



Record Contracts

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Record Deals

Employment contracts

- Record deals are employment contracts.
 - Exclusivity is an essential feature of nearly all record deals
 - However, not ubiquitous for classical and jazz
 - E.g., “Sting appears courtesy of A&M Records”

Economics

- First-deal bands typically don't make money from record contracts directly.
 - Though they can make indirectly, through songwriter royalties and through live gigs and merchandising receipts made possible by the promotional power of the record deal.

Copyright ownership

- Record label will own the master and the ® (copyright in the sound recording).
- Composer/publisher will own © in songs (copyright in composition).
- Superstars might be able to negotiate right to get masters at some point.
- In recent years, some labels have required interest in © on songs from first-deal artists.

Obligations

- Artist required to show up, perform, help promote, etc.
- Record label obligated to do nothing (except pay initial advance)
 - Unrecorded artists may or may not be let out of contracts

Options

- Typically one year / one album, at sole option of record label
 - “album” means collection of songs, not a vinyl LP

Duration

- Typically six options, out to seven years.
- In California, subject to the seven-year limitation of Cal. Labor Code §2855.
- In other states, subject to unconscionability doctrine.
- Minors can disaffirm.

California Civil Code §3423

- California Civil Code §3423 provides a form of substantive regulation of record deals.
- Injunctions cannot be issued to prevent a recording artists from recording on another label unless certain requirements are met.

California Civil Code §3423

- Three provisions:
 - Requirements on guarantees in contract
 - Requirements of in-fact performance
 - Superstar insurance provision

California Civil Code §3423

- Requirements on guarantees in contract:

In the contract, there must be these minimum payments:

- Year 1: \$9,000
- Year 2: \$12,000
- Year 3-7: \$15,000

California Civil Code §3423

- Requirements of in-fact payments:

The record company, prior to seeking the injunction, must have actually paid:

- Year 1-3: Minimum guaranteed
- Year 4-5: Total of \$30K per annum (\$15K guarantee plus \$15K more)
- Year 6-7: Total of \$45 K per annum (\$15 guarantee plus \$30K more)

California Civil Code §3423

- Superstar insurance provision:

If the above conditions are not met, then the record label can get an injunction by paying 10 times the accumulated minimums.

For example, to get an injunction in Year 6, this would be a total of \$1.41 million (\$90K + \$120K + \$150K + \$300K + \$300K + \$450K)

Conflict of Laws

- California's substantive regulation of contracts is vulnerable to choice-of-law provisions electing New York law, combined with a race to the courthouse and an injunction on California court proceedings.