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Gallagher Sharp Newsflash: Sixth Circuit Concludes Restaurant Recipe Book Not Copyrightable

On October 20, 2015, the United States Court of Appeals for the Sixth Circuit ruled a Cleveland restaurant owner's recipe book is not entitled to copyright protection because it was not original.

Tomaydo-Tomahhdo v. Vozary arose out of a dispute between two former business partners, Rosemarie Carroll and Larry Moore. Carroll and Moore, who conceived the recipes, collectively created and ran Tomaydo-Tomahhdo for several years. In 2007, Carroll and Moore parted ways and in 2011, he started his own catering business, named Caterology. Five years after Moore ceased being an owner, in 2012, Carroll applied for copyright protection for the Tomaydo-Tomahhdo recipe book.

In 2014, Carroll and her restaurants sued Moore, his current business partner, and his catering company alleging, in part, copyright infringement. After Moore was successful in obtaining summary judgment, Carroll appealed to the Sixth Circuit. In affirming the district court decision, the unanimous appellate court held that recipes themselves do not enjoy copyright protection. The court also rejected Carroll's claim the recipe book, as a whole, was a compilation and subject to copyright protection and reasoned that there is nothing creative about selecting and arranging the order of recipes in a book.

The full opinion can be found at: <http://www.ca6.uscourts.gov/opinions.pdf/15a0705n-06.pdf>. Gallagher Sharp's Julie Juergens and Holly Olarczuk-Smith represented the Defendants-Appellees.

If you have any questions, please contact:

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