

# RANDAZZA

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## LEGAL GROUP

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6 December 2019

Via U.S. Mail and email

C. Boyd Sturges, III, Esq.  
Davis, Sturges & Tomlinson  
101 Church Street  
P.O. Drawer 708  
Louisburg, NC 27549  
bsturges@dstattys.com

**Re: Sons of Confederate Veterans, North Carolina Division  
Demand Pursuant to 17 U.S.C. § 512(f)**

Dear Attorney Sturges:

This law firm has the privilege and honor of representing Attorney T. Greg Doucette. It is our understanding you represent the North Carolina Division of the Sons of Confederate Veterans, Inc. ("NCSCV"). If this is incorrect, kindly direct this letter to their counsel or their "Commander," R. Kevin Stone.

Documents filed in Orange County Superior Court on November 27 indicate that, at 11:10 a.m., you filed a lawsuit against the University of North Carolina, with a sweetheart deal of a "settlement" approved by the Court a mere seven minutes later. It appears that this was a sham and a fraud on the Court, because statements of Mr. Stone, on behalf of your client, indicate you knew that your client lacked standing. Specifically, Mr. Stone stated:

Since August of 2018 when he was ripped down, we have been looking for a way through our attorney, **Boyd Sturges**, to accomplish one of two things: either to have the memorial restored to its place of honour on campus while being properly protected; or to gain possession of the memorial and make an equally prominent public display for it at UNC's expense.

...

As we have mentioned dozens of times, despite consulting every known legal source, including those parties who have had success with SCV suits in Virginia and Tennessee, **we could not get past the issue in North Carolina law of legal standing in the Silent Sam case so to bring a suit**. Even if we had filed suit, our complaint would have been challenged and dismissed immediately without result. After extensive consultation (with judges, retired judges, etc.), we were 100% certain that this would be the outcome.

...

Further, we have not allowed the issue of standing to be mentioned in any way in the settlement so as not to hamper any future suits we may have to file regarding other memorials.

...

**Full credit is to be given to our attorney, Mr. Sturges**, as it was only through his expertise, his good connections with and respect by all the parties involved, and his influence that we were approached by the enemy and were able to work with officials at the very highest levels of the University and State government. (Emphasis added).

It is our understanding that Mr. Stone sent this letter to NCSCV members on November 23, immediately after the suit was filed. It appears that either he is dishonest or you have some explaining to do.

Mr. Doucette is a proud member of the North Carolina legal community and was disturbed by the appearance of a sham suit and Stone's letter. In fact, any member of the community, at all, should be disturbed when the public's courts are used dishonestly. Mr. Doucette may not be one to throw in with the NCSCV, but he does have an appreciation for some of Robert E. Lee's wisdom. *"Honesty in its widest sense is always admirable. The trite saying that 'honesty is the best policy' has met with the just criticism that honesty is not policy... The real honest man is honest from conviction of what is right, not from policy."*

What was *right* was that the great disinfectant of sunshine should be applied to this conduct. Mr. Doucette, his honesty derived from his conviction of what is right, uploaded that letter and related documents regarding the lawsuit and settlement to his Dropbox account and shared them on his Twitter feed, @greg\_doucette.

On December 2, 2019, Mr. Doucette received a notice from Dropbox that your client filed a notice under Section 512 of the Digital Millennium Copyright Act ("DMCA") claiming that the sharing of the letter infringed your client's copyright. This is a craven, misleading, and ineffective effort at silencing discussion about your wrongdoing and the wrongdoing of UNC, a state actor.

Although the DMCA notice confirmed the authenticity of the letter, it was not without consequence to Mr. Doucette. Dropbox disabled public sharing on his account as a result of your client's fraudulent notice. In short, due to your efforts to try and employ a policy of secrecy and dishonesty, my client has been not only offended, but damaged.

Fair use gave Mr. Doucette the privilege of using the letter. See 17 U.S.C. § 107. "Any individual may reproduce a copyrighted work for a 'fair use'; the copyright owner does not possess the exclusive right to such a use." *Sony Corp. of America v. Universal City Studios, Inc.*, 464 U.S. 417, 433 (1984).

The purpose of copyright is to create incentives for creative effort. Even copying for noncommercial purposes may impair the copyright holder's ability to obtain the rewards that Congress intended him to have. But a use that has no demonstrable effect upon the potential market for, or the value of, the copyrighted work need not be prohibited in order to protect the author's incentive to create. The prohibition of such non-commercial uses would merely inhibit access to ideas without any countervailing benefit.

*Sony Corp. v. Universal City Studios*, 104 S. Ct. 774, 793 (1984). As you can see, the purpose of the Copyright Act is not to censor information that you would rather hide. While a sham

lawsuit is a creative solution to a problem, it is not the kind of creativity that the Copyright Act refers to.

Mr. Doucette used the letter to expose and criticize the fraud you perpetrated on the Court, including suborning Mr. Stone's perjury. After all, it was a verified complaint, notarized by you. While this might make more shams less likely, again, this is not a "market" for the original letter.

The misleading takedown notice was issued in bad faith, because it failed to consider Mr. Doucette's fair use rights. See *Lenz v. Universal Music Grp.*, 572 F. Supp. 2d 1150, 1154-55 (N.D. Cal. 2008) ("An allegation that a copyright owner acted in bad faith by issuing a takedown notice without proper consideration of the fair use doctrine ... is sufficient to state a misrepresentation claim pursuant to § 512(f) of the DMCA.") Your client clearly made such a material misrepresentation, and my client will not allow it to go unpunished.

The NCSCV is liable to Mr. Doucette for his damages and attorneys' fees under Section 512(f) of the DMCA. Mr. Doucette is prepared to file suit for this, as well as for a declaration of non-infringement and any other causes of action he may have, which are still being evaluated. Mr. Doucette is considering a lawsuit not out of bitterness or vindictive feelings, but because it seems that the NCSCV has tried to wrest from him his dearest rights. This will not stand, man.

Unlike your client's other most recent litigation, this suit will be real. Important principles are at stake, and Mr. Doucette is a man of principle.

The sham litigation was troubling, but what is really shameful is your client seeking to suppress my client's First Amendment rights. Lest you believe that this is a mere intellectual property matter, you are mistaken. Fair use stands at the confluence of the Copyright Act and the First Amendment.

Although the First Amendment does not provide a defense to copyright infringement, when an act of copying occurs in the course of a political, social or moral debate, the public interest in free expression is one factor favoring a finding of fair use. *Hustler Magazine, Inc. v. Moral Majority, Inc.*, 606 F. Supp. 1526 (C.D. Cal. 1985)

The Sons of Confederate Veterans have no qualms about seeking the protection of the First Amendment. See, e.g., *Sons of Confederate Veterans v. Vehicles*, 288 F.3d 610 (4th Cir. 2002). It is particularly poignant that "[t]he Free Speech Clause applies to the various states through the Fourteenth Amendment." *Sons of Confederate Veterans v. City of Lexington*, 722 F.3d 224, 229 n.4 (4th Cir. 2013). One would think that Neo-Confederates would be particularly sensitive to any erosion of this most important principle. Even the actual Confederates would likely feel the same. The Confederate Constitution recognized freedom of expression in its very body, rather than as an amendment to it. See Constitution of the Confederate States of America, Art. I, §9, Cl. 12.

When freedom of expression is no longer expedient for them, the Sons of Confederate Veterans seek to suppress that very right under the cover of a bunk-assed copyright claim? We do not agree with much of what the Sons of Confederate Veterans may have to say,

but we would unconditionally defend their right to say it – and so would Mr. Doucette. It is disappointing to see them comport themselves as unprincipled cowards who choose freedom of expression when it serves their purposes, but who run like cockroaches for the dark cover of censorship when the light of truth shines upon them.

Mr. Doucette uncovered something that stinks to high heaven. He had every right to speak against it and to show the public what he found. And, now that NCSCV was foolish enough to try and blow out this candle, they have, instead, knocked it over and started a fire. Your client's cause is lost. This information will not only go back up, but my client will make sure that it is seen by as many people as possible. In short, if you believe that my client infringed your client's copyright, you may want to prepare to sue my client, because he is going to do it again, and again, and again.

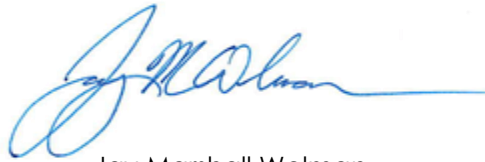
Should your client wish to avoid litigation, Mr. Doucette proposes the following: the \$2.5 million your client did or will receive from UNC will be, instead, diverted to a scholarship fund for African American students at UNC, or other similar use, subject to our client's approval. And of course, the DMCA notice must be immediately withdrawn. If you accept this offer, our client shall commit to oblivion the feelings your client's actions engendered.

Please direct all correspondence to our Massachusetts office.

Sincerely,



Marc J. Randazza



Jay Marshall Wolman