

WHAT TO EXPECT WHEN YOU'RE EXPECTING . . . A LAWSUIT

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Overview

- Common Claims against School Districts
- The Civil Suit
- The Litigation process
- Tips to Avoid Litigation

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Common State Law Claims

- Negligence/Gross Negligence
- Defamation
- Breach of Contract
- Civil Conspiracy
- FOIA
- Construction
- Breach of Contract
- Property Disputes

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Common Federal Law Claims

- Title VII Discrimination
 - *Race, Sex, Age, National Origin, Religion*
- 1983 Civil Rights Claims
- First Amendment Claims
- Due Process Claims under the 14th Amendment
- Individuals with Disabilities Education Act/504 Rehabilitation Act

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Parties to the Lawsuit

- Plaintiff – the person or entity filing the suit
- Defendant – the person being sued
- Co-defendants – other persons/entities being sued
- Defendants can include the District, the Board, individual employees, and individual board members

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The Role of Insurance

- All Districts have insurance that will pay for the defense of the case
- Insurance will also pay for a settlement or jury verdict
- Reservation of Rights

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THE CIVIL SUIT

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The Civil Suit

- “Anti-spoliation Letter”
 - Sent by employee’s/student’s legal counsel
 - *reserve ALL documentation and electronic communications related to the employee/allegations*

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The Civil Suit

- Summons and Complaint
 - Initiates a civil suit
 - Filed in Court of Common Pleas in *county where defendant resides or where event took place*

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The Civil Suit

STATE OF SOUTH CAROLINA)
COUNTY OF Aiken)
Sysco Columbia, LLC,)
Plaintiff,)
v.)
The Alley Restaurant Group, LLC d/b/a The)
Bradley and Kevin Bradley,)
Defendants.)

IN THE COURT OF COMMON PLEAS

SUMMONS
(Non-Jury)

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the Verified Complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your Answer to said Verified Complaint upon the undersigned subscribers at Post Office Box 61110, Columbia, South Carolina 29260, within thirty (30) days after service upon you, exclusive of the day of such service; and if you fail to answer the Verified Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Verified Complaint.

Caitlin C. Heyward
Joey R. Floyd, S.C. Bar No. 68419
Caitlin C. Heyward, S.C. Bar No. 101158
Bruner Powell Wall & Mullins, LLC
P.O. Box 61110
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Attorneys for the Plaintiff

Columbia, South Carolina
January 15, 2018

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2:18-cv-00417-DCN Date Filed 02/13/18 Entry Number 1 Page 1 of 6

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

WB MUSIC CORP., HULEX MUSIC,
UNIVERSAL MUSIC CORPORATION,
MEENYOA MUSIC, BMG RIGHTS
MANAGEMENT (US) L.L.C. d/ba BMG
GOLD SONGS, and TONY FADD BEATS,
Plaintiffs,
vs.
JRCM HOLDINGS, L.L.C., JOHN BAILEY,
AND CLIFFORD MCGEEHEE,
Defendants.

Civil Action No.: 2:18-cv-00417-DCN

COMPLAINT

Plaintiffs, by their undersigned attorneys, allege:

1. This is a suit for copyright infringement under Title 17 of the United States Code.

2. This Court has jurisdiction pursuant to 28 U.S.C. § 1338(a), and venue in this District is proper pursuant to 28 U.S.C. § 1400(a).

3. Plaintiffs allege four (4) causes of action for copyright infringement based on the Defendants' public performances of Plaintiffs' copyrighted musical compositions. SCHEDULE A, annexed to the Complaint, sets forth in summary form the allegations hereinafter made with respect to the Plaintiffs, their copyrighted musical compositions, and Defendants' acts of infringement.

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The Civil Suit

- Summons and Complaint
 - Must be served on *each defendant* named in the case
 - Timelines start running!

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THE LITIGATION PROCESS

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The Litigation Process

- The process is slightly different depending on whether the case is federal or state.
- Can possibly *remove* case to Federal court
 - If it involves Federal law
 - Federal Rules of Civil Procedure will then apply
 - Defense counsel prefers federal court

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The Litigation Process

- Answer and Affirmative Defenses
 - Admit, Deny, Admit/Deny in Part
 - Legal defenses – certain defenses you must assert in your answer, or you lose them!
 - Must file *within 30 days* of service

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The Litigation Process

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG) IN THE COURT OF COMMON PLEAS

L.G., individually and as the parent and)
natural guardian of JANE DOE, a minor,) C.A. No. 2018-CP-45-00244
Plaintiff,)
vs.) **ANSWER AND AFFIRMATIVE**
Williamsburg County School District,) **DEFENSES**
Defendant.)

Defendant Williamsburg County School District ("District") by and through its undersigned counsel, hereby responds to the Complaint of Plaintiffs, and deny each and every allegation of the Complaint except as may be expressly admitted herein, and further responds to the specific allegations of Plaintiff's Complaint, in accordance with the numbered paragraphs thereof, as follows:

PARTIES, JURISDICTION, AND VENUE

1. Admitted, upon information and belief.
2. Admitted.
3. Admitted.
4. Admitted, upon information and belief.
5. Admitted.
6. Admitted.

FACTUAL ALLEGATIONS

7. Admitted in part and denied in part. Defendant admits only that minor Plaintiff was a student at Kingstree Middle Magnet School on February 26, 2016, and after being found in

Response to Prayer for Relief

65. Defendants deny that Plaintiffs are entitled to any of the relief requested or to any other relief.

First Affirmative Defense

66. The Amended Complaint fails to state a claim for which relief may be granted.

Second Affirmative Defense

67. The claims contained in the Amended Complaint are barred under the doctrines of waiver, estoppel and laches.

Third Affirmative Defense

68. The claims contained in the Amended Complaint are barred by the doctrine of unclean hands.

Fourth Affirmative Defense

69. Plaintiffs fail adequately to plead their cause of action for fraud with particularity.

Fifth Affirmative Defense

70. Plaintiffs have failed to mitigate any damages that allegedly exist.

Sixth Affirmative Defense

71. Plaintiffs' claim for breach of contract is barred in whole or in part by their non-performance.

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The Litigation Process

■ Discovery Phase

■ Written discovery requests

Interrogatories

Requests for Production

Requests to Admit

■ Must respond *within 30 days* of service

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The Litigation Process

- Types of documents most likely required to be requested by the plaintiff

- * *Personnel file*
- * *Student records*
- * *Emails/Texts*
- * *Policies & Procedures*
- * *Letters*
- * *Photos, audio, video*
- * *Financial records*

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The Litigation Process

- Depositions
 - Out of court testimony
 - Under oath
 - Can be used for dispositive motions and at trial



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The Litigation Process

- Mediation
 - Parties come to the table, with mediator, to try to resolve their disagreement
- Settlement, hopefully
 - Most cases DO settle!



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The Litigation process

- Trial, if no settlement
 - If the parties are unable to reach an agreement at mediation, the case will proceed to trial



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The Litigation Process

- Appeal
 - The losing party can appeal the verdict
 - *Legal issues must be preserved* for the appellate court's review
 - Usually 30 days to file notice of appeal

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Help us, help you!

- *Call your Attorney Early on*
- *Documentation is your friend!*
- *No surprises, please!*

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?QUESTIONS?



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