

Client ViacomCBS Prevails in Trademark Dispute over “MTV Floribama Shore”

News

September 22, 2021

A team led by Partner Susan J. Kohlmann won a complete victory for client ViacomCBS in a trademark dispute over the title of the MTV reality show "MTV Floribama Shore."

In late 2016, MTV began developing “MTV Floribama Shore,” part of the “Shore” franchise that began with “Jersey Shore” in 2009. MTV planned to broadcast the premiere in November 2017. However, shortly before the premiere, owners of the Flora-Bama Lounge, Package & Oyster Bar—a beach bar, restaurant, and concert venue on the Florida-Alabama border—sent MTV a cease-and-desist letter alleging that the title of the show infringed their trademark rights in the term “Flora-Bama.”

Years later—after two full seasons of “MTV Floribama Shore” had aired and a third was scheduled to premiere—the plaintiffs filed suit against ViacomCBS in the US District Court for the Northern District of Florida. They sought an injunction to stop MTV from using the term “Floribama” in the title, alleged claims for federal and state trademark infringement and violations of Florida’s dilution statute, and sought nearly \$100 million in damages and the disgorgement of profits from the series. For multiple years, the parties engaged in extensive discovery, including dozens of fact and expert depositions, much of which was conducted during the COVID pandemic, and Judge Robert Hinkle set the case for a jury trial in Tallahassee, Florida, in November.

In his ruling on September 22, 2021, Judge Hinkle granted summary judgment to ViacomCBS, dismissing the case in full. He wrote that ViacomCBS’s First Amendment right to title its expressive work “MTV Floribama Shore” outweighed the plaintiffs’ rights under the Lanham Act. The court also noted that most viewers of the show likely understood its title as referring to the geographic area where the show is set, rather than the plaintiffs’ establishments, particularly given that the plaintiffs are in an entirely different line of business from ViacomCBS, that MTV’s show never references the plaintiffs, and that the graphic displays of the two marks were entirely dissimilar.

“We’re delighted to help our client ViacomCBS protect its brand,” said Ms. Kohlmann.

The team also included Partner Alison I. Stein; Associates Jacob L. Tracer, Rémi D. Jaffré, Ethan C. Wong, and Thomas J. Bullock; and Paralegals Charlotte Stretch and Kevin Garcia.

News of the victory was reported by outlets including the *Daily Business Review*, *Law360* and Reuters.

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