

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

THE RAY CHARLES FOUNDATION, a
California Corporation,
Plaintiff-Appellant,

v.

RAENEE ROBINSON, an individual;
RAY CHARLES ROBINSON, JR., an
individual; SHEILA ROBINSON, an
individual; DAVID ROBINSON, an
individual; ROBERT F. ROBINSON, an
individual; REATHA BUTLER, an
individual; and ROBYN MOFFETT, an
individual,

Defendants-Appellees.

No. 13-55421

D.C. No.
2:12-cv-02725-
ABC-FFM

OPINION

Appeal from the United States District Court
for the Central District of California
Audrey B. Collins, District Judge, Presiding

Argued and Submitted
February 12, 2015—Pasadena, California

Filed July 31, 2015

Before: David Bryan Sentelle,* Morgan Christen,
and Andrew D. Hurwitz, Circuit Judges.

Opinion by Judge Christen

SUMMARY**

Copyright

Reversing the district court's dismissal for lack of jurisdiction, the panel held that the Ray Charles Foundation, the sole beneficiary of Ray Charles's estate, had standing to challenge the validity and effectiveness of notices of termination of copyright grants conferred by Charles to the predecessor of Warner/Chappell Music.

The panel held that the Foundation had Article III standing and that the suit was ripe. The panel held that the Foundation did not have standing to challenge the termination notices as a beneficial owner. Nonetheless, the Foundation was a real party in interest because the termination notices affected its right to royalties, and its claims fell within the statutory zone of interests. Accordingly, it had standing to sue to challenge whether the underlying works were works made for hire and thus not subject to the termination

* The Honorable David Bryan Sentelle, Senior Circuit Judge for the U.S. Court of Appeals for the District of Columbia Circuit, sitting by designation.

** This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

provisions of 17 U.S.C. §§ 203 and 304(c). The panel remanded the case for further proceedings.

COUNSEL

Mark Daniel Passin (argued), Yakub Hazzard, and Daniel G. Stone, Robins, Kaplan, Miller & Ciresi LLP, Los Angeles, California, for Plaintiff-Appellant.

Marc Toberoff (argued), Toberoff & Associates, P.C., Malibu, California, for Defendants-Appellees.

OPINION

CHRISTEN, Circuit Judge:

When music legend Ray Charles died, he left behind remarkable legacies in music and philanthropy. This appeal arises from the intersection of the two. Seven of Charles’s heirs purported to terminate copyright grants that Charles conferred while he was alive. The Ray Charles Foundation, the sole beneficiary of Charles’s estate, filed suit to challenge the terminations. The district court dismissed the suit for lack of jurisdiction, and the Foundation now appeals. We reverse the district court’s order and remand for further proceedings.

BACKGROUND¹

I. Charles’s Copyright Interests

In the 1950s, Ray Charles Robinson, young and early into his career, entered into several contracts with music publisher Atlantic Records and its subsidiary, Progressive Music Publishing Co. The contracts indicated that Charles was an employee of the publishers, who owned all copyright interests in Charles’s work. Under the contracts, Charles was entitled to advance payments and future royalties.

By 1980, Charles had achieved considerable success and renown. That year, he renegotiated his copyright grants with

¹ Because the Foundation appeals the district court’s decision on a motion to dismiss, we “accept all allegations of fact in the complaint as true and construe them in the light most favorable to the plaintiff[.]” *Warren v. Fox Family Worldwide, Inc.*, 328 F.3d 1136, 1139 (9th Cir. 2003).

Progressive's successor in interest. The renegotiation pertained to songs Charles had previously conveyed to Progressive, as well as published and unpublished works that he had not yet assigned to any publisher. The 1980 grant entitled Charles to royalties and another advance payment.

Charles founded a nonprofit corporation now known as The Ray Charles Foundation. The Foundation was established for "scientific, educational[,] and charitable purposes." It provides research and scholarship grants for the benefit of deaf, blind, and underprivileged youths.

At the time of his death, Charles had twelve adult children, seven of whom are involved in this case as Defendants-Appellees.² In 2002, Charles informed all of his heirs that he would establish irrevocable trusts of \$500,000 for each of them if they agreed to waive further claims to his estate. Each of the heirs, including all of the Terminating Heirs, signed a contract providing:

My father, Ray Charles Robinson, has told me that he will set up an irrevocable trust for my benefit, to be funded with \$500,000. This gift is my entire inheritance from him and I understand that I will not inherit anything further under my father's estate plan and that I am waiving any right to make a claim against his estate.

² We use the term "Terminating Heirs" to refer to the seven Defendants-Appellees who served the termination notices. We use "Charles's heirs" to refer to all twelve of the artist's adult children, including those not involved in this suit.

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