

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ISAAC HAYES ENTERPRISES, LLC, a Georgia Domestic Limited Liability Company, and **ISAAC HAYES, III**, as representative of the **ESTATE OF ISAAC L. HAYES, JR.**

Plaintiffs,

v.

DONALD JOHN TRUMP individually, **DONALD J. TRUMP FOR PRESIDENT, 2024, INC.**, **REPUBLICAN NATIONAL COMMITTEE, TURNING POINT USA, INC.**, **NATIONAL RIFLE ASSOCIATION OF AMERICA**, **AMERICAN CONSERVATIVE UNION**, **BTC, INC.**,

Defendants.

CASE NO: 1:24-cv-03639-TWT

**PLAINTIFFS' MOTION FOR LEAVE TO FILE SECOND AMENDED
COMPLAINT AND MEMROANDUM OF LAW IN SUPPORT**

INTRODUCTION

Issac Hayes, III, and Isaac Hayes Enterprises, LLC (referred to herein collectively as "Plaintiffs"), respectfully move this Court, pursuant to Rule 15 of the Federal Rules of Civil Procedure, for leave to file a **SECOND AMENDED COMPLAINT**, a copy of which is attached hereto, as **Exhibit 1**.

The new complaint maintains substantially the same counts and allegations, but accounts for significant factual and procedural developments that have occurred since the original complaint and the first amended complaint were filed, including but not limited to a change in counsel, the omission of facts and allegations regarding the master recording, comments from this Court regarding the clarity of allegations regarding copyright ownership, and the dismissal of parties that have presented proof of a valid license to use “Hold on I’m Comin.” As such, the signature lines have been modified, allegations and facts related to the master sound recording have been removed, irrelevant or superfluous facts have been replaced with clarifying or explanatory information; and, the Republican National Committee, the National Rifle Association of America, Inc., and the American Conservative Union, have been omitted.

Plaintiffs and the remaining defendants have met and conferred on several occasions since the Court’s September 3rd hearing on Plaintiffs Amended Motion for a Preliminary Injunction. As of the time of this filing, Defendants are expecting and do not object to the filing of the SECOND AMENDED COMPLAINT. The parties have not formally stipulated the same. Thus, Plaintiffs seek the Court’s leave to amend, which should be granted, for the reasons set forth herein.

FACTS AND PROCEDURAL POSTURE

On August 16, 2024, Plaintiffs initiated this action by filing a complaint and jury demand with this Court, alleging that Donald J. Trump (hereafter “Trump”) and various agents and or affiliates have been using the work entitled “Hold on I’m Coming” (hereafter “Work”), as well as, the trademarks of, and the name image and likeness of Issac Lee Hayes, Jr., without authorization, in relationship to Trumps 2020 and 2024 campaigns for president.

The same day the Plaintiffs filed a motion for an emergency preliminary injunction and request for an emergency hearing, to enjoin the unlawful use of the Work in relationship to Trump’s 2024 campaign, and generally.

On August 21, 2024, Plaintiffs filed their first amended complaint, as of right, and an amended motion for preliminary injunction.

On September 3, 2024, the Court had a hearing on Plaintiffs motion for preliminary injunction, wherein the Court barred Trump and his campaign from all future use of the Work without a valid license.

During the hearing, the Court mentioned the allegations of ownership were unclear and cumbersome, therefore, Plaintiffs seek to make them and the overall allegations clearer.

On September 14, 2024, Plaintiffs obtained new/additional counsel.

Since the hearing, Plaintiffs have discovered information that confirms they are

not the owners of the master recording in and to the Work, and thus all facts and allegations related to the same, must be omitted.

Since the hearing, all named defendants and Plaintiffs have discussed this matter, some have provided a valid license for the use of the Work, and need to be removed from the action. All parties to remain in the action are expecting the SECOND AMENDED COMPLAINT. There has been no objection to its filing.

ARGUMENT

PLAINTIFFS MEET THE STANDARD FOR OBTAINING LEAVE TO FILE A SECOND AMENDED COMPLAINT

A party may amend its pleading only with the written consent of all parties or court leave. (USCS Federal Rules Civil Procedure Rule 15, subsection (a)(2).) The Federal Rules require the Court to grant leave freely when justice so requires. (*Id.*) The decision whether to grant such leave is within the sound discretion of the trial court. (*Nat'l Serv. Indus., Inc. v. Vafla Corp.*, 694 F.2d 246, 249 (11th Cir. 1982).) However, absent a substantial reason to deny leave to amend, the discretion of the court is not broad enough to permit denial. (*Shipner v. E. Air Lines, Inc.*, 868 F.2d 401, 407 (11th Cir. 1989).)

Considering the developments since Plaintiffs filed suit in August, including but not limited to, the discovery of information related to ownership of the master recording, and the clarity of Plaintiffs allegations of copyright ownership, good cause

for amending the Complaint is apparent. The defendants will in no way be prejudiced if the changes are allowed at this point in the proceedings. The proposed amended complaint does not involve the addition of any new defendants, set forth any new claims, or raise any new legal theories. To the contrary, the proposed amendment omits defendants and claims. The changes in fact, are either omissions or based solely on sworn testimony already within the record, and that the Court has already relied upon within its ruling on Plaintiffs request for an injunction. Overall, Defendants will only benefit from the amendment (i.e. fewer allegations and or the overall dismissal from this action).

Furthermore, Plaintiffs have not delayed their filing and are not acting in bad faith – Plaintiffs moved diligently and judiciously to file these papers after learning of their ownership rights in and to the master recording, a change in counsel, and a full and complete determination of the parties that should be dismissed from the action. The interests of justice and judicial economy will undoubtedly be served by having all allegations properly before the Court as set forth in the Plaintiffs proposed amended complaint. The amendments are narrowly tailored to reflect the current circumstances of this matter and are geared towards a more effective resolution of this case, on the merits.

Finally, Plaintiffs’ requested amendment is not futile, as stated above, Plaintiffs are not seeking to assert new facts to make any allegation more plausible or to add a

new claim without sufficient factual justification. Thus, arguably the doctrine does not apply in this instance, and there is no known reason to deny the Plaintiffs' request.

Accordingly, consistent with the liberal standard that applies to Plaintiffs' motion, the Court should grant Plaintiffs request for leave to file the SECOND AMENDED COMPLAINT.

CONCLUSION

For the reasons identified above, the Plaintiffs request the Court grant Plaintiffs' Motion for Leave to file the SECOND AMENDED COMPLAINT.

Respectfully submitted this 27th day of September 2024.

/s/James L. Walker, Jr.
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Attorneys for Plaintiffs

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of L.R. 5.1, using font type of Times New Roman and a point size of 14.

This 27th day of September, 2024.

/s/James L. Walker, Jr.

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on the 27th day of September, 2024, I filed the foregoing with the Clerk of Court through the CM/ECF system which will automatically send electronic mail notification of such filing to the CM/ECF registered participants as identified on the Electronic Mail Notice List.

/s/James L. Walker, Jr.

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