

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 01-B-1854

LAWRENCE GOLAN, *et al.*,

Plaintiffs,

vs.

JOHN ASHCROFT, in his official capacity as
Attorney General of the United States,

Defendant.

**PLAINTIFFS' NOTICE OF SUPREME COURT GRANT OF CERTIORARI IN
ELDRED v. ASHCROFT**

Plaintiffs Lawrence Golan, Richard Kapp, S.A. Publishing Co. d/b/a ESS.A.Y Recordings, Symphony of the Canyons, Ron Hall, and John McDonough, through their undersigned counsel, file this notice to apprise the court of the U.S. Supreme Court's grant of writ of certiorari in Eldred v. Ashcroft, No. 01-618, a related case. In this notice, plaintiffs state:

1. On September 19, 2001, plaintiffs filed their Complaint to challenge the constitutionality of two copyright laws that have harmed and continue to harm their artistic pursuits and businesses: (1) the Sonny Bono Copyright Term Extension Act, Pub. L. No. 105-298 (1998), which extends the terms of copyrights both prospectively and retrospectively by another 20 years, and (2) Section 514 of the Uruguay Round Agreements Act (URAA), Pub. L. No. 103-465 (1994), which removes numerous works from the public domain by retroactively granting them "restored copyrights."

2. On November 21, 2001, defendant John Ashcroft, Attorney General of the United States, requested an extension of 20 days time to file an answer, which this Court granted by minute order.

3. On December 12, 2001, defendant filed a motion to dismiss. Pursuant to this Court's minute order, plaintiffs filed their opposition to defendant's motion on January 3, 2002, and also requested a hearing on this motion. Defendant filed his reply on January 16, 2002.

4. On February 19, 2002, the Supreme Court granted certiorari in Eldred v. Ashcroft, No. 01-618, the first case to consider the constitutionality, under the Copyright Clause and the First Amendment, of the Sonny Bono Copyright Term Extension Act, one of the two laws challenged by plaintiffs here. The Eldred case does not involve, however, a challenge to Section 514 of the URAA.

5. Because defendant heavily relies on the D.C. Circuit's (2-1) ruling in Eldred, 239 F.3d 372 (D.C. Cir. 2001), reh'g en banc denied, 255 F.3d 849 (2001), to seek a dismissal of plaintiffs' challenges in Counts 1 - 3 to the Sonny Bono Copyright Term Extension Act, the Supreme Court's grant of certiorari in Eldred is relevant to the consideration of defendant's motion to dismiss Counts 1 - 3. However, because Eldred does not involve a challenge to § 514 of the URAA, the Supreme Court's decision in Eldred will not finally resolve the issues raised by plaintiffs' challenges to the URAA in Counts 4 - 6.

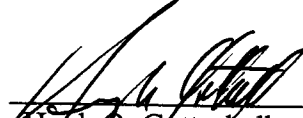
6. Accordingly, plaintiffs do not believe the Eldred case should delay these proceedings. The URAA is not at issue in Eldred. And should this Court issue a ruling

in this case (whether on the government's motion to dismiss, later motion, or at trial) before the Supreme Court's expected decision in Eldred some time next year, this Court's ruling on the constitutionality of the Sonny Bono Act could assist the Supreme Court's consideration of the issues.

Respectfully submitted,

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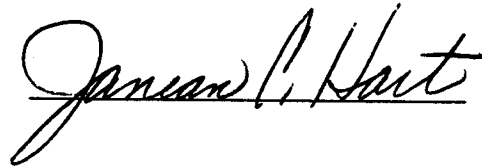
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CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of February, 2002, a true and correct copy of the foregoing PLAINTIFFS' NOTICE OF SUPREME COURT'S GRANT OF CERTIORARI IN ELDRED v. ASHCROFT was served via first class U.S. Mail, postage prepaid, addressed to the following:

Joshua Rabinovitz
United States Department of Justice
Civil Division, Room 953
901 E Street, N.W.
Washington, D.C. 20004

A handwritten signature in cursive script, reading "James P. Hart", written over a horizontal line.