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 Attorneys for Plaintiff
 8 CHI MODU

9
 10 **UNITED STATES DISTRICT COURT**
 11 **CENTRAL DISTRICT OF CALIFORNIA**

12 CHI MODU, an Individual,
 13
 14 Plaintiff,

15 v.

16 BRAVADO INTERNATIONAL GROUP
 17 MERCHANDISING SERVICES INC., a
 18 California Corporation; URBAN
 OUTFITTERS, INC., a Pennsylvania
 19 Corporation; MACY'S, INC., a Ohio
 20 Corporation; and DOES 1-10;
 21 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
AND
2. VICARIOUS AND/OR
CONTRIBUTORY COPYRIGHT
INFRINGEMENT

Jury Trial Demanded

1 Chi Modu (“MODU”), by and through his undersigned attorneys, hereby prays
2 to this honorable Court for relief based on the following:

3 **INTRODUCTION**

4 MODU is a renowned photographer who is particularly well-known for his
5 compelling work depicting prominent figures in the world of hip-hop. MODU created
6 a number of particularly resonant images of the late recording artists Tupac Shakur
7 and Christopher “Notorious B.I.G” Wallace. Certain of these photographs, as set
8 forth in the left column of **Exhibit A** and referenced hereinafter as the “Subject
9 Photographs,” have been misappropriated and used without permission by the
10 Defendants, and each of them. These Defendants unlawfully licensed, developed,
11 distributed, marketed, published, and sold product bearing the Subject Photographs,
12 and did so without authorization from MODU. This action follows to address the
13 infringement.

14 **JURISDICTION AND VENUE**

15 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., §§
16 101, *et seq.*

17 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
18 1338 (a) and (b).

19 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
20 1400(a) in that this is the judicial district in which a substantial part of the acts and
21 omissions giving rise to the claims occurred.

22 **PARTIES**

23 4. MODU is an individual residing in the state of New Jersey in the United
24 States.

25 5. Plaintiff is informed and believes and thereon alleges that Defendant
26 BRAVADO INTERNATIONAL GROUP MERCHANDISING SERVICES INC.
27 (“BRAVADO”) is a California corporation doing business in, and with the residents
28

1 of, the State of California, with a principal address at 2220 Colorado Avenue, Santa
2 Monica, California 90404.

3 6. Plaintiff is informed and believes and thereon alleges that Defendant
4 URBAN OUTFITTERS, INC. (“URBAN”) is a Pennsylvania corporation doing
5 business in, and with the residents of, the State of California.

6 7. Plaintiff is informed and believes and thereon alleges that Defendant
7 MACY’S, INC. (“MACY’S”) is an Ohio corporation doing business in, and with the
8 residents of, the State of California.

9 8. Defendants DOES 1 through 10, inclusive, are other parties not yet
10 identified who have infringed Plaintiff’s copyrights, have contributed to the
11 infringement of Plaintiff’s copyrights, or have engaged in one or more of the
12 wrongful practices alleged herein. The true names, whether corporate, individual or
13 otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff,
14 which therefore sue said Defendants by such fictitious names, and will seek leave to
15 amend this Complaint to show their true names and capacities when same have been
16 ascertained.

17 9. Plaintiff is informed and believes and thereon alleges that at all times
18 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
19 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
20 at all times acting within the scope of such agency, affiliation, alter-ego relationship
21 and/or employment; and actively participated in or subsequently ratified and adopted,
22 or both, each and all of the acts or conduct alleged, with full knowledge of all the
23 facts and circumstances, including, but not limited to, full knowledge of each and
24 every violation of Plaintiff’s rights and the damages to Plaintiff proximately caused
25 thereby.

1 21. Plaintiff is informed and believes and thereon alleges that, without
2 Plaintiff's authorization, Defendants, and each of them, advertised, distributed,
3 marketed, and/or sold product bearing images that are identical to, or substantially
4 similar to, the Subject Photographs.

5 22. MODU is informed and believes and thereon alleges that Defendants, and
6 each of them, infringed MODU's copyrights by licensing the Subject Photographs
7 and/or creating an infringing derivative work from the Subject Photographs and then
8 distributing and selling the Accused Products to the public.

9 23. Defendants, and each of them, infringed MODU's rights by copying the
10 Subject Photographs, and distributing and/or selling the Accused Products, without
11 MODU's authorization or consent.

12 24. Due to Defendants', and each of their, acts of infringement, MODU has
13 suffered actual, general and special damages in an amount to be established at trial.

14 25. Due to Defendants' acts of copyright infringement as alleged herein,
15 Defendants, and each of them, have obtained direct and indirect profits they would
16 not otherwise have realized but for their infringement of MODU's rights in the
17 Subject Photographs. As such, MODU is entitled to disgorgement of Defendants'
18 profits directly and indirectly attributable to Defendants' infringement of her rights in
19 the Subject Photographs in an amount to be established at trial.

20 26. MODU is informed and believes and thereon alleges that Defendants, and
21 each of their, conduct as alleged herein was willful, reckless, and/or with knowledge,
22 subjecting Defendants, and each of them, to enhanced statutory damages, claims for
23 costs and attorneys' fees, and/or a preclusion from deducting certain overhead when
24 calculating disgorgeable profits.

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SECOND CLAIM FOR RELIEF

(For Vicarious and/or Contributory Copyright Infringement – Against all Defendants, and Each)

27. MODU repeats, re-alleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

28. MODU is informed and believes and thereon alleges that Defendants knowingly induced, participated in, aided and abetted in and profited from the illegal reproduction and distribution of the Subject Photographs as alleged hereinabove. Specifically, the URBAN, MACYS, and DOEs transacted with BRAVADO, and/or the wholesaler Defendant, and the wholesaler Defendant transacted with its suppliers, in a concerted effort to create, distribute, and sell the Accused Products. And BRAVADO obtained and distributed unlawful copies of the Subject Photographs to garment manufacturers and retailers with the understanding that the Accused Products would be developed, marketed, and sold at retail. And, Defendants, and each of them, realized profits through their respective obtainment, sales, and distribution of the Accused Products.

29. MODU is informed and believes and thereon alleges that Defendants, and each of them, are vicariously liable for the infringement alleged herein because they had the right and ability to supervise the infringing conduct and because they had a direct financial interest in the infringing conduct. Specifically, each Defendant in the supply chain had the ability to oversee the development and distribution of the product as engaged in by the party from which it obtained the Accused Products, or component thereof. Specifically, BRAVADO had the right and ability to oversee the unlawful copying and exploitation of the Subject Photographs, and their distribution to URBAN, MACYS, and others, yet failed to stop the infringement. And,

1 Defendants, and each of them, realized profits through their respective obtainment,
2 sales, and distribution of the Accused Products.

3 30. By reason of Defendants', and each of their, acts of contributory and
4 vicarious infringement as alleged above, MODU has suffered and will continue to
5 suffer substantial damages to her business in an amount to be established at trial, as
6 well as additional actual, general and special damages in an amount to be established
7 at trial.

8 31. Due to Defendants' acts of copyright infringement as alleged herein,
9 Defendants, and each of them, have obtained direct and indirect profits they would
10 not otherwise have realized but for their infringement of MODU's rights in the
11 Subject Photographs. As such, MODU is entitled to disgorgement of Defendants'
12 profits directly and indirectly attributable to Defendants' infringement of her rights in
13 the Subject Photographs, in an amount to be established at trial.

14 32. MODU is informed and believes and thereon alleges that Defendants, and
15 each of their, conduct as alleged herein was willful, reckless, and/or with knowledge,
16 subjecting Defendants, and each of them, to enhanced statutory damages, claims for
17 costs and attorneys' fees, and/or a preclusion from deducting certain overhead when
18 calculating disgorgeable profits.

19 **PRAYER FOR RELIEF**

20 Wherefore, Plaintiff prays for judgment as follows:

21 **Against All Defendants**

22 **With Respect to Each Claim for Relief**

- 23 a. That Defendants, their affiliates, agents, and employees be enjoined
24 from infringing Plaintiff's copyrights in and to the Subject Photographs.
- 25 b. That Plaintiff be awarded all profits of Defendants, and each, plus all
26 losses of Plaintiff, plus any other monetary advantage gained by the
27 Defendants through their infringement, the exact sum to be proven at the

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time of trial, or, if elected before final judgment, statutory damages to the extent they are available under the Copyright Act, 17 U.S.C. §§ 101, *et seq.*;

- c. That Plaintiff be awarded its costs and attorneys' fees to the extent they are available under the Copyright Act U.S.C. §§ 101, *et seq.*;
- d. That a trust be entered over all Accused Products, and all profits realized through the sales and distribution of said product;
- e. That Plaintiff be awarded pre-judgment interest as allowed by law;
- f. That Plaintiff be awarded the costs of this action; and
- g. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED.

Respectfully submitted,

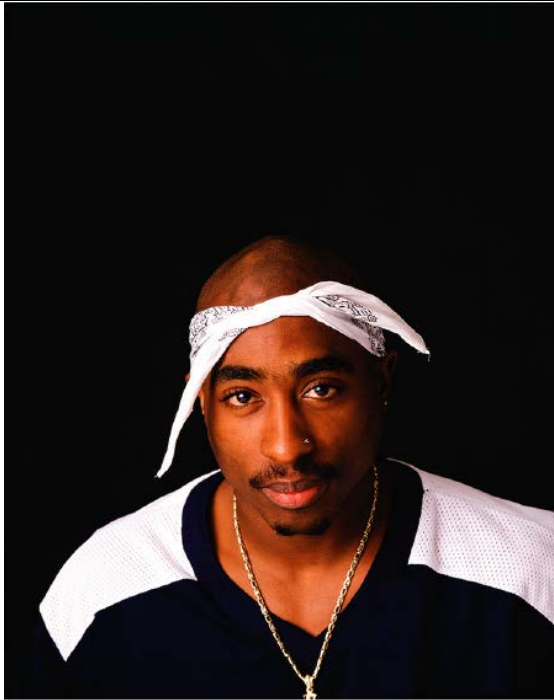
Dated: September 21, 2017

By: /s/ Scott Alan Burroughs
Scott Alan Burroughs, Esq.
Justin M. Gomes, Esq.
DONIGER / BURROUGHS
Attorneys for Plaintiff
CHI MODU

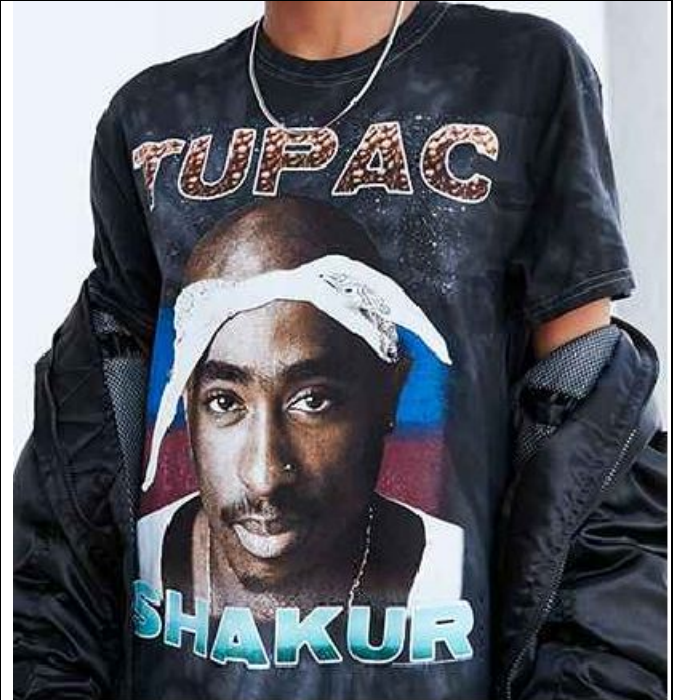
EXHIBIT A

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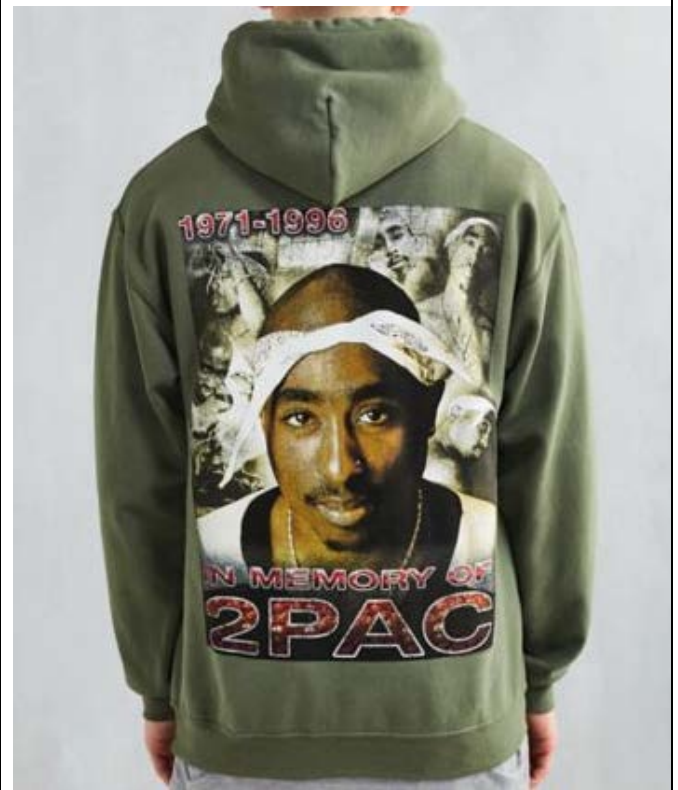
SUBJECT PHOTOGRAPHS



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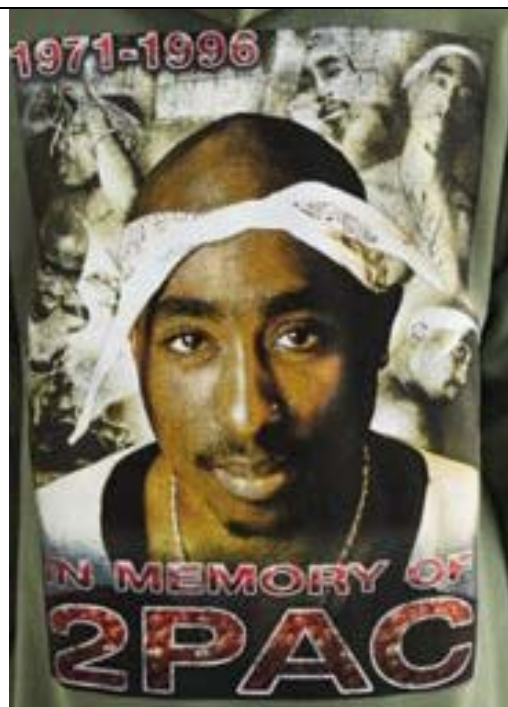
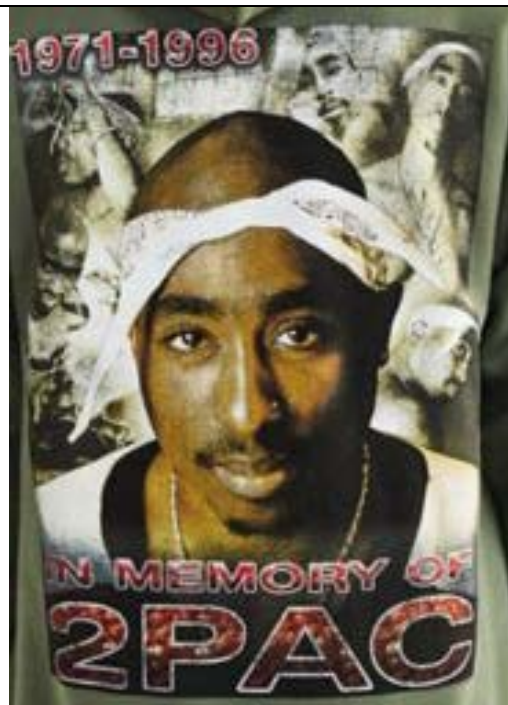
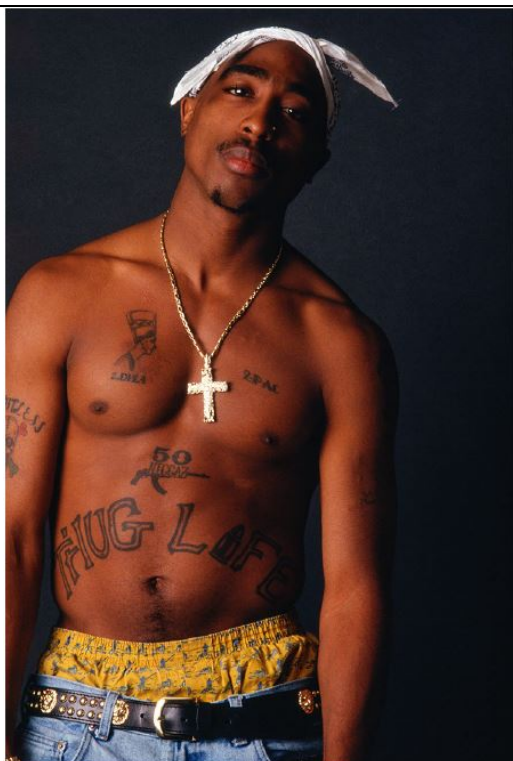
SEE ABOVE.



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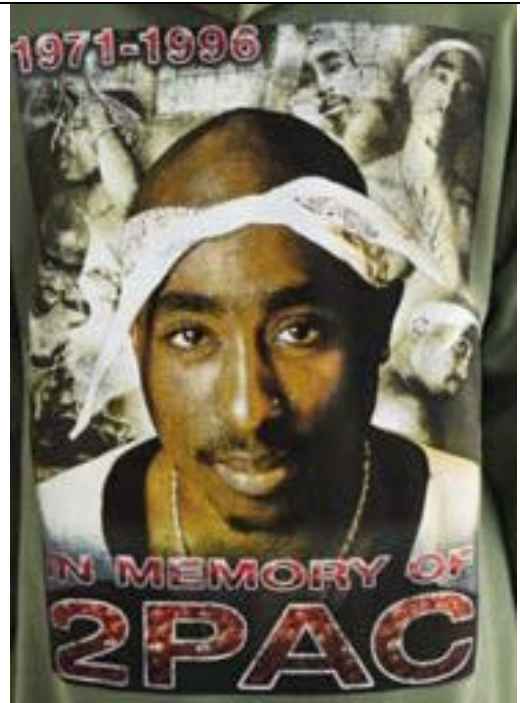
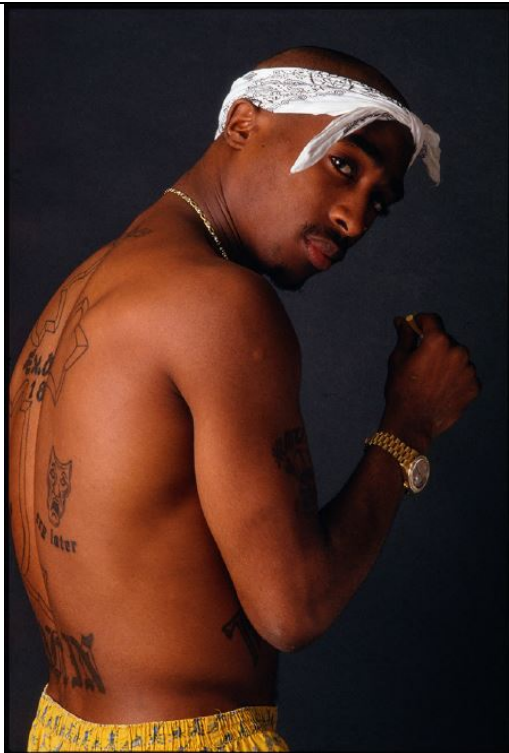
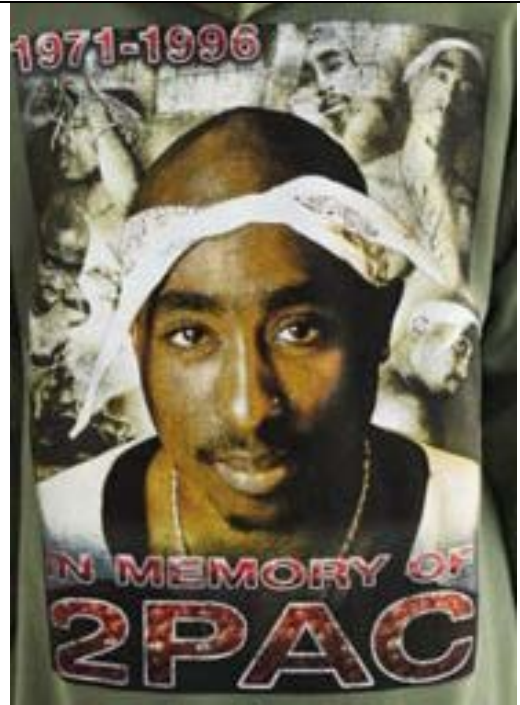
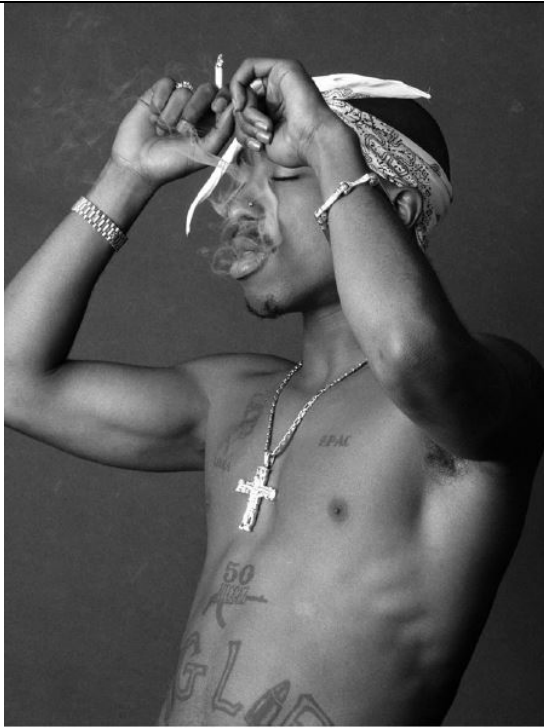
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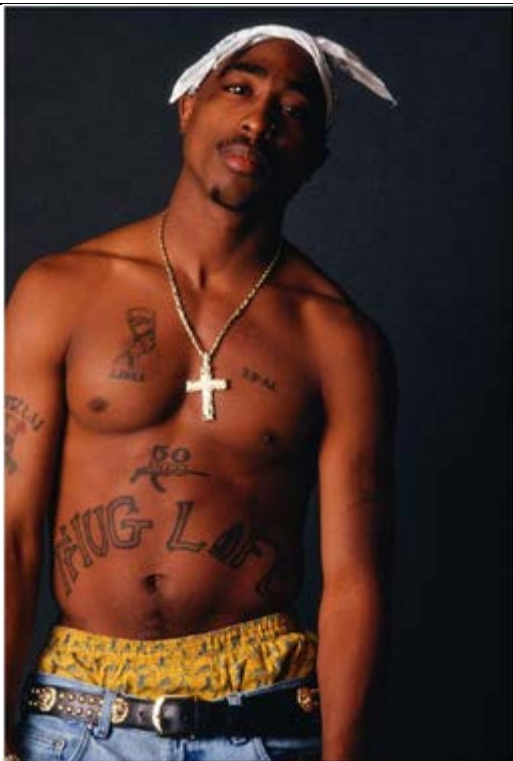
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