

Welsh Gov't Beats Copyright Suit Over Dylan Thomas Photos

By **Bill Donahue**

Law360, New York (March 16, 2016, 3:32 PM ET) -- A New York federal judge ruled Tuesday that a British company could not use U.S. courts to sue the Welsh government and several American newspapers over tourism ads featuring photos of famed Welsh poet Dylan Thomas.

A company called Pablo Star Ltd., which says it controls the copyrights to two images of Thomas, sued in February 2015, claiming the images appeared without authorization on the "Visit Wales" tourism site and in a range of advertising materials aimed at U.S. travelers.

But U.S. District Judge J. Paul Oetken ruled Tuesday that Pablo Star had failed to follow the requirements of the Foreign Sovereign Immunities Act, which sets strict rules for how a company must serve a foreign government if it wants to sue in U.S. court.

"Because service in 'strict adherence to the terms of [FSIA] is required' and plaintiffs did not effect service in accordance with the statute, plaintiffs' claims against the Welsh government are dismissed for improper service," the judge wrote.

The 2015 lawsuit also named the Miami Herald, Pittsburgh Post-Gazette and several other major newspapers that apparently printed the ads, but Oetken dismissed those claims on Tuesday, too.

The only connection to the state of New York, the judge wrote, was that the images were available online in the state.

"A copyright owner that neither resides in New York nor has its principal place of business in New York may not assert that New York is the situs of injury in an online copyright infringement case where, as here, the basis for locating the injury in New York is simply that New Yorkers can access the infringing content online," the judge said.

The ruling also dismissed the claims against the Richmond Times Dispatch, Treasure Coast Newspapers, E.W. Scripps Co. and Journal Media Group Inc. Strangely, a subsidiary of newspaper giant Tribune Publishing that was named in the suit did not join the motion to dismiss, and the claims against that company will proceed.

Born in Swansea in southwest Wales and a resident of the Welsh towns Laugharne and New Quay, Thomas is world-famous for his "Do not go gentle into that good night" and other works, and is considered one of the tiny country's most famous historical figures.

The dispute over whether Pablo Star could sue in New York seemed oddly fitting for a suit about Thomas: The poet famously died in New York City in 1953, after, according to legend, consuming 18 drinks of whiskey at Greenwich Village's White Horse Tavern.

Pablo Star is represented by Kevin Patrick McCulloch of Nelson & McCulloch LLP.

The Welsh government and the newspapers are represented by Richard James Oparil of Porzio Bromberg & Newman PC.

The case is Pablo Star Ltd. v. The Welsh Government et al., case number 1:15-cv-01167, in the U.S. District Court for the Southern District of New York.

--Editing by Catherine Sum.

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