



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0229

Joe Hand Promotions, Inc.

CLAIMANT

v.

Bushwhackers Bar & Grill LLC,
Scott Pearson, and Rhonda Arney

RESPONDENT

ORDER DISMISSING CLAIM WITHOUT PREJUDICE

PLEASE READ CAREFULLY

On February 27, 2023, respondent Bushwhackers Bar & Grill, LLC opted out of this proceeding, and the Copyright Claims Board (Board) dismissed the claim against that respondent on March 2, 2023. On March 15, 2023, the Board extended the opt-out period until April 14, 2023 for the remaining two respondents. 37 C.F.R. § 223.1(f). Those two respondents, Rhonda Arney and Scott Pearson, submitted opt-out notices on March 27 and 28, 2023, respectively.

When respondents opt out of a proceeding, the claim is automatically dismissed “without prejudice.” 17 U.S.C. § 1506(i); 37 C.F.R. § 223.1(a). The Board typically files an order, soon after the opt-outs are received, noting the dismissal without prejudice, which further explains that the claimant may refile the claim in federal court, but the claimant may not raise the same claim before the Board against the same respondent, unless the claimant demonstrates that the respondent affirmatively agreed to have the dispute resubmitted to the Board for resolution. 37 C.F.R. § 223.1(i).

In this case, however, before the Board was able to issue the dismissal order, the claimant filed a notice of settlement and joint request for dismissal with prejudice on March 31, 2023. Since a dismissal without prejudice is automatic based on the receipt of the opt-outs, the Board does not have the power to issue a dismissal with prejudice and must dismiss the claim without prejudice and close case 22-CCB-0229. 17 U.S.C. § 1506(i); 37 C.F.R. § 223.1(a). The Board notes that this dismissal does not supersede a contrary agreement between the parties, which may control the ultimate disposition of a dismissed claim before the Board. Accordingly, while the Board cannot order a dismissal with prejudice after the respondents opt out, this order does not limit the effect of any agreement between the parties that their settlement resolves their dispute with prejudice and prevents further litigation.

Date: April 13, 2023

Copyright Claims Board