



Appeals court hands NJ a defeat in music law case

By: David Porter Associated Press Writer

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NEWARK, N.J. (AP) — The state of New Jersey has been handed a setback in a case involving the Truth In Music Act, though advocates of the law said Monday the ruling won't materially affect the law's effectiveness.

A federal appeals court ruled last week that the state Attorney General's Office must pay attorneys' fees to the promoter of groups calling themselves the Platters and the Cornell Gunter Coasters.

The case stems from 2007, when former New Jersey Attorney General Anne Milgram sought a restraining order to force the groups to call themselves "tribute" bands when they performed in Atlantic City. The groups sued, and the state eventually admitted in U.S. District Court that it had enforced the law incorrectly.

The Truth in Music law, passed in 2007, was aimed at preventing the unauthorized use of the names of groups like the Platters, who recorded "The Great Pretender" and other hits in the 1950s and '60s.

Neither current group features any original members. Cornell Gunter was an original member of the Coasters who was shot to death in Las Vegas in 1990, according to the Rock and Roll Hall of Fame's website.

Figuring out who owns the rights to many older groups' names can involve mazes of contracts involving performers, managers, agents, widows and others, leaving countless opportunities for exploitation, according to Jon "Bowzer" Bauman, frontman for the group Sha Na Na and a member of the Vocal Group Hall of Fame Foundation, which has been instrumental in getting similar laws passed in more than 30 states.

"In many cases the paper trail is complicated and unscrupulous people have preyed on the performers and the public and have obfuscated the facts," he said. "And that's the reason for the Truth In Music law."

In the federal case, the state Attorney General's Office contended that the unregistered trademarks held by Live Gold, the promoter for the groups performing as the Platters and Coasters, prevented them from performing unless they billed themselves as "tribute" bands.

U.S. District Judge Dickinson Debevoise rejected the argument and ruled an unregistered trademark, if found valid, had the same rights as a trademark that had been registered with the U.S. Patent and Trademark Office.

"This is a clear warning shot," said William Charron, an attorney representing Live Gold. "The significance to the states is that you enforce these acts the way New Jersey did at your peril. The risk is you, too, will end up paying attorney's fees to the other side."

Bauman said the law was never meant to differentiate between registered and unregistered trademarks. Instead, his organization disputes the validity of the groups' unregistered trademarks, an issue that wasn't addressed by the court because it focused solely on constitutional issues.

A spokesman for the Attorney General's Office said the office was considering whether to appeal last week's ruling. Charron didn't specify what the attorneys' fees were but characterized them as "significant."