

Barry Manilow's Management Co. Escapes Film Copyright Suit

By **Tiffany Hu**

Law360 (June 18, 2019, 8:47 PM EDT) -- A management company for Barry Manilow has escaped litigation over copyrights for two films featuring the singer, after a California federal judge found that the production company bringing the suit failed to show how it qualified for authorship.

U.S. District Judge Dale S. Fischer on Monday released management company Hastings Clayton & Tucker Inc. from a suit filed by production company Stiletto Television Inc. alleging that HCT was not entitled to copyrights for two films featuring performances by Manilow that first aired on PBS in the mid-aughts.

Notably, the judge rejected Stiletto Television's contentions that, because it had held itself out as the exclusive copyright owner of the films for more than a decade, the three-year period for the management company to bring its ownership claims had long passed under the Copyright Act.

"STV's argument that this [summary judgment] motion should be denied because HCT's claims are time-barred fails, because HCT is not the claimant here," the judge wrote. "STV provides no authority for its contention that a defendant is time-barred from asserting ownership when its ownership is challenged under [the act]. The court has found none."

The production company had also argued that Manilow, along with film director David Mallet and producer Paul Morphos, did not have valid copyrights for the works when they assigned their copyrights to HCT in February. Those rights were already assigned to STV through agreements that employees of HCT had supposedly reviewed and approved, STV contended.

But Judge Fischer was unpersuaded, noting that STV had failed to offer any evidence that Manilow and the others had assigned the rights to the production company before February. This "unsupported assertion is insufficient to raise a genuine dispute concerning the validity of the assignments," the judge ruled.

Judge Fischer also struck down STV's argument that it was a joint owner in the films, ruling that the production company did not have artistic control of the works and that its involvement was limited to logistics and financing.

STV had initiated the copyright suit in May 2018, after HCT applied for copyright registration of a film of Manilow's 100th and 101st performances in Las Vegas, titled "Music and Passion: Live," which first aired on PBS in 2006, according to the complaint.

HCT, which does business as Stiletto Entertainment, was also registering for copyrights of another film of a performance by the singer in Brooklyn, New York, titled "Songs from the Seventies," which first aired on PBS in late 2007, the production company said.

STV had urged the judge in April to reject HCT's bid for summary judgment, saying that the production company significantly contributed to the making of the films and that it had consistently asserted its copyright interest over each film.

However, after **disqualifying STV's counsel** Pierce Bainbridge Beck Price & Hecht LLP from

representing the company in the case, finding the firm has a conflict of interest involving the parties, Judge Fischer on Monday granted the summary judgment motion.

"This lawsuit lacked merit, and we are glad the court saw it for what it was," Ryan Lapine of Rosenfeld Meyer & Susman LLP, an attorney for HCT, said in a Tuesday statement. "Stiletto Entertainment and I are hopeful that going forward this result will inform STV, its controlling principals, and its disqualified counsel, Pierce Bainbridge Beck Price & Hecht LLP, to refrain from initiating lawsuits that lack factual support."

STV could not immediately be reached for comment.

HCT is represented by Ryan M. Lapine and Joshua H. Herr of Rosenfeld Meyer & Susman LLP.

Counsel information for STV was not immediately available Tuesday.

The case is Stiletto Television Inc. v. Hastings Clayton & Tucker Inc. et al., case number 2:18-cv-03911, in the U.S. District Court for the Central District of California.

--Additional reporting by Kevin Penton. Editing by Nicole Bleier.