

## SCOTUS Opinion: No Copyright Infringement Suit Until A Copyright Is Registered

4 Mar 2019

In [Fourth Estate Public Benefit Corp. v. Wall-Street.com, LLC](#), Fourth Estate licensed works to a news website. The parties cancelled the licensing agreement, but the website did not remove the works. Fourth Estate sued for copyright infringement under [the Copyright Act](#), but its lawsuit was dismissed because Fourth Estate had only applied to register the works—the Register of Copyrights had not acted on the applications. The court relied on [17 U.S.C. sec. 411\(a\)](#), which states that “registration of the copyright claim” must occur before any infringement action may be brought. (In this case, the Register ultimately refused to register the works.) The Eleventh Circuit affirmed the dismissal. The Court, in a unanimous decision by Justice Ginsburg, affirmed again, holding that registration is like an administrative exhaustion requirement that must be satisfied before any infringement suit may be brought. The Court acknowledged statutory exceptions to that rule, but rejected the argument that the same should apply to unlisted categories. The Court did note that once registration was complete, a suit could recover damages for pre-registration infringement.

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**TAGGED:** scotus, SCOTUS opinions, Copyright Act, Copyright Infringement, Fourth Estate Public Benefit Corp. v. Wall-Street.com LLC, Register of Copyrights, administrative exhaustion