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## no clowning around about copyright authorship: *everly v. everly*

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In *Everly v. Everly*, No. 19-5150 (6<sup>th</sup> Cir. 2020, May 4, 2020), the Sixth Circuit weighed into a fraternal feud that has continued long after the death of Phil Everly, who, with his brother Don, performed as the iconic rock & roll duo The Everly Brothers. The questions before the court: when Phil in 1980 granted his ownership rights to Don in the hit song *Cathy's Clown*, did Don expressly repudiate Phil's status as a co-author of the song? Or did Phil retain his rights as a co-author?

The Everly Brothers released the hit classic *Cathy's Clown* in 1960. Phil and Don were listed as co-authors, received royalties, and publicly presented themselves as co-authors. In 1980, after the brothers stopped speaking, Don asked Phil for the rights to *Cathy's Clown*. The brothers executed a Release and Assignment in which Phil agreed to "release, and transfer, [ ] all of his rights, interests and claim in and to [*Cathy's Clown* and other] compositions, including rights to royalties and his claim as co-composer, effective June 1, 1980." Although after the 1980 Release and Assignment, Acuff-Rose listed only Don as author, the brothers made public statements crediting Phil as a co-author.

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### practice areas

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