers expecting value-added album packages with extra content, how may the label contract term “album” be defined? A dispute between the rock band A Day to Remember (ADTR) and the Chicago-based Victory Records may shed some light on the question. The case has also raised the issue of whether a record company can obtain preliminary relief to bar the artist from self-releasing a new album while the definition dispute with the label plays out in court. In this case, ADTR signed a five-album deal memo with Victory Records in 2006. In 2011, the band sued in the U.S. District Court for the Northern District of Illinois to be free of the recording agreement, claiming it had delivered 13 “albums” to Victory. ADTR also alleged underpayment of royalties and wrongful withholding of reserve monies. Victory in turn alleged breach of contract. In addition, the record company moved for a preliminary injunction to stop ADTR from distributing the group’s latest album *Common Courtesy* pending the outcome of the court case. *Woodard v. Victory Records Inc.*, 11-cv-7594 (N.D. Ill.).

ADTR’s position is that the definition of “album” in its deal-memo agreement with Victory includes re-releases that contain bonus tracks. But Victory counters the band has delivered only three new studio albums under the industry’s standard 18 to 24-month delivery cycle. In considering Victory’s preliminary injunction bid, District Judge John Z. Lee wrote: “First, the definition in the Deal Memo itself is vague and may have more than one reasonable construction. Indeed, taking the definition literally, ADTR could fulfill its obligations under the Deal Memo by delivering to Victory five copies of the exact same collection of songs.” But leaving the answer to how “album” ultimately will be defined for a later stage of the litigation, Judge Lee nevertheless added “the record currently before the Court supports Victory’s construction at least as equally, if not more so, than that offered by ADTR.”

Of course, “album” could be defined more specifically in a full-length recording contract, as opposed to

the shorter deal memo at issue in this case. And, it seems that defining the addition of bonus tracks as the delivery of a new album would seriously impact a label's ability to benefit from a guarantee of new product from its artists. But the district judge declined to preliminarily bar ADTR from self-releasing *Common Courtesy*. Of note is that Victory argued its reputation could be irreparably damaged if ADTR self-released a substandard album. But Judge Lee observed: "Indeed, in this age of digital music distribution through internet channels such as YouTube or iTunes, it can hardly be presumed that a 'self-released' recording by a music artist would be 'inferior' in terms of recording quality to one overseen by an established record company." Commenting on the competitive music market, Judge Lee found it probable that "ADTR will experience a material erosion in popularity and fan support if it is prohibited from releasing a new record until the resolution of this case." The court believed Victory would be better off, too, without injunctive relief—on the ground that granting it would also hurt Victory Records' "ability to benefit from ADTR's continued popularity in the event that it prevails in this action."

Stan Soocher is an Associate Professor for Music and Entertainment Industry Studies at the University of Colorado Denver. Additionally, Stan serves as the Editor-in-Chief for the Entertainment Law & Finance Journal.

Practice Document

Please find the link to a document from our November E-Newsletter: a [Performer Agreement](#) provided by The Law Offices of Michael Norman Saleman with locations in Los Angeles, Austin, and Dallas.

Send questions, comments, and submissions for the TESLAW E-Newsletter to [Victoria Helling](#).

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