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# Hughes Hubbard & Reed

## Firm Helps Soul Train Shake Off Lawsuit

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Hughes Hubbard & Reed LLP • A New York Limited Liability Partnership  
One Battery Park Plaza • New York, New York 10004-1482 • +1 (212) 837-6000

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Hughes Hubbard & Reed helped derail a lawsuit filed by a former member of an R&B group against the groundbreaking song-and-dance TV show Soul Train for using his image without permission on the show's DVD sets.

On Dec. 12, U.S. District Judge Lorna Schofield granted Hughes Hubbard's motion to dismiss preacher Jeremiah Cummings' second amended complaint, which alleged Soul Train violated his rights of publicity and privacy by including footage of him in the DVD sets and related promotional materials without his consent.

Cummings was a member of the Philadelphia soul group Harold Melvin and the Blue Notes in the 1970s. The Blue Notes performed several times on Soul Train, a nationally syndicated show featuring R&B artists, African-American culture and fashion. The show, a sort of African-American version of "American Bandstand," aired from 1971 to 2006 and featured such acts as James Brown, Al Green, Ike and Tina Turner, Marvin Gaye and Stevie Wonder.

The DVD sets, entitled "Best of Soul Train," included footage of the Blue Notes' performing and being interviewed by the show's host, Don Cornelius. The footage also appeared in televised advertisements and Internet videos marketing the DVDs. Cummings alleged his inclusion in the footage violated the Lanham Act by "creating the false impression that Plaintiff approved, sponsored or was otherwise associated with this advertising and with the Soul Train DVD Sets."

But Judge Schofield rejected Cummings' right of publicity and privacy claims on procedural grounds. She also dismissed his Lanham Act claim because he failed to show that Soul Train explicitly misled consumers, as required by applicable Second Circuit law.

Rita Haeusler, Alex Spjute, Michael Salzman and Webster McBride worked on this matter.

## Related People



**Rita M. Haeusler**



**Michael E. Salzman**



**Webster D. McBride**