

Winston Pro Bono Team Wins Reversal in Seventh Circuit, Granting Client's Claim of Copyright Infringement

AUGUST 12, 2016

A Winston & Strawn Chicago-based pro bono team secured a victory in the Seventh Circuit Court of Appeals on behalf of our client Jesus Muhammad Ali, grandson of the former Nation of Islam leader Elijah Muhammad.

Mr. Ali is a portrait artist who has created the portraits of several well-known and influential public figures, including Dr. Martin Luther King, Robert Kennedy, Muhammad Ali, and Minister Louis Farrakhan. In 2013, Mr. Ali sued The Final Call, Inc., the “propagation arm of the Nation of Islam,” for infringing his copyrights in his portrait of Minister Louis Farrakhan. Following a bench trial, the district court rendered an oral verdict against Mr. Ali and in favor of The Final Call. The district court held that Mr. Ali failed to prove The Final Call’s copying of his work was “unauthorized.” While the court acknowledged it was not certain of which party bore the burden on “authorization”—it determined this to be a non-issue, holding even if it was The Final Call’s burden to prove authorization, The Final Call established an implied license and/or first sale affirmative defense.

The Winston team took over the case on appeal and argued that: (1) the district court erred as a matter of law by placing the burden on Mr. Ali to prove the final call’s copying was unauthorized, and (2) the district court clearly erred in finding the evidence at trial sufficient to make out an implied license or first sale defense. The Seventh Circuit agreed with both points reversing the district court’s decision. The court granted the specific relief the team requested and remanded the case for an assessment of damages against The Final Call and in favor of our client.

Associates Brett Walker and Mike Toomey assisted with the matter.

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