

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

‘O’

Case No. 2:15-cv-05642-CAS (JCx) Date July 17, 2019

Title MARCUS GRAY; ET AL. V. KATY PERRY; ET AL.

Present: The Honorable CHRISTINA A. SNYDER

Catherine Jeang

Laura Elias

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Eric Kayira

Jeffrey Movit

Michael Kahn

Christine Lepera

Lauren Cohen

Aaron Wais

Jacob Albertson

Vincent Chieffo

Gabriella Nourafchan

Proceedings: DEFENDANTS’ EX PARTE APPLICATION TO DISQUALIFY
COUNSEL ERIC KAYIRA (Dkt. 421, filed July 15, 2019)
DEFENDANTS’ SECTION 411(b) DEFENSE

On July 10, 2019, defendants filed an amended proposed pretrial conference order which provided more details about their contention that plaintiffs’ copyright in “Joyful Noise” is invalid. Specifically, defendants added the following two arguments: (1) plaintiffs’ copyright does not protect the portion of “Joyful Noise” that is at issue in this case, namely, the instrumental beat created by plaintiff Chike Ojukwu and later licensed to Gray; and (2) plaintiffs’ copyright registration contains knowingly false or inaccurate information such that if the Register of Copyrights had known of the inaccurate information she would not have registered the copyright. Dkt. 405-1 at 2. The Court approved defendants’ amendments on July 11, 2019. Dkt. 406.

Plaintiffs subsequently argued that defendants should not be allowed to argue that the copyright is invalid because it contains false or inaccurate information because 17

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U.S.C. § 411(b)(2) requires that “[i]n any case in which inaccurate information . . . is alleged, the court shall request the Register of Copyrights to advise the court whether the inaccurate information, if known, would have caused the Registration of Copyrights to refuse registration.” Dkt. 413. Considering that the Register of Copyrights has not been asked to advise the court whether the alleged inaccuracies in the copyright registration would have caused her to refuse registration and doing so would delay the trial that is to commence today, the Court hereby strikes from the pretrial conference order defendants’ argument that the copyright registration is invalid because it contains knowingly false or inaccurate information. Defendants may argue that plaintiffs’ copyright does not protect the instrumental beat created by Okujwu because it is a pre-existing work.

And in light of plaintiffs’ counsel’s representation that they do not intend to call Eric Kayira as a witness during their case-in-chief, the Court **DENIES** as moot defendants’ *ex parte* application to disqualify Eric Kayira as trial counsel. If defendants intend to call Eric Kayira as a witness, defendants will be required to make an offer of proof.

IT IS SO ORDERED.

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