

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA

Ergun M. Caner,	:	No.: 6:14-cv-004
Plaintiff	:	
v.	:	Civil Action - Law
	:	Jury Trial Demanded
Jonathan Autry,	:	(Electronically Filed)
Defendant	:	

**Unopposed Motion to Supplement Record**

AND NOW comes Defendant Jonathan Autry, by and through his counsel, Joshua M. Autry, Esquire, and asks this Court to supplement the record for his dispositive motion:

1. Plaintiff originally filed this action in the Northern District of Texas against Defendant Jonathan Autry as well as against Defendant Jason Smathers.
2. The Northern District of Texas severed the case and transferred the claims against Jonathan Autry to this Court.
3. There are still two pending dispositive motions (Docket #28 and Docket #29), which Defendants Autry and Smathers jointly filed.
4. On April 17, 2014, the Northern District of Texas granted summary judgment as to Jason Smathers.
5. On Saturday, April 26<sup>th</sup>, counsel for Jason Smathers provided undersigned counsel with an electronic copy of Dr. Caner's two application for copyrights.
6. Each application attaches the transcript of Dr. Caner's respective sermons.
7. Both applications fraudulently tell the Copyright Office that Dr. Caner's sermons were ***not for hire***. See Applications, attached hereto as Exhibit "A", pp. 2, 24 ("Work made for hire: No").

8. Notably, Dr. Caner filed these applications on the same day that he filed his Amended Complaint, which repeatedly says the opposite—that Dr. Caner “was compensated as an independent contractor.” Amended Complaint ¶¶ 15, 33, 42.

9. As indicated in Jonathan Autry’s opening brief, the employer, not the performer, owns the copyright for any work made for hire, unless a contract provides otherwise. *See* 17 USCS § 202(b). Further, the United States and specifically, the Defense Department, claims exclusive ownership of any of works produced under contract. DFARS 252.227-7020(c)(1, 2, 3). *See also* 17 USCS §§ 101, 105.

10. It is also significant that Dr. Caner did not seek any copyright over the other material in the Count 2 video, specifically the *Go Chad Live* vlog interview of Dr. Caner.

11. Dr. Caner’s copyright applications would aid this Court in resolving the dispositive motions.

12. Dr. Caner’s counsel has advised that he does not oppose this motion.

Wherefore, for the reasons stated herein, Jonathan Autry respectfully requests that this Court supplement the record to include Dr. Caner’s applications for copyrights.

**CLYMER MUSSER & CONRAD, P.C.**

*/s/ Joshua M. Autry*

**Joshua M. Autry, Esquire**

PA Supreme Court I.D. No. 208459

408 W. Chestnut Street

Lancaster, PA 17603

Telephone: (717) 299-7101

Facsimile: (717) 299-5115

Email: josh.autry@clymerlaw.com

Dated: April 28, 2014

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**CERTIFICATE OF SERVICE**

I hereby certify that on the date listed below I electronically filed the foregoing with the Court using the CM/ECF system, which sent notification of such filing to the following person(s) at the following email address(es):

David C. Gibbs  
[dgibbs@gibbsfirm.com](mailto:dgibbs@gibbsfirm.com)

Respectfully Submitted,  
Clymer Musser & Conrad, P.C.

/s/ Joshua M. Autry  
Joshua M. Autry, Esquire

Dated: April 28, 2014