

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

Ergun M. Caner,

Plaintiff

v.

Jonathan Autry,

Defendant

: No.: 6:14-cv-4

:

: Civil Action - Law

: Jury Trial Demanded

: (Electronically Filed)

:

**Brief in Support of
Motion to Supplement Record**

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Dated: April 28, 2014

I. Procedural History:

Plaintiff originally filed this action in the Northern District of Texas against Defendant Jonathan Autry as well as against Defendant Jason Smathers. The Northern District of Texas severed the case and transferred the claims against Jonathan Autry to this Court. There are still two pending dispositive motions (Docket #28 and Docket #29), which Defendants Autry and Smathers jointly filed. On April 17, 2014, the Northern District of Texas granted summary judgment as to Jason Smathers. On Saturday, April 26th, counsel for Jason Smathers provided undersigned counsel with an electronic copy of Dr. Caner's two application for copyrights. Each application attaches the transcript of Dr. Caner's respective sermons.

II. Argument:

Dr. Caner's copyright applications would aid this Court in resolving the dispositive motions. 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"). 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. 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. 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.

III. Conclusion

Therefore, Jonathan Autry requests this Honorable Court supplement the record to include Dr. Caner's applications for a copyrights.

Respectfully Submitted,

By: /s/ Joshua M. Autry
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Date: April 4, 2014

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

Dated: April 4, 2014