

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
DAKOTA, SOUTHERN DIVISION

Cade Wallman v. Dominic Wieneke d/b/a Warwolf Productions and
Ezekiel Richter

Wallman · No. 4:25-CV-04036-KES · Decided June 24, 2026

SUMMARY

The United States District Court for the District of South Dakota granted defendants’ motion for attorney’s fees under the Copyright Act and the Digital Millennium Copyright Act. The court held that defendants were prevailing parties because the DMCA claim was dismissed with prejudice and determined that the relevant factors supported a fee award. Applying the lodestar method, the court awarded defendants \$22,008.68 in attorney’s fees.

CASE DETAILS

COURT	United States District Court for the District of South Dakota, Southern Division
WRITING FOR THE COURT	Karen E. Schreier
JURISDICTION	United States District Court for the District of South Dakota, Southern Division
DECIDED	June 24, 2026
DOCKET	4:25-CV-04036-KES
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved for attorney's fees after obtaining dismissal of all claims and entry of judgment in their favor. The court considered whether defendants were prevailing parties under the Copyright Act and DMCA and whether the requested fees were reasonable.
STANDARD OF REVIEW	Attorney's fee awards under 17 U.S.C. §§ 505 and 1203(b)(5) are discretionary. The court determines prevailing-party status under the judicially sanctioned relief standard and evaluates the propriety and amount of fees for abuse-of-discretion-type considerations, applying the lodestar method to reasonableness.
PRECEDENTIAL VALUE	Unknown

TOPICS

attorney fees

copyright law

dmca

remedies

civil procedure

PRACTICE AREAS

intellectual property

copyright

attorney's fees

civil procedure

commercial litigation

QUESTIONS PRESENTED

1. Whether defendants qualified as prevailing parties under 17 U.S.C. §§ 505 and 1203(b)(5) when at least one claim was dismissed with prejudice.
2. Whether an award of attorney's fees was appropriate under the discretionary factors governing Copyright Act and DMCA fee awards.
3. Whether the requested \$22,008.68 in attorney's fees was reasonable under the lodestar method and should include work addressing all three claims.

HOLDINGS

1. Defendants were prevailing parties because the dismissal of the DMCA claim with prejudice constituted judicially sanctioned relief that materially altered the legal relationship between the parties; prevailing on one substantial claim was sufficient.
2. An award of attorney's fees was warranted under 17 U.S.C. §§ 505 and 1203(b)(5) because the claims were objectively unreasonable, compensation and deterrence favored an award, and the award furthered the purposes of copyright law.
3. The requested \$22,008.68 was reasonable under the lodestar method, and no reduction was warranted for work performed on Counts I and III because all claims shared a common factual basis and substantially overlapping issues.

KEY QUOTATIONS

“The lack of copyright registration alone is sufficient to find that Wallman has failed to state a claim for copyright infringement.” (Docket 15 at 6)

“Because Wieneke and Richter achieved some degree of success on the merits and the dismissal of all claims against them, an award of attorney’s fees is appropriate.” (Conclusion)

“Wieneke and Richter are entitled to a judgment in their favor in the amount of \$22,008.68 for attorney’s fees.” (Conclusion)

FACTUAL BACKGROUND

Wallman sued Wieneke and Richter over footage, asserting copyright infringement, DMCA, and unauthorized-use-of-likeness claims. The court dismissed all claims, with the DMCA claim dismissed with prejudice and the other claims ultimately dismissed without prejudice after reconsideration. Defendants' counsel documented 83.9 hours of work at specified hourly rates and requested \$22,008.68 after applying a discount.

PROCEDURAL HISTORY

Wallman filed claims for copyright infringement, DMCA violations, and unauthorized use of likeness. The court dismissed the copyright infringement and DMCA claims with prejudice and the unauthorized-use-of-likeness claim without prejudice, then entered judgment for defendants. After reconsideration, the court amended the dismissal of the copyright claim to without prejudice. Defendants then moved for \$22,008.68 in attorney's fees, which the court granted.

DISPOSITION

other

CASES CITED

- Fogerty v. Fantasy, Inc., 510 U.S. 517, 526-27, 534 (1994)
- Hensley v. Eckerhart, 461 U.S. 424, 433-35, 438 (1983)
- Doe v. Nixon, 716 F.3d 1041, 1048 (8th Cir. 2013)
- Buckhannon Bd. & Care Home, Inc. v. W. Va. Dep't of Health & Human Res., 532 U.S. 598, 604-05 (2001)
- Reel v. Ark. Dep't of Corr., 672 F.2d 693, 697 (8th Cir. 1982)
- Cody v. Hillard, 304 F.3d 767, 773 n.3 (8th Cir. 2002)
- CRST Van Expedited, Inc. v. E.E.O.C., 578 U.S. 419, 422 (2016)
- Shrader v. OMA Aluminum Boat Group, Inc., 128 F.3d 1218, 1220-21 (8th Cir. 1997)
- Advantage Media, L.L.C. v. City of Hopkins, Minnesota, 511 F.3d 833, 837-39 (8th Cir. 2008)
- Killer Joe Nevada, LLC v. Does 1-20, 807 F.3d 908, 911 (8th Cir. 2015)
- Kirtsaeng v. John Wiley & Sons, Inc., 579 U.S. 197, 199-200, 203-09 (2016)
- Fourth Estate Public Benefit Corp. v. Wall-Street.com, LLC, 586 U.S. 296, 301 (2019)
- Pennsylvania v. Del. Valley Citizens' Council for Clean Air, 478 U.S. 546, 556 (1986)
- City of Burlington v. Dague, 505 U.S. 557, 565-67 (1992)
- Simpson v. Merchs. & Planters Bank, 441 F.3d 572, 580 (8th Cir. 2006)
- McDonald v. Armontrout, 860 F.2d 1456, 1458 (8th Cir. 1988)
- Blum v. Stenson, 465 U.S. 886, 895 n.11 (1984)
- Jim Hawk Truck-Trailers of Sioux Falls, Inc. v. Crossroads Trailer Sales & Serv., Inc., 2023 WL 1825078, at *1 (D.S.D. Feb. 8, 2023)
- Atmosphere Hosp. Mgmt., LLC v. Curtullo, 2015 WL 1097324, at *1 (D.S.D. Mar. 11, 2015)
- Black Hills Clean Water All. v. United States Forest Serv., 733 F. Supp. 3d 801, 805, 813 (D.S.D. 2024)
- Wescott Agri-Prods., Inc. v. Sterling State Bank, Inc., 682 F.3d 1091, 1095 (8th Cir. 2012)
- Curran v. Haaland, 2024 WL 129073, at *7 (D.S.D. Jan. 10, 2024)
- Phelps-Roper v. Koster, 815 F.3d 393, 398-99 (8th Cir. 2016)
- Davis v. Cnty. of Los Angeles, 1974 WL 180, at *3 (C.D. Cal. June 5, 1974)

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