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Jefferson Starship Founder's Breach Suit Cleared for Takeoff

Todd Cunningham, The Recorder

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What's in a rock band's name?

Plenty, if you are talking about Jefferson Starship, which goes back more than 40 years, has had more than 30 members and was born from the Jefferson Airplane.

Craig Chaquico, a founding member of Jefferson Starship and the only musician to perform on all 10 of their albums, on Aug. 11 secured from U.S. Magistrate Judge Maria-Elena James in San Francisco a decision greenlighting a cause of action of what his lawyers said was the core claim over use of the legendary band name.

The ruling came in a lawsuit initiated by Chaquico in April for breach of contract and unfair business practices, and seeking an injunction to stop the band from using the Jefferson Starship name and his likeness.

James [ruled](#) that he could pursue his breach of contract claim against multi-instrumentalist David Freiberg and drummer Donny Baldwin—who have played with the band since the 70s and 80s respectively—for performance and merchandising revenues taken in since January 2016, when the band's co-founder, [Paul Kantner](#), died.

But the judge dismissed his claim for earlier contract breaches and rejected a trademark infringement claim over the use of his likeness in promotional materials, such as in T-shirts or posters designed to help sell tickets, even though he wouldn't be performing.

"We are thrilled that the court rejected defendants' statute of limitations argument and allowed Mr. Chaquico to proceed with his core claim against David Freiberg and Donny Baldwin for their unauthorized and improper use of the name Jefferson Starship in violation of their written agreement to not do so," said Chaquico's attorney David W. Swift, a partner at Kinsella Weitzman Iser Kump & Aldisert.

Defense attorney Travis W. Life of Chicago-based Leavens Strand & Glover declined to comment beyond a statement that he provided.

"We are grateful that the court recognized that the plaintiff's Lanham Act claim lacked merit and that the band had First Amendment rights to reference the name Jefferson Starship," the statement read. "We look forward to the opportunity to prevail on the remaining motions and the band looks forward to continuing its nationwide tour."

James left the door open for Chaquico to pursue the trademark issue with new evidence and a reframed argument, and Swift confirmed Monday that was the plan.

"Plaintiff's allegations that defendants' use of his likeness violates the Lanham Act are merely conclusory," James wrote in her ruling. "The court therefore dismisses his Lanham Act claim. However, as there is nothing to suggest plaintiff cannot allege the required facts, the court grants him leave to amend to give him an opportunity to do so."

Robert Allen, a principal in McKool Smith's Los Angeles office and veteran of the music industry wars who recently helped Quincy Jones win his [\\$9.4 million award](#) from Michael Jackson's estate, saw that as a positive for Chaquico's case.

"I think what you see here is a procedural hiccup rather than a rejection of the claim," said Allen. "The judge is in effect saying I see what you're saying, but you've got to back it up with evidence, and I think you can."

This is only the latest chapter in the tumultuous history of the Jefferson Starship, which took flight in 1974 after evolving from the Jefferson Airplane. That band defined the psychedelic "San Francisco Sound" a decade earlier with Grace Slick performing vocals on songs like "White Rabbit" and "Somebody to Love."

Jefferson Starship was formed as a touring band when Marty Balin, Jorma Kaukonen and Jack Cassidy exited Jefferson Airplane. Chaquico was joined by Johnny Barbata, "Papa" John Creach, Kantner, Slick and Freiberg in the new group.

When they did make it into the studio they churned out nearly a decade's worth of hits including "Miracles," "Count On Me," "With Your Love," "Jane" and "We Built This City" among others. As the 1980s approached, however things were coming apart. After Slick's behavior at [two disastrous](#) 1978 shows in Germany, Kantner said she had to leave the band. Years later, disenchanted with the band's tilt toward pop, Kantner left too.

Before Kantner's departure he persuaded the remaining band members—Freiberg and Baldwin included—to agree not to use the name Jefferson Starship and pay him an exit fee. They did, and proceeded on as Starship, dropping "Jefferson". They had No. 1 hits in 1985 with "Sara" and 1986 with "Nothing's Going to Stop Us Now," a Slick and Mickey Thomas duet written by Diane Warren and Albert Hammond for the movie "Mannequin". It was nominated for a 1988 Academy Award as best original song.

For nearly a decade the band continued on with various alums, friends and new faces floating in and out, and Chaquico remained the lone constant. In 1993, Kantner began using the retired Jefferson Starship name in his live performances and Chaquico prepared to go to court.

But instead, he and Kantner agreed to arbitration and Kantner wound up with permission to use the name for live performances and merchandising. Freiberg and Baldwin later joined the revamped Jefferson Starship lineup, and Chaquico wasn't bothered—until Kantner's death.

Kantner's demise ended the rightful use of the name, Chaquico maintained, and he sent numerous letters threatening legal action to the band asking them to stop using the name before he filed suit earlier in April. The other current band members, Chris Smith, Jude Gold and Catherine Richardson, are also named in the suit.

"This case is about tarnishing the legacy of the original Jefferson Starship band," Chaquico [said at that time](#). "We retired the name in 1985 and we agreed that nobody would use the name again. For this band lineup to tour and call itself Jefferson Starship is woefully misleading to the public and confuses longtime fans."

Contact Todd Cunningham at tcunningham@alm.com.

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