

# Legendary songwriters back Gaye family in legal filing

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(Photo: George Walker IV / File/ The Tennessean)

A group of Hall of Fame songwriters filed a legal brief on Wednesday opposing a judge's ruling in the controversial "Blurred Lines" lawsuit, which they say hurts copyright protections for songs recorded before 1978.

The "Blurred Lines" lawsuit pitted the family of rhythm and blues legend Marvin Gaye against pop stars Robin Thicke and Pharrell Williams, who are accused of copying elements of Gaye's hit "Got To Give It Up" without permission. The Gaye family won an initial jury verdict of \$7.4 million, though a federal judge reduced the total to \$5.3 million.

Thicke and Williams subsequently appealed, and a tangential issue has arisen: how songs recorded prior to 1978 are protected from copyright infringement. A federal judge ruled that the only elements of "Got To Give It Up" subject to federal copyright protections are those reflected on the lead sheet - a document filed with the U.S. Copyright Office. Gaye's attorneys, including Nashville-based Richard Busch, have argued that the lead sheet was a perfunctory document filed by an unnamed person.

They say the basis for copyright theft should hinge on the borrowed elements from the sound recording of "Got To Give It Up," and not the lead sheet. Thicke and Williams' attorneys argue the opposite. They say that the two songs feel similar, but that actual copyright theft did not take place. Thicke said in media interviews that "Blurred Lines" was inspired by "Got To Give It Up," but in legal filings he denied that he stole from "Got To Give It Up."

## **'Blurred Lines' lawsuit questions protections for older songs**

<http://www.tennessean.com/story/money/2016/12/22/blurred-lines-lawsuit-questions-protections-older-songs/95779278/>

Songwriter Hall of Fame members Brian Holland, Eddie Holland, Sylvia Moy, David Porter and Valerie Simpson argue in their brief filed on Wednesday that Judge John A. Kronstadt's ruling on the lead sheet effectively disenfranchises writers of pre-78 songs. They claim that songwriters, particularly from disadvantaged backgrounds, who did not know how to write or read music and therefore would put much greater emphasis on the recording of a song and not the written lead sheet, are disenfranchised by Kronstadt's ruling. In total, 12 songwriters signed onto the amicus brief supporting the Gaye family.

Moy wrote hits such as "Uptight (Everything's Alright)," "My Cherie Amour" and "I Was Made to Love Her." The songwriting trio of Holland-Dozier-Holland wrote dozens of soul and rock hits. Porter wrote hits including "Dreamweaver" and "Get Jiggy With It," and Simpson wrote chart-topping songs such as "Ain't No Mountain High Enough."

Since 1978, the policy of the Copyright Office has been to accept sound recordings when registering the copyright for a song. The Gaye family argued in a filing last week that limiting the copyright protections for older songs to the lead sheet would empower unscrupulous contemporary songwriters to sift through old lead sheets and then steal any elements not listed there when writing new songs.

In addition to the issue of the lead sheets, the songwriters supported the Gaye family in the central claim of the lawsuit, that "Blurred Lines" stole from "Got To Give It Up."

"Composers not fluent in European staff notation, composers who work in aural traditions (writing songs through recording in the studio as opposed to writing down music notes and then recording the song) and genres where such notation is not very helpful, and composers from disadvantaged backgrounds have routinely been discriminated against by a copyright system at times improperly administered so as to extend protection to only

certain kinds of privileged works," the songwriters said in their brief.

**Nashville copyright lawyer patents landmark victories**

(<http://www.tennessean.com/story/money/industries/music/2015/04/24/nashville-copyright-lawyer-patents-landmark-victories/26266921/>)

Also on Wednesday, musicologists and music professors filed an amicus brief arguing that "Blurred Lines" did constitute composition copying, even if it is based on the lead sheet. Thicke and Williams have submitted filings from musicologists who disagree, and the case has created a stir in the songwriting community. Some observers say "Blurred Lines" feels like "Got To Give It Up," because of the groove and percussion sounds, but doesn't duplicate enough elements from the original song to constitute theft.

In their latest brief, musicologists from the University of Chicago, the University of California, Harvard University, Yale University and elsewhere, also argued "Blurred Lines" did copy from "Got To Give It Up."

"It is not a stretch at all to say that these songwriters are legendary and some of the greatest songwriters of the 20th Century and beyond," said Busch, the lead attorney for the Gaye family. "The Musicologists have themselves vast and varied musical background and experience, teach at the most prestigious universities from coast to coast, and are preeminent in their chosen fields."

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