

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

ESTATE OF JOE BROWN, Plaintiff, vs. ARC MUSIC GROUP, et al., Defendants. Case No. 10 CV 07141 Judge Leinenweber

THE FREDERICK DEFENDANTS' MOTION FOR JUDGMENT

Defendants Frederick Music Co. and Vincent Brandom (the "Frederick Defendants") request that this Court enter a judgment in their favor and against Plaintiff the Estate of Joe Brown (the "Estate") in the amount of \$17,775.00, the amount of attorney fees awarded to the Frederick Defendants as prevailing parties under the Copyright Act. In support of this Motion, the Frederick Defendants state:

- 1. On August 17, 2012, this Court entered an Order finding that the Frederick Defendants were entitled to an award of attorney fees as prevailing parties on the claim the Plaintiff Estate brought under the Copyright Act.
2. On October 16, 2012, this Court entered an Order finding that the Frederick Defendants' fees and expenses were reasonable and awarding the Frederick Defendants attorney fees in the amount of \$17,775.00.
3. On November 13, 2012, the Estate filed a Motion for Reconsideration of October 16, 2012 Order Awarding ARC & Frederick Defendants Attorneys Fees ("Motion to Reconsider") questioning the amount of fees awarded to the Frederick Defendants. The Plaintiff

Estate, however, did not notice up the Motion to Reconsider. Pursuant to Local Rule 5.3(h), all motions must be presented to the district court not later than fourteen (14) days after the filing date. The Plaintiff Estate did not notice up or present the Motion to Reconsider within fourteen (14) days and therefore it should have been stricken.

4. On December 5, 2012, the Plaintiff Estate filed a Motion and a Notice of Motion setting presentment of that Motion for December 13, 2012. The body of the December 5 Motion states nothing more than “See Motion filed 11-13-2012,” referring back to the earlier filed Motion to Reconsider.

5. On December 13, 2012, the Court denied without prejudice the Plaintiff Estate’s December 5 Motion. The Frederick Defendants are informed and believe that the December 5 Motion was denied because the Estate was not represented by counsel, an estate may not appear unrepresented by counsel and the administrator can not appear for an estate.

6. The Plaintiff Estate’s Motion to Reconsider was filed pursuant to Rule 59 of the Federal Rules of Civil Procedure. All motions filed under Rule 59 must be filed within twenty-eight (28) days after the date judgment is entered. More than twenty-eight (28) days have passed since the Court denied Plaintiff Estate’s December 5 Motion and more than ninety (90) days have passed since the Court set the amount of fees due the Frederick Defendants.

7. The Frederick Defendants are entitled to move forward and enforce the fee award against the Plaintiff Estate. The Plaintiff Estate has delayed the Frederick Defendants ability to enforce the fee award by repeatedly making ineffective filings. The time for filing a Motion to Reconsider is past. This Court should not allow any further delay.

WHEREFORE, Frederick Music Company and Vincent Brandom requests that this Court enter a judgment in their favor and against the Plaintiff Estate in the amount of \$17,775.00.

FREDERICK MUSIC CO.  
AND VINCENT BRANDOM

By: /s/ Cristofer E. Lord  
One of their attorneys

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CERTIFICATE OF SERVICE

I Cristofer E. Lord, an attorney, hereby certify that I electronically filed the foregoing Notice of Motion and Frederick Defendants' Motion for Judgment and I caused it to be served upon the Estate of Joe Brown, c/o Joe Brown, 441 Talala Street, Park Forest, Illinois 60466 by depositing same, proper postage prepaid, in the United States mail at 10 South LaSalle Street, Chicago, Illinois and upon all counsel of record with the district court ECF system, on this 14<sup>th</sup> day of February, 2013.

/s/ Cristofer E. Lord