COPYRIGHT CLAIMS BOARD

Docket number: 25-CCB-0562
September 28, 2026

Kenneth McKee	*v.*	Alex Pagan
CLAIMANT		**RESPONDENT**

ORDER DENYING REQUEST FOR CONFERENCE RELATED TO BAD-FAITH CONDUCT

On August 20, 2026, Kenneth McKee (Claimant) filed a **Request for a Conference Related to Alleged Bad-Faith Conduct** (Request). The Request asks the Copyright Claims Board (Board) to hold a conference regarding alleged bad-faith conduct by Alex Pagan (Respondent) and his counsel.

In the Request, Claimant alleges that Respondent and his counsel made knowing misrepresentations of fact in Respondent's original and amended responses concerning payments made under an August 22, 2025 settlement agreement between the parties. Specifically, Claimant challenges Respondent's statements that Humble Performance paid Claimant $14,000 under the agreement. Claimant contends that Respondent had paid only $7,777.84 before defaulting on the agreement and later tendered the remaining $6,222.16, which Claimant rejected. Claimant argues that Respondent and his counsel knew that the statements concerning payment of $14,000 were false and requests that the Board hold a bad-faith conference, strike Respondent's contractual counterclaim, and award Claimant costs and sanctions.

On August 27, 2026, Claimant filed a **Formal Written Notice of Repudiation and Non-Performance by Respondent's Counsel** (August 27th Filing). The August 27th Filing relies on correspondence from Respondent's counsel concerning the parties' settlement agreement, which Claimant contends demonstrates that Respondent and his counsel knew that Respondent had not fully performed his obligations under the agreement.

Under the Board's regulations, a participant engages in bad-faith conduct when the participant pursues a claim, counterclaim, or defense for a harassing or other improper purpose, or without a reasonable basis in law or fact. Bad-faith conduct includes actions taken in support of a claim, counterclaim, or defense. 37 C.F.R. § 220.1(c). The regulations also require participants submitting materials or advocating positions before the Board to certify that, among other things, the materials or positions are not being presented for an improper purpose and that their legal and factual contentions satisfy the requirements of 37 C.F.R. § 232.2.

The conduct described in the Request and August 27th Filing does not provide a basis to find that Respondent or his counsel has engaged in bad-faith conduct in the course of this proceeding. The parties dispute whether Respondent satisfied his payment obligations under the settlement agreement, the effect of Respondent's subsequent tender of the remaining balance, and the effect of the parties' alleged breaches of the agreement. These

disputed factual and legal issues may be addressed on the merits at the appropriate stage of this proceeding. The parties will have an opportunity to submit evidence and testimony supporting their respective positions on these disputed issues.

Both parties are reminded that they must be truthful in all submissions and statements to the Board. Under the Board's regulations, a participant certifies that "[a]ny factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery." 37 C.F.R. § 232.2(c). This requirement applies to written submissions and statements made during Board conferences and hearings. Both parties are directed to review the **Participant Conduct** and **Representative Conduct** chapters of the CCB Handbook.

The Board therefore denies the Request.

Copyright Claims Board