

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

CYRIL VETTER *and* **VETTER**
COMMUNICATIONS CORP

VERSUS

ROBERT RESNIK *individually and*
d/b/a **RESNIK MUSIC GROUP**

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CIVIL ACTION: 3:23-cv-1369

Chief Judge Shelly D. Dick

**Magistrate Erin Wilder-
Doomes**

MOTION TO SUBSTITUTE

NOW INTO COURT, through undersigned counsel, come Defendants, Robert Resnik *individually* and *d/b/a* Resnik Music Group (“Resnik”), and Successor Parties-in-Interest, Capitol CMG, Inc.; Warner-Tamerlane Publishing Corp.; BMG Rights Management (US) LLC; and Essential Music Publishing LLC (collectively, “the Publishers,” and together with Resnik, “Movants”). The Successor Parties-in-Interest are music publishing organizations who have acquired Resnik’s claim to 25% ownership of the copyright at issue in this case. The publishers have made this acquisition for purposes of filing a petition for a writ of certiorari in this matter. In light of that acquisition, Resnik and the publishers respectfully request an order under Federal Rule of Civil Procedure 25(c) substituting the publishers as defendants in this matter.

Prior to filing this motion, undersigned counsel conferred with counsel for Plaintiffs, who represented that Plaintiffs take no position on the requested substitution.

WHEREFORE, Movants respectfully request that the Court grant the requested substitution. Movants further respectfully request a ruling on this motion by March 31, 2026 to facilitate a timely motion to extend the deadline to file a petition for a writ of certiorari.

PROVOSTY & GANKENDORFF, LLC

/s/ Edgar D. Gankendorff

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Attorneys for Movants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was filed electronically this 26th day of March, 2026 with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all counsel of record by operation of the court's electronic filing system.

/s/ Edgar D. Gankendorff

Edgar D. Gankendorff

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MEMORANDUM IN SUPPORT OF MOTION TO SUBSTITUTE

Defendants, Robert Resnik *individually* and *d/b/a* Resnik Music Group (“Resnik”), and Successor Parties-in-Interest, Capitol CMG, Inc.; Warner-Tamerlane Publishing Corp.; BMG Rights Management (US) LLC; and Essential Music Publishing LLC (collectively, “the Publishers,” and together with Resnik, “Movants”) submit this memorandum in support of their Motion to Substitute.

BACKGROUND

This case concerns the validity of Resnik’s asserted 25% interest in the musical work at issue in this case, “Double Shot (Of My Baby’s Love).” On September 27, 2023, Plaintiffs filed a complaint seeking a judgment that declared them to be the sole and exclusive owners of all right, title, and interest in “Double Shot” throughout the world; that declared Resnik had no right to exploit “Double Shot” anywhere in the world; and that permanently enjoined Resnik from purporting to exploit “Double Shot” going forward. *See* Doc 1. On January 29, 2025, this Court granted judgment in favor of Plaintiffs and against Resnik. *See* Doc 51. Resnik appealed that judgment to the U.S. Court of Appeals for the Fifth Circuit. *See* Doc 54. On January 12, 2026,

the Fifth Circuit affirmed. *See* 163 F.4th 951 (5th Cir. 2026). The Fifth Circuit’s mandate issued on February 2, 2026. *See* Doc 58. Under Supreme Court Rule 13.1, the deadline to file a petition for a writ of certiorari seeking review of that decision is April 13, 2026.

On March 20, 2026, Resnik sold his asserted interest to the Publishers. The Publishers intend to seek Supreme Court review of the Fifth Circuit’s decision, and further intend to seek an extension of the deadline to file a petition for a writ of certiorari. Under Supreme Court Rule 13.5, the presumptive deadline to seek an extension is April 3, 2026.

ARGUMENT

Once the Fifth Circuit issued its mandate, this Court reassumed jurisdiction over this case. *See BHTT Ent’mt, Inc. v. Brickhouse Café & Lounge, L.L.C.*, 858 F.3d 310, 312-13 (5th Cir. 2017). “[T]here is no time limit on moving to substitute under” Federal Rule of Civil Procedure 25(c), which permits this Court to substitute a successor-in-interest in place of a named defendant in order to “facilitate the conduct of the litigation.” 7C Wright & Miller, *Federal Practice and Procedure* §1958 (3d ed. 2025); *see, e.g., Air Line Pilots Ass’n Int’l v. Tex. Int’l Airlines, Inc.*, 567 F.Supp. 78, 81 (S.D. Tex. 1983) (“[S]ubstitution after judgment may be rendered in the district court, among other things, for the purpose of subsequent proceedings.”). Rule 25(c) “is designed to allow the action to continue unabated when an interest in the lawsuit changes hands.” *In re Covington Grain Co., Inc.*, 638 F.2d 1362, 1364 (5th Cir. Unit B 1981); *see also, e.g., Rodríguez-Miranda v. Benin*, 829 F.3d 29, 40 (1st Cir. 2016) (“[T]he rule serves as a procedural mechanism to bring a successor in interest into court when ‘it has come to own the property in issue.’”). As such, courts routinely hold that when a party transfers “his interest in the action,” “it is proper and necessary to substitute the” successor “so that it can protect its” newly acquired “interest,” *Crown Point Partners LLC v. Crown Point Plan Comm’n*, 275 F.R.D. 279, 282 (N.D. Ind. 2011),

including by seeking appellate review. *See generally In re XMG Corp.*, 647 F.3d 690, 693 (7th Cir. 2011) (Posner, J.) (“A party can lose its case in the lower court, and then assign the claim on which its case is based to someone else, and the assignee can take the case up on appeal.”) (collecting examples). The Court should grant such a substitution here, thereby allowing the Publishers to protect their newly acquired interest in “Double Shot” by seeking Supreme Court review.

CONCLUSION

The Court should grant the motion to substitute. Movants respectfully request a ruling on this motion by March 31, 2026 to facilitate a timely motion to extend the deadline to file a petition for a writ of certiorari.

PROVOSTY & GANKENDORFF, LLC

/s/ Edgar D. Gankendorff

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