

Gradstein & Marzano and Susman Godfrey Secure Settlement Valued at Up to \$99 Million Settlement for The Turtles And Other Owners of Pre-1972 Sound Recordings in Class Action Against Sirius XM Radio

Preliminary Approval Papers Filed with Court; Settlement Does Not End Appeals Over Performance Right Issues for Pre-1972 Recordings

November 28, 2016 — Today Gradstein & Marzano PC and Susman Godfrey L.L.P. filed preliminary approval papers on behalf of The Turtles and a class of others with the U.S. District Court for the Central District of California for a settlement with Sirius XM Radio valued at up to \$99 million. The lawsuit, *Flo & Eddie Inc. v. Sirius XM Radio Inc.*, (Case No. CV 13-05693), sought payment for royalties for songs recorded before 1972 that were played by Sirius XM.

The settlement, which is subject to court approval, has two significant monetary compensation components. First, Sirius XM has agreed to pay at least \$25 million, and up to a total of \$40 million, into a settlement fund for past performances. The amount of additional compensation to be paid beyond the initial \$25 million payment is contingent on the outcome of appeals related to the performance right issue, which remain ongoing. Second, Sirius XM has also agreed to pay a royalty rate of up to 5.5% to the settlement class in return for receiving a license to use pre-1972 recordings until 2028. Those royalties could be worth up to an additional \$59 million based on a 2016 baseline revenue figure, projections regarding the number of currently unlicensed recordings, and annual growth rates for Sirius XM's Pre-1972 revenues.

"We are grateful to our clients, Mark Volman and Howard Kaylan of Flo & Eddie and The Turtles, who had the tenacity to stay the course over three grueling years of litigation on behalf of all members of the class, because they believed in what was right," said Gradstein & Marzano partner Henry Gradstein, who serves as co-lead counsel in the case and initially filed the action in 2013.

"For too long class members have missed out on royalties owed to them by the satellite music services who benefit from playing pre-1972 recordings but have not paid for that privilege. This settlement is a start on holding such music services accountable," said Susman Godfrey partner [Kalpana Srinivasan](#), who also serves as co-lead counsel in the case.

SUSMAN GODFREY

Along with Gradstein, the Gradstein & Marzano team representing The Turtles includes partner Maryann R. Marzano and associate Daniel B. Lifschitz. Along with Srinivasan, the Susman Godfrey team representing The Turtles includes partners Stephen E. Morrissey, Rachel S. Black, and Steven G. Sklaver and associate Michael Gervais.

In 2013, Gradstein & Marzano filed class action lawsuits in California, New York and Florida against several online music services on behalf of The Turtles and all owners of pre-1972 recordings. The court appointed Gradstein & Marzano as class counsel in 2015, and Susman Godfrey as co-lead class counsel in 2016. Courts in California and New York have previously ruled in The Turtles' favor. The New York and Florida cases are currently on appeal.

Henry Gradstein and Kalpana Srinivasan are available for interviews to discuss the settlement and the other pending cases.

About Gradstein & Marzano PC

Gradstein & Marzano is a boutique law firm focusing on business and entertainment litigation founded by partners Henry Gradstein and Maryann R. Marzano. Since 2013, Gradstein & Marzano has risen to national fame in the field of copyright litigation and expanded the depth and scope of its entertainment litigation focus in the class action arena as well. For more information, visit <http://www.gradsteinmarzano.com>.

About Susman Godfrey L.L.P.

For more than 35 years, Susman Godfrey has focused its nationally recognized practice on just one thing: high-stakes commercial litigation. It is one of the nation's leading law firms, with offices in Houston, Seattle, Los Angeles and New York. For more information, visit <https://www.susmangodfrey.com>.