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Randy Maniloff: What rock lyrics will Donald Trump's judge use for his case?

RANDY MANILOFF
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In 2011, U.S. Magistrate Judge Jonathan Goodman concluded that the plaintiff's attorney improperly persisted in litigating a losing case under the Fair Labor Standard Act. In determining that the attorney should be sanctioned for frivolous litigation, he observed that the lawyer should have heeded Kenny Rogers' advice in "The Gambler": "You've got to know when to hold 'em, know when to fold 'em/ Know when to walk away, know when to run."

Judge Goodman presided over yesterday's arraignment of Donald Trump for his handling of classified documents from his time in the White House. In his thirteen years on the bench, Judge Goodman has, on countless occasions, used rock and roll song lyrics in his opinions. His decisions are very thorough. Often long and detailed.

And then boom. He drops in a discussion of Mike and the Mechanics or Meatloaf. He also frequently adds endnotes to discuss the history of the song or the artist who wrote or performed it.

In a recent case, he addressed whether a defendant's motion to remove a case from state to federal court was timely filed. The plaintiff's attorney argued that it was late. But then counsel advised the court that, following his subsequent legal research, the removal was appropriate

In applauding the attorney for bringing this to the court's attention, the judge noted that Billy Joel had been a pessimist when he lamented that "honesty is such a lonely word, everyone is so untrue." The Piano Man got it wrong, Goodman added, that "if you look for truthfulness, you might as well be blind."

Parties often run to court for assistance in resolving disputes over discovery. In another case, Goodman decided that the parties should try to resolve it themselves before he got involved. He instructed them to listen to The Beatles: "We can work it out. Life is very short, and there's no time for fussing and fighting, my friend." And, for good measure, he turned to John Lennon: "Give peace a chance."

In a case involving a discovery dispute involving an attorney who dug in his heels and refused to produce documents. The judge concluded that a "no surrender mentality may be perfectly appropriate for a Bruce Springsteen song — 'well, we made a promise we swore we'd always remember, no retreat, baby, no surrender' — but it is frequently unhelpful in litigation."

In another case involving discovery, Goodman concluded that the plaintiff's motion to compel a production of documents was premature. He had this advice for the attorney: "As musically noted by well-known singer-songwriter Tom Petty, 'the waiting is the hardest part.' ... Plaintiff's discovery issues were submitted prematurely and he will need to appreciate Mr. Petty's observation before submitting the issues again."

Another case involving allegations that that someone shredded, destroyed or discarded documents. This naturally brought to the judge's mind the chorus of "Shredding the Document," a 1995 song written by John Hiatt: "I'm shredding the document / I'm keeping my mouth shut."

Goodman observed in a final case that parties that withhold documents in discovery may lead their adversaries to believe that they are sitting on a smoking gun. Goodman likened it to an Elvis Presley song: "We can't go on together / With suspicious minds."

If Trump goes to trial and loses, Judge Goodman may find himself thinking about The Clash (who were covering someone else's song): The former president fought the law, and the law won.

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