

No. _____

IN THE
Supreme Court of the United States

DONNA CORBELLO,

Petitioner,

v.

FRANKIE VALLI, *ET AL.*,

Respondents.

**On Petition for a Writ of Certiorari to
the United States Court of Appeals
for the Ninth Circuit**

PETITION FOR WRIT OF CERTIORARI

GREGORY HARRIS GUILLOT

Counsel of Record

GREGORY H. GUILLOT, P.C.

2626 Cole Ave., Suite 300

Dallas, TX 75204

(972) 888-6072

gregory@guillot-law.com

Attorney for Petitioner

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QUESTIONS PRESENTED

1. Whether the century-old equitable doctrine of copyright estoppel, which states that, once a work has been held out to the public as entirely factual, an author-plaintiff cannot later claim it is actually fiction, and entitled to the higher protection accorded fictional works, may be invoked to deny protection to original expression in an unpublished biography, for which no such public claims have been made.

2. Whether the Ninth Circuit's newly-adopted "asserted truths doctrine," which: modifies copyright estoppel by rejecting its equitable basis; is grounded, instead, in U.S. Const. art. 1, § 8, cl. 8; and, denies protection to narrative expression and original dialogue in unpublished historical works, in addition to facts and ideas, conflicts with the purposes of the Copyright Clause, the Copyright Act of 1976, and this Court's decisions in *Harper & Row, Publs. v. Nation Enters.*, 471 U.S. 539 (1985), and *Feist Publ'ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340 (1991); encroaches upon an author's right of first publication; and departs from traditional principles of equity unduly.

3. Whether the Ninth Circuit's decision, in holding that an author's first written account of his own prior remarks, and subjective characterizations of public figures are unprotected by copyright, directly conflicts with this Court's decisions in *Harper & Row* and *Feist*.

4. Whether paraphrasing and adapting original expression from an unpublished biography infringes copyright unless excused by fair use.

PARTIES TO THE PROCEEDINGS BELOW

Petitioner, Donna Corbello, was the plaintiff in the district court and appellant in the court of appeals.

Respondents Frankie Valli, Robert J. Gaudio, Marshall Brickman, Eric S. Elice, Des McAnuff, Michael S. David, DSHT, Inc., FKA Dodger Stage Holding Theatricals, Inc, Dodger Theatricals, Ltd., JB Viva Vegas, LP, Jersey Boys Broadway Limited Partnership, Skunk, Inc., and Getting Home, Inc., were defendants in the district court and appellees in the court of appeals.

RULE 29.6 NOTATION

Petitioner is an individual, with no parent corporation, stock, or shareholders.

RELATED PROCEEDINGS

There are no other proceedings in any court that are directly related to this case.

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