

Procol Harum Founder Gary Brooker Dead at 76: Michael's Rock and Roll Posse Posting

RIP, Gary Brooker: https://ultimateclassicrock.com/procol-harum-gary-brooker-dead/?utm_source=Sailthru&utm_medium=email&utm_campaign=New%20Campaign&utm_term=UCR

Important artists of the 1960s are passing daily, many of them entertainers I have grown up with and remember on my playlists and mourn, but there are so many, I cannot comment on all of them. However, I began 2021 (Year 9 of my NPR classes) with an interesting podcast on Gary Brooker and the convoluted song credits to Procol Harum's "Whiter Shade of Pale," one of the great rock songs, still popular. The group (originally known as The Paramounts) had formed earlier in 1967, with two songwriting collaborators (lyricist Keith Reid and vocalist & pianist Gary Brooker), and the group performed its own repertoire and very few covers. Because Brooker and Reid had formed the band to perform their own music, Fisher did not press his claims in court, but simmered in his juices for over a quarter century until he sued. Remarkably, subsequent versions of the group have survived over time, and before the covid pandemic, play on Oldies tours and cruises.

When negotiations broke off, Fisher sued and an English court determined he was to receive 40% of the rights and revenue. The Court was clearly influenced by early recordings of the song without the organ riff, and then the successful final version with Fisher's "memorable organ part," a separate copyrightable work. One Judge even waxed enthusiastically about the song's iconic status: "As one of those people who do remember the sixties, I am glad that the author of that memorable organ part has at last achieved the recognition he deserves." Brooker testified he had written the part, with Bach's "Air on a G String" as his inspiration, but the demo tape had been lost in the intervening years. Fisher countered that he had been influenced by another Bach work, "Sleepers awake, the voice is calling." There were dueling musicologists and high-stakes testimony, but at the end of the day, even after the long lag-time, Fisher prevailed: the Chancery Court concluded that his organ parts were "sufficiently different from what Mr[.] Brooker had composed on the piano to qualify in law, and by a wide margin, as an original contribution to the Work."

The entire Law of Rock and Roll show is attached above, a belated Valentine to all my Posse listeners. (It is copyrighted, so please do not pass it on.) "BELATED" is the theme of my recent life, as I have been in the queue for knee-replacement surgery for some time, and the date is within, well, limping distance, March 30. I turn 71 this week on the 24th, so it is a great gift. I am not only working overtime to finish (over)due deadline articles and chapters, but also the EKGs, blood work, physical therapy, and other humiliating pre-op procedures. I also had to accelerate some oral surgery to complete it before the knee (what I have dubbed "KNEE-modo," a bilingual insider joke for my Spanish-speaking readers), as I will have to rehab afterwards, even with ongoing contractual obligations, such as the 5th edition of my Higher Education Law casebook, where I have recruited exceptional collaborators to take over the project after I finish this edition.

Even here, the stars did not align, as SCOTUS has accepted an affirmative action case for this term, so we are postponing the revision and using a supplement to tide us over for class adoptions: <https://cap-press.com/authors/150/Michael-A.-Olivas>. My phone and emails also exploded when word spread that

the case would be argued: <https://www.insidehighered.com/views/2022/01/25/legal-expert-weighs-supreme-court-and-affirmative-action-opinion> . This and other pieces have also increased my hate mail, fulfilling my hope that I would increase my engagements, with friends and foes alike.

So, I will still limp along, literally and metaphorically, but I wanted to alert all of you about these various issues. I hope to be kicking asses and taking names soon. In the meantime, I am taking the pain as you would expect, like a man—badly, with whining and crying,

Love and Respect,

Michael

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