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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

SAVANNA CAMPBELL,
Plaintiff,

- against -

GRAY TELEVISION, INC.
Defendant.

Docket No. 3:20-cv-469

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Savanna Campbell (“Campbell” or “Plaintiff”) by and through her undersigned counsel, as and for her Complaint against Defendant Gray Television, Inc. (“Gray Television” 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 the child car seat section of a Walmart, owned and registered by Campbell. Accordingly, Campbell 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’s resides and/or transacts business in Indiana.

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

PARTIES

5. Campbell resides at 421 Kennedy Street, Ironwood, Michigan 49938.

6. Upon information and belief, Gray Television is a business corporation, with a place of business at 54516 State Road 933, South Bend, Indiana 46637. At all times material hereto, Gray Television has owned and operated a website at the URL: www.WNDU.com (the “Website”) and a TV Station WNDU-TV (“TV Station”)

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Campbell photographed the child car seat section of a Walmart (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Campbell 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 2-204-282.

B. Defendant’s Infringing Activities

10. Gray Television ran the Photograph on a program on the TV Station and then the program from the TV Station was broadcasted on the Website on an article entitled *Fact Check: Does Michigan’s stay-at-home order ban purchase of child safety seats?* See: <https://www.wndu.com/content/news/Fact-Check-Does-Michigans-stay-at-home-order-ban-purchase-of-child-safety-seats-569599461.html>. A screenshot of the Photograph on the Website and TV Station is attached hereto as Exhibit B.

11. Gray Television did not license the Photograph from Plaintiff for its Website or TV Station, nor did Gray Television have Plaintiff's permission or consent to publish the Photograph on its Website or TV Station.

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

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

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

14. 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.

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

16. 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.

17. 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).

18. Plaintiff further is entitled to her 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 Gray Television be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. 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;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded her costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. 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
June 10, 2020

LIEBOWITZ LAW FIRM, PLLC

By: /s/Richard Liebowitz
Richard Liebowitz

11 Sunrise Plaza, Suite 305
Valley Stream, New York 11580
Tele: 516-233-1660
RL@LiebowitzLawFirm.com

Attorneys for Plaintiff Savanna Campbell