

Terence Ross Comments on Conan O'Brien $1 Million Joke Theft Lawsuit

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Terence Ross, national co-chair of Katten's Intellectual Property Litigation practice, was interviewed for a podcast conducted by Bloomberg Law regarding the recent $1 million lawsuit claiming that television late-night talk show host Conan O'Brien stole jokes for a monologue from a professional joke writer's blog and Twitter feed. While Mr. O'Brien and his staff have denied any wrongdoing, a judge ruled that he will have to go to trial over the allegations that they stole jokes about Caitlyn Jenner, Tom Brady and the Washington Monument from writer Robert Alexander Kaseberg.

Copyright trials over jokes are "very unusual," said Terry. "This sort of comedy theft has been going on since at least the turn of the century, during vaudeville times. During the mid-1900s, the comedy business developed a self-regulatory scheme—if a comedian thought that his or her joke was stolen and used by another comedian, they'd simply tell everybody in the industry. Suddenly those accused joke thieves would find themselves without bookings." With the emergence of comedy on cable in the 1980s, joke theft became a big moneymaker. Now people are taking the problem much more seriously, with the judge in this case entitling the jokes to copyright protection. "I think the problem with this sort of lawsuit is that the damage is really done when you file it and accuse someone of stealing your jokes," said Terry. "It is a real black mark, and you almost force the defendant to go into court to defend themselves and clear their name, which makes a settlement very challenging." ("Writer Says Conan O'Brien Joke Theft No Laughing Matter," May 17, 2017)

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