

## James E. Doherty

Counsel

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### Notable Cases:

*Walsh v. Townsquare Media, Inc.*, 464 F. Supp. 3d 570 (S.D.N.Y. 2020). Jim was co-counsel in a successful defense of a copyright infringement action securing a dismissal at the pleading stage on fair use grounds where the Plaintiff, a photographer, claimed that the Defendant's news article that included a social media post by Cardi B (where Plaintiff's photo appeared as part of the post) whereby that performer commented on the successful launch of a lipstick collaboration with Tom Ford during NY Fashion Week infringed Plaintiff's copyright. The Court found that the Defendant's embedding a social media post containing an unlicensed photograph in an online news article discussing the post in question was fair use.

*Marano v. Metro. Museum of Art*, 472 F. Supp. 3d 76 (S.D.N.Y. 2020), *aff'd* 844 F. App'x 436 (2d Cir. 2021), *cert denied*, 142 S. Ct. 213 (2021). Jim was part of the defense team in a widely publicized fair use case where the Second Circuit upheld the District Court's determination that the Metropolitan Museum of Art's use of a photograph of Eddie Van Halen playing his iconic "Frankenstein" guitar as part of an online catalogue appearing on the museum's website in connection with a physical exhibition on rock and roll instruments called "Play It Loud" was a fair use of the Plaintiff's photograph and not copyright infringement.

*Square Foot Gardening Foundation, Inc. v. Western Organics, d/b/a Gro-Well Brands, Inc.* (D. Ariz. 2018). Jim was lead counsel for the plaintiff in a trademark infringement/breach of contract action that resulted in a favorable settlement for the client.

*Reinhardt v. Wal-Mart Stores, Inc.*, 547 F. Supp. 2d 346 (S.D.N.Y. 2008). Jim successfully represented the defendants in a copyright infringement lawsuit brought by a former drummer for the rock group The Ramones, in which the plaintiff asserted that he did not grant digital distribution rights to several songs that he co-authored. In dismissing the case, the court adopted the defendants' arguments, *in toto*, that the most reasonable interpretation of the relevant recording and music publishing agreements, read together, authorized digital distribution as a new use.

*Beastie Boys v. Monster Energy Company*, 2013 WL 5902970 (S.D.N.Y. 2013). Jim represented a key witness in a copyright infringement action, DJ Z-Trip, who was also named as a party in a related third-party suit where, in large part due to that witness's testimony, the third-party action was dismissed and the plaintiff secured a favorable judgment at a trial of the main claims.

*Moses v. Owens, et. al. and Floyd v. Owens, et. al.*, 08-cv-03052 and 08-cv-03054, respectively (S.D.N.Y. 2009). Jim was lead counsel for the defendants in dual actions brought by personal service providers against Queen Latifah where the defendants secured favorable settlement terms after submission of summary judgment motions.

*Lefkowitz v. McGraw-Hill Global Education Holdings, LLC* (S.D.N.Y. 2016). Jim worked with a team of attorneys on behalf of textbook publisher McGraw-Hill Education to obtain partial summary judgment dismissing 121 claims of copyright infringement asserted by a stock photographer.

*Ryan v. Spalding, et. al.*, 13-cv-00702 (S.D.N.Y. 2013). Jim spearheaded the defense of a copyright infringement action involving Esperanza Spalding by securing a settlement with favorable terms.

#### **Admission Details**

Admitted in 1994, New York;  
1993, New Jersey;  
United States Court of Appeals for the Second Circuit; and  
U.S. District Court - Southern and Eastern Districts of New York

#### **Law School**

Fordham University School of Law  
Class of 1993  
J.D.

#### **Undergraduate**

Boston College  
Carroll School of Management  
Class of 1990  
B.S., Marketing