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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA

AARON BABCOCK,

Plaintiff,

- against -

GANNETT SATELLITE INFORMATION NETWORK,  
LLC

Defendant.

Docket No. 4:20-cv-23

JURY TRIAL DEMANDED

### **COMPLAINT**

Plaintiff Aaron Babcock (“Babcock” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Gannett Satellite Information Network, LLC (“Gannett” or “Defendant”) hereby alleges as follows:

#### **NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of actor and comedian Bill Murray attending a Purdue vs. Nebraska football game in Nebraska, owned and registered by Babcock, a professional photographer. Accordingly, Babcock seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

#### **JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Upon information and belief, this Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in Indiana and is registered with the Indiana Department of State Division of Corporations.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

5. Babcock is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 7217 Dempster Drive, Lincoln, Nebraska 68516.

6. Upon information and belief, Gannett is a domestic business corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 823 Park East Blvd, Lafayette, Indiana 47905. Upon information and belief, Gannett is registered with the Indiana State Department of Corporations to do business in Indiana. At all times material hereto, Gannett has operated websites at the URL's: [www.JCOnline.com](http://www.JCOnline.com), [www.LoHud.com](http://www.LoHud.com), [www.Redding.com](http://www.Redding.com), and [www.AMP.USAToday.com](http://www.AMP.USAToday.com) (the "Websites").

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff's Ownership of the Photograph**

7. Babcock photographed actor and comedian Bill Murray attending a Purdue vs. Nebraska football game in Nebraska (the "Photograph"). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Babcock is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with United States Copyright Office and was given Copyright Registration Number VA 2-126-687.

**B. Defendant's Infringing Activities**

10. On September 29, 2018, Gannett ran an article on two Websites entitled *Bill Murray showed up to watch Purdue vs. Nebraska football*. See: <https://www.jconline.com/story/sports/2018/09/29/bill-murray-showed-up-watch-purdue-vs-nebraska-football/1472783002/> and <https://amp.usatoday.com/story/sports/2018/09/29/bill-murray-showed-up-watch-purdue-vs-nebraska-football/1472783002/> A On November 21, 2018, Gannett ran another article on two of the Websites entitled *Bill Murray dines at Rockland restaurant: We saw it on Instagram*. See: <https://www.lohud.com/story/entertainment/people/suburbarazzi/2018/11/21/bill-murray-dines-basque-tapas-restaurant-piermont/2077915002/> and <https://www.redding.com/story/entertainment/people/suburbarazzi/2018/11/21/bill-murray-dines-basque-tapas-restaurant-piermont/2077915002/>. The articles featured the Photograph. A true and correct copy of the articles and screenshots of the Photograph on the Websites are attached hereto as Exhibit B.

11. Gannett did not license the Photograph from Plaintiff for its articles, nor did Gannett have Plaintiff's permission or consent to publish the Photograph on its Websites.

12. Gannett has a history of using Plaintiff's photographs without permission. In December 2019, Plaintiff filed a lawsuit against Gannett for using another one of Plaintiff's photographs without permission. See: *Babcock v. Gannett Satellite Information Network, LLC* (3:19-cv-1035) (Western District of Wisconsin)

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)**  
**(17 U.S.C. §§ 106, 501)**

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Gannett infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Websites. Gannett is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Gannett have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

18. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

19. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Gannett be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. The Defendant Gannett be adjudged to have falsified, removed and/or altered copyright management information in violation of 17 U.S.C. § 1202.

3. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
4. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
5. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
6. That Plaintiff be awarded pre-judgment interest; and
7. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
March 30, 2020

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