

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01921-JLK

ARETHA FRANKLIN,

Plaintiff,

v.

ALLAN ELLIOTT, D/B/A AL'S RECORDS AND TAPES,

Defendant.

**STIPULATED MOTION FOR ENTRY OF AGREED INJUNCTION ENJOINING
ALAN ELLIOTT FROM SCREENING OR SHOWING FILM FOOTAGE AND
REQUEST TO ADMINISTRATIVELY CLOSE CASE PURSUANT TO
D.C.COLO.LCIVR 41.2**

Plaintiff Aretha Franklin (“Plaintiff”) and Defendant Alan Elliott (“Defendant”) jointly move the Court to enter the attached Stipulated Order which enjoins the Defendant, Alan Elliott, from showing or screening certain film footage under the terms described in the Order, and also ask that the Court administratively close this case pursuant to local rule, while granting the Parties leave to reopen on good cause shown.

The basis for this request is as follows: on September 16, 2015, this Court entered a Stipulated Temporary Order (“The First Order”) which enjoined Defendant from screening or showing film footage of Ms. Franklin’s 1972 gospel concert (the film *Amazing Grace*, absent certain conditions. *See* Doc. #21. The First Order provided that,

absent a request for a hearing by either Party within 30 days of September 16, the First Order would expire and have no further effect. The First Order also provided that Defendant would have thirty (30) days from the entry of that First Order to respond to the Complaint.

Since the entry of the First Order in September, 2015, the Parties have been engaged in extensive and extended negotiations seeking a resolution to this dispute. These negotiations have taken place in good faith. The negotiations, which involve third-parties, are very complex. The Court has been very indulgent in extending the terms of the First Order multiple times for the purposes of allowing negotiations to take place without the Parties unnecessarily expending resources litigating the substance of Ms. Franklin's claims and Mr. Elliott's defenses.

The most recent extension is due to expire on March 10, 2016. Unfortunately, given the complexity of the negotiations and the multiple parties involved (including persons or entities not involved in this litigation), there is, at present, no assurance that a final resolution will be reached in the near term. The Parties are optimistic that the stars will eventually align, but cannot in good conscience represent to the Court that there will be a final resolution in an additional 30 or even 60 days.

The Parties are sensitive to the Court's desire to see progress in this case. By the same token, it has been the pendency of the Court's temporary order that has allowed the negotiations to progress to an already advanced (albeit not final) stage. The attached

stipulated proposed order seeks to address both the Parties' and the Court's concerns.

First, the proposed order enjoins Mr. Elliott from showing or screening the film *Amazing Grace* without Ms. Franklin's express written authorization. This is effectively an extension of the existing temporary order, but eliminates any expiration date. Second, the proposed order contemplates administrative closure under D.C.COLO.LCIVR 41.2, with the Parties having the right to reopen the case on good cause shown. In this instance, it would constitute good cause if the negotiations were to cease to be productive and Mr. Elliot desired to dispute the allegations of the Complaint, file his response, and litigate his defenses to Ms. Franklin's allegations.

Thus, the proposed order maintains the injunction for an indefinite period of time, giving the Parties the breathing room they need to bring negotiations to a conclusion. It also addresses the Court's concerns about lack of progress by effectively taking the case off the docket, while giving the Parties the opportunity to reopen the case and restart the litigation for good cause.

Wherefore, the Parties respectfully request that the Court enter the attached proposed order.

Dated: March 7, 2016.

Respectfully submitted,

s/

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CERTIFICATE OF SERVICE (CM/ECF)

I HEREBY CERTIFY that on March 7, 2016, I electronically filed the foregoing **STIPULATED MOTION FOR ENTRY OF AGREED INJUNCTION ENJOINING ALAN ELLIOTT FROM SCREENING OR SHOWING FILM FOOTAGE AND REQUEST TO ADMINISTRATIVELY CLOSE CASE PURSUANT TO D.C.COLO.LCIVR 41.2** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following email addresses:

N. Reid Neureiter
neureiter@wtotrial.com; brock@wtotrial.com

and via email transmission to:

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s/N. Reid Neureiter
