

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. CV 20-07165-CJC(JEMx)

Date: October 13, 2020

Title: FASHION AVENUE SWEATER KNITS, LLC V. A'GACI, LLC, ET AL.

PRESENT:

HONORABLE CORMAC J. CARNEY, UNITED STATES DISTRICT JUDGE

Cheryl Wynn
Deputy Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

None Present

None Present

PROCEEDINGS: (IN CHAMBERS) ORDER TO SHOW CAUSE WHY THE COURT SHOULD NOT DISMISS FOR MISJOINDER ALL BUT THE FIRST NAMED DEFENDANT

Plaintiff Fashion Avenue Sweater Knits, LLC, filed this copyright infringement action against Defendants A'Gaci, LLC, Carol's Fashions, DJ's Ladies Apparel Corp., Ross Merchandising, Inc., Dillard's, Inc., Gabriel Brothers, Inc., Importadora Maduro S.A., McCaulou's, Inc., Minneapolis Rag Stock Company, PCX, Inc., The Portland Merchandise Corp., R.H. Reny, Inc., Regine's Originals, Inc., Specialty Retailers, Inc., Spencer Spirit Holdings, Inc., Synergy Sportswear, Inc., The TJX Companies, VF Outlet, Inc., Dr. Jay's, Inc., and unnamed Does. (Dkt. 1 [Complaint, hereinafter "Compl."].)

Plaintiff is a clothing designer and manufacturer that owns the copyrights to several textile designs. (*Id.* ¶ 30.) Plaintiff alleges that Defendants infringed upon these copyrights by advertising, distributing, or selling garments featuring designs that are substantially similar to Plaintiff's copyrighted designs. (*Id.* ¶ 62.) Plaintiff further alleges that Defendants have all purchased the allegedly infringing garments from the same distributor—Poof Apparel Corp. (*Id.* ¶ 33.)

Under the Federal Rules of Civil Procedure, persons may be joined in one action as defendants if "(A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and (B) any question of law or fact common to all

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES – GENERAL

Case No. CV 20-07165-CJC(JEMx)

Date: October 13, 2020

Page 2

defendants will arise in the action.” Fed. R. Civ. P. 20(a)(2)(A–B). When defendants are improperly joined, “the Court may dismiss all but the first named defendant without prejudice so that separate suits may be filed against the dropped defendants.” *Star Fabrics, Inc. v. Ross Stores, Inc.*, 2015 WL 12732424, at *4 (C.D. Cal. Mar. 20, 2015) (citing Fed. R. Civ. P. 21); *see Coughlin v. Rogers*, 130 F.3d 1348, 1351 (9th Cir. 1997) (affirming the district court’s dismissal of all but the first named plaintiff for misjoinder).

Here, Plaintiff’s claims against Defendants do not appear to arise out of the same transaction, occurrence, or series of transactions or occurrences. Accordingly, Plaintiff is **ORDERED** to show cause why the Court should not dismiss for misjoinder all but the first named defendant. Plaintiff shall file its response by Friday, October 23, 2020. Defendants may submit a response by the same deadline.

gl

MINUTES FORM 11
CIVIL-GEN

Initials of Deputy Clerk CW