

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

<b>MARSHALL THOMPSON, on behalf of himself</b>	)	
<b>and all others similarly situated,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>12 CH 43388</b>
	)	<b>Honorable Judge Lee</b>
	)	<b>Preston</b>
<b>CARLYLE GROUP, a limited partnership</b>	)	
<b>d/b/a GETTY IMAGES,</b>	)	<b>JURY DEMAND</b>
	)	
<b>Defendant.</b>	)	

**CLASS ACTION COMPLAINT FOR VIOLATION OF RIGHTS OF PUBLICITY**

NOW COMES Plaintiff, MARSHALL THOMPSON, for himself and those similarly situated, by and through his attorneys, GOLD & ASSOCIATES, LTD. and alleges as follows with respect to the above matter:

**INTRODUCTION**

1. Plaintiff seeks redress for the unlawful exploitation of his images by Defendant, Carlyle Group, a limited partnership d/b/a Getty Images (“GETTY”).

**THE PARTIES**

2. Marshall Thompson (“Thompson”) is the leader of the Chicago based singing group, The Chi-Lites. He is the only remaining original member of the group after the death of Robert “Squirrel” Lester on January 22, 2010. He is a talented singer and multi-instrumentalist. He is also co-owner of Mar-ance Records along with Michael Jackson’s father, Joseph Jackson.

The Chi-Lites were formed in the late 1950s when the Chanteurs (Record, Robert “Squirrel” Lester, and Clarence Johnson) teamed up with Marshall Thompson and Creadel

“Red” Jones of the Desideros to form the Hi-lites. Wishing to add a tribute to their home town of Chicago, they changed their name to “Marshall and the Chi-Lites” in 1964. Johnson left later that year, and their name was subsequently shortened to The Chi-Lites. The group was inducted into the Rhythm and Blues Foundation in 2000.

3. Getty Images is a stock photo agency, owned by the equity firm Carlyle Group which is a limited partnership registered in Delaware and has its principal place of business in Washington, D.C. Getty sells and offers for sale photographs and images over the World Wide Web, and these images are offered for sale and sold in Illinois.

#### **JURISDICTION**

4. This Court has personal jurisdiction over Defendant pursuant to 735 ILCS 5/2-209(1), (2), and (10).

#### **PLAINTIFFS’ FACTS**

5. Thompson was and always has been the exclusive licensor of his rights of publicity and without his permission, Getty posted during the applicable statute of limitations approximately six pictures of him on its website which were offered for sale.

#### **CLASS ALLEGATIONS**

6. Plaintiff brings this action on behalf of himself, and all others similarly situated, pursuant to 765 ILCS 1075/10, *et seq.* Further, MARSHALL THOMPSON, seeks to be the putative class representative and to certify the following class pursuant to 735 ILCS 5/2-801, *et seq.*:

“All Illinois residents who are performers, musicians, singers, or actors who perform, as a musician, singer or actor for compensation, who did not die before the effective date of 765 ILCS 1075/1 *et seq.*, the Illinois Rights of Publicity Act, January 1, 1999, and who without their written permission had their pictures

with names near their pictures offered for sale of purported licenses during the applicable statute of limitations on Getty websites, including [www.Getty.com](http://www.Getty.com), [www.Gettymotion.com](http://www.Gettymotion.com), or [www.Gettyoutline.com](http://www.Gettyoutline.com). Excluded from the class are non-Illinois residents or any individuals appearing in the pictures described in the preceding sentence whose names do not appear near the pictures on the Getty websites and cannot be accessed through a name search on any of the Getty websites. Also excluded are defendant Getty, and Getty' officers, directors, employees, representatives, parents, subsidiaries, and affiliates as well as any judicial officer presiding over this action and the members of his/her immediate family and judicial staff."

7. The class period is limited to the applicable statute of limitations on right of publicity claims.
8. There are questions of law and fact that are common to all members of the Class, which questions predominate over any question affecting only individual class members.
9. The principal common issue is the following:  
  
whether Getty's exploitation or use of an individual's name, picture, or likeness violates 765 ILCS 1075, *et seq.*
10. In this case, there is no question as to the identification of class members because the Class is composed of those depicted on Getty's website and can be identified from a review of Getty's records. There is also no issue as to the amount of class members' damages as damages can be easily determined from reviewing Getty's sales records.
11. THOMPSON possesses claims that are typical of the claims of the class members because all claims are based on the same legal and remedial theories.
12. Plaintiff THOMPSON will fairly and adequately protect the interests of all class members in the prosecution of this action and in the administration of all matters relating to the claims stated herein. The aforesaid named Plaintiff is similarly situated with, and has suffered similar injuries as members of the class he seeks to represent. He believes he has been wronged

and wishes to obtain redress for the wrong.

13. The named Plaintiff in the previous paragraph has retained counsel experienced and knowledgeable in class action cases and rights of publicity law. Neither this Plaintiff nor counsel, has any interest that may cause them to not vigorously pursue this action.

14. A class action is superior to other available methods for the fair and efficient adjudication of this controversy, in that:

- a. the individual Class members are not all aware that they have been wronged and are thus unable to prosecute the individual actions;
- b. concentration of litigation concerning this matter in this Court is desirable;
- c. the claims of the putative representative Plaintiff is typical of the claims of the Class;
- d. a failure of justice will result from the absence of a class action; and
- e. the Class is of moderate size and the difficulties likely to be encountered in the management of a Class action are not great.

15. The Class is so numerous as to make it impracticable to join all members of the class as plaintiffs. Based on Getty's large market share and the millions of images available on its website, the Class likely exceeds 100 members.

16. As stated, without obtaining permission to exploit THOMPSON's name and likeness, Defendant Getty obtained pictures and placed same on the internet for purposes of commercial exploitation for sale and distribution to the general public.

17. Getty's conduct has made Plaintiff's pictures available for commercial use in the State of Illinois and Illinois has jurisdiction over Defendant Getty.

18. The aforementioned conduct was an unlicensed and unauthorized utilization of THOMPSON's images.

19. As a result of the use of THOMPSON's pictorial images in this fashion by Defendant Getty, Plaintiff has been damaged financially.

WHEREFORE, Plaintiff MARSHALL THOMPSON, individually and on behalf of all others similarly situated, asks that judgment be entered against Defendant, GETTY, and that the following relief be granted:

(a) An Order certifying the following class:

“All Illinois residents who are performers, musicians, singers, or actors who perform, as a musician, singer or actor for compensation, who did not die before the effective date of 765 ILCS 1075/1 et seq. the Illinois Rights of Publicity Act, January 1, 1999, and who, without their written permission had their pictures with names near their pictures offered for sale or sale of purported licenses during the applicable statute of limitations on Getty Company's websites, including [www.Getty.com](http://www.Getty.com), [www.Gettymotion.com](http://www.Gettymotion.com), or [www.Gettyoutline.com](http://www.Gettyoutline.com). Excluded from the class are non-Illinois residents or any individuals appearing in the pictures described in the preceding sentence whose names do not appear near the pictures on the Getty websites and cannot be accessed through a name search on any of the Getty websites. Also excluded are defendant Getty, and Getty' officers, directors, employees, representatives, parents, subsidiaries, and affiliates as well as any judicial officer presiding over this action and the members of his/her immediate family and judicial staff.”

(b) An Order naming MARSHALL THOMPSON as class representative, and Arthur S. Gold as lead class counsel.

(c) Damages in excess of \$50,000;

(d) Attorneys' fees and costs pursuant to statutory authority; and

(e) Such other and further relief that this Court deems equitable and just.

Respectfully submitted,

By: \_\_\_\_\_  
One of Plaintiffs' attorneys

Law Offices of Gold  
& Associates, Ltd.  
11 S. LaSalle Street  
Suite 2402  
Chicago, IL 60603  
(312) 372-0777 Telephone  
(312) 372-0778 Facsimile  
Attorney No. 5231

Classact/Thompson/Complaint.

**CERTIFICATION**

Arthur S. Gold hereby certifies under penalties of perjury that he is one of the attorneys for the Plaintiffs in this case and that the total of money damages sought in the Sixth Amended Complaint exceeds \$50,000.00.

\_\_\_\_\_  
Arthur S. Gold