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Copyright Law: John Forward v. George  
Thorogood, No. 91-14125, 1993 U.S. App. LEXIS  
1360 (1st Cir. Jan. 29, 1993)

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## COPYRIGHT LAW

JOHN FORWARD V. GEORGE THOROGOOD, No. 91-14125, 1993 U.S. App. LEXIS 1360 (1st Cir. Jan. 29, 1993).

*Fan of a certain musical group appealed final judgment entered against him determining the copyright ownership of several unpublished tape recordings of the group.* Plaintiff John Forward, a fan of the musical group "George Thorogood and the Destroyers," claimed copyright ownership of tape recordings of the band performing. The recordings were made at a recording session which had been arranged and paid for by the plaintiff. Afterwards, the members of the band had given the plaintiff the tapes for his personal enjoyment. Twelve years later, in which time the band had come to enjoy commercial success, and after the band members had objected to plaintiff's plans to sell the tapes to a record production company, plaintiff filed this action seeking a declaratory judgment regarding copyright ownership of the tapes. The band filed a counterclaim for declaratory and injunctive relief.

*Held:* Plaintiff's theories of copyright ownership based on ownership and possession of the tapes and conveyance of the tapes to him by the band members fail because the performer of a musical work is the author and, therefore, copyright owner of that work. Additionally, the band members did not intend to convey copyright ownership to the plaintiff. Furthermore, the plaintiff's copyright ownership theories based on the "work for hire" and "joint authorship" doctrines are not tenable because plaintiff neither commissioned, employed, nor compensated the band members to create the tapes, nor did plaintiff make any musical or artistic contribution to the creation of the tapes. Finally, the plaintiff, by definition, is not a co-owner of the copyright as a producer because he did not artistically supervise or edit the production of the tapes. *Affirmed.*

J.B.

## DEFAMATION

PERRY RUSSO V. CONDE NAST PUBLICATIONS D/B/A *Gentleman's Quarterly*, 806 F.Supp. 603 (E.D. La. 1992).

*Plaintiff brought defamation claim against magazine.* Plaintiff Perry Russo, who was the prosecution's principle witness against Clay Shaw in a case wherein Shaw was accused of having conspired to assassinate President John F. Kennedy, was described in defendant's magazine, *Gentleman's Quarterly*, as a "grifter." The description was the sole reference to the plaintiff in a published