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Lumineers Settle With Ex-Bandmate Over Song Copyrights

By **Dorothy Atkins**

Law360, San Francisco (February 14, 2017, 3:36 PM EST) -- The Lumineers have settled a former bandmate's suit that accused its founding members of forcing him out of the folk rock band and filing fraudulent patent and trademark applications to conceal his financial interest and creative contributions, a New Jersey federal court said Tuesday.

Counsel for plaintiff Jason Van Dyke filed a stipulation of dismissal on Feb. 10, which the court granted Tuesday, that notified the court the matter has been "amicably settled." The settlement is confidential, and representatives of the parties did not immediately respond to requests for comment Tuesday.

The deal brings to an end Van Dyke's **May 2014 lawsuit** accusing Lumineers founding members Wesley Schultz and Jeremy Fraites and their company Lumineers LLC of refusing to honor an agreement to treat the band as a three-way partnership. Van Dyke claimed the trio made the agreement when the band formed in New Jersey under the name 6 Cheek.

According to the complaint, Van Dyke began co-writing songs with the band shortly after its formation in summer 2008 and played with Schultz and Fraites through 2009, when the band changed its name to the Lumineers. Van Dyke claimed he received assurances that all three were equal partners after insisting his interest be proportionate to his contributions.

The complaint said Van Dyke co-wrote nine songs with Schultz and Fraites and played on recordings of five of the songs, including one called "Scotland." But Schultz and Fraites moved to Denver in October 2009 without notifying Van Dyke and formed The Lumineers LLC as a successor in interest to the partnership with Van Dyke, according to the suit.

After they moved, Schultz and Fraites continued to disregard Van Dyke's contributions and led him to believe "Scotland" was merely in consideration for inclusion in a television show, The CW's "Reign," when in fact "Scotland" became the show's theme song, according to the complaint. Van Dyke said he was never named as a songwriter in the "Reign" credits, and that in this and other ways he has been "ostracized and rendered invisible" by the band through a false narrative.

Van Dyke accused his former bandmates of submitting copyright registrations for songs he co-wrote with falsified dates of creation to suggest the songs were written in 2011, long after his affiliation with the Lumineers ended. He also alleged Schultz and Fraites falsified the date on the trademark registration for the band's name and listed Lumineers LLC as its sole owner.

The suit asserted two counts of accounting for co-ownership income and recording income, conversion of partnership assets, misappropriation of partnership assets, breach of fiduciary duty, breach of express contract, breach of implied contract, promissory estoppel and unjust enrichment. Van Dyke also sought a declaratory judgment naming him as a co-writer, plus disgorgement of his third of the income generated from the songs he contributed to, compensatory and punitive damages, attorneys' fees and costs.

Representatives of The Lumineers, Schultz and Fraites and counsel for Van Dyke did not immediately respond Tuesday to requests for comment.

Van Dyke is represented by Peter L. Skolnik of Clark Guldin LLC.

The Lumineers, Schultz and Fraiters are represented by Mark S. Shane of Shane & White LLC.

The case is Van Dyke v. Schultz et al., case number 2:14-cv-03296, in the U.S. District Court for the District of New Jersey.

--Editing by Brian Baresch.

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