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THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA

Case No.

CHRISTOPHER SADOWSKI,

Plaintiff,

v.

CIRCLE CITY BROADCASTING I, LLC  
d/b/a WISH-TV,

Defendant.

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**COMPLAINT**

Plaintiff Christopher Sadowski (“Plaintiff”) sues defendant Circle City Broadcasting I, LLC d/b/a WISH-TV (“Defendant”), and alleges as follows:

**THE PARTIES**

1. Plaintiff is an individual who is a citizen of the State of New Jersey residing in the State of New Jersey.
2. Defendant is a limited liability company organized and existing under the laws of the State of Indiana with its principal place of business located at 1950 N Meridian Street, Indianapolis, IN 46202. Defendant’s agent for service of process is CT Corporation System, 334 North Senate Avenue, Indianapolis, IN 46204.

**JURISDICTION AND VENUE**

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).
4. This Court has personal jurisdiction over Defendant because it has maintained sufficient minimum contacts with this State such that the exercise of personal jurisdiction over it

would not offend traditional notions of fair play and substantial justice.

5. Venue properly lies in this district pursuant to 28 U.S.C. § 1400(a) because Defendant or its agents reside or may be found in this district. “A defendant in a copyright action ‘may be found’ in a district where he is subject to the district court's personal jurisdiction.” Martino v. Orchard Enters., No. 20 C 2267, 2020 U.S. Dist. LEXIS 199687, at \*18 (N.D. Ill. Oct. 27, 2020); see also Store Decor Div. of Jas Int'l, Inc. v. Stylex Worldwide Indus., Ltd., 767 F. Supp. 181, 185 (N.D. Ill. 1991) (“Thus, if a court has personal jurisdiction over the defendants in a copyright infringement action, venue in that court’s district is proper.”).

## **FACTS**

### **I. Plaintiff’s Business and History**

6. Plaintiff is an award-winning photojournalist and is widely published in some of the world’s most important newspapers and magazines, including but not limited to, the New York Post, Daily Mail Online, Reader’s Digest, USA Today, New York Times, Fox News, CBS News, NBC News, Boston Globe, Boston Herald, Los Angeles Times, Newsweek Magazine, and People Magazine.

7. Throughout his career, Plaintiff has been self-employed as a professional photographer who specializes in photo-documenting ordinary life and the human condition.

8. Plaintiff travels throughout the New York, New Jersey and Connecticut tri-state area taking photographs that tell a story about tragedy, hope, calamity, joy, discord and renewal.

9. Using state-of-the-art equipment, Plaintiff creates high-end photography licensed by some of the top publishers in this Country. When commissioned for a job, Plaintiff spends countless hours capturing hundreds of photographs and then processing those photographs to ensure they meet customers’ requirements.

10. Plaintiff maintains a commercial website (<http://www.csnyphoto.com>) which describes the photography services offered by Plaintiff, hosts a sample portfolio of photographs taken by Plaintiff, and invites prospective customers to contact Plaintiff to arrange for a professional photo shoot.

11. Plaintiff owns the photographs and serves as the licensing agent with respect to licensing such photographs for limited use by Plaintiff's customers. To that end, Plaintiff's standard terms include a limited, one-time license for use of any single photograph by the customer only. Plaintiff's license terms make clear that all copyright ownership remains with Plaintiff and that its customers are not permitted to transfer, assign, or sub-license any of Plaintiff's photographs to another person/entity.

## II. The Work at Issue in this Lawsuit

12. In 2019, Plaintiff created a professional photograph titled "062219garbagetruck4CS" (the "Work") of a New York sanitation truck driving down the streets of New York. A copy of the Work is displayed below:



13. The Work was registered by Plaintiff with the Register of Copyrights on December 31, 2021 and was assigned Registration No. VA 2-288-279. A true and correct copy of the Certificate of Registration pertaining to the Work is attached hereto as **Exhibit “A.”**

14. The Work was licensed to the *New York Post* and published alongside an article titled “Top of heap: 94 NYC Sanitation workers net \$100K-plus in overtime” (at <https://nypost.com/2021/12/12/94-nyc-sanitation-workers-net-100k-in-overtime/>). Immediately below the Work appearing in the foregoing article, Plaintiff’s name is credited as the author/creator of the Work, an attribution known in the industry as a “gutter credit”:

NEW YORK POST

SECTION

NY landlord woman to pose as, cops say

Connecticut mom arrested for DUI while dropping child off at...

New NYC racial equity commission head Linda Tigani linked to...

MTA boss' wife made as much as \$275K letting NYC home be...

Chronic condition: NYC's Greenwich Village flooded with...

NYC public c Victoria Ruiz after being c...

Some of the supervisors who were among the 94 Sanitation employees to earn more than \$100,000 in OT last year told The Post they didn't feel comfortable talking about the boost.

Brooklyn supervisor John Samo, who joined the department in 1997, came in at No. 2 on the list, receiving \$164,673 in OT and \$18,437 in other pay to boost his total income to \$293,838 last year.

"I really don't want to discuss my personal financial earnings," he said.

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Massive NYC snowstorm could cause power outages, dangerous commutes

Managing market uncertainty

By PNC IAM

AdChoices

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Nearly 100 city Sanitation Department garbage collectors and supervisors hauled in more than \$100,000 in overtime last year.

Christopher Sadowski

15. Plaintiff is the owner of the Work and has remained the owner at all times material hereto.

### III. Defendant's Unlawful Activities

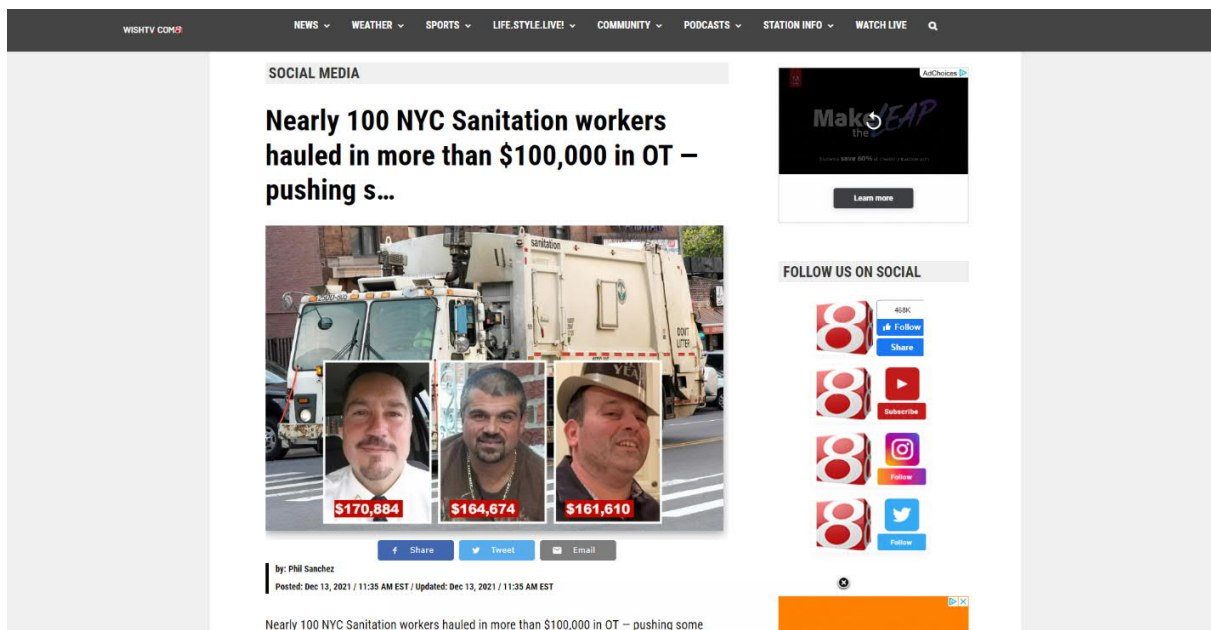
16. Defendant is a broadcasting and media production company delivering news, weather, and sports information to central Indiana.

17. Defendant advertises/markets its business through its website (<https://www.wishtv.com/>), social media (e.g., <https://www.facebook.com/wishtv/>, <https://www.instagram.com/wishtv8/> and [https://twitter.com/WISH\\_TV](https://twitter.com/WISH_TV)) and other forms of advertising.

18. On December 13, 2021 (within three months between first publication and the above-referenced copyright registration of the Work),<sup>1</sup> Defendant published the Work on its website, webpage, and/or social media (at <https://www.wishtv.com/social-media/nearly-100-nyc-sanitation-workers-hauled-in-more-than-100000-in-ot-pushing-s/>) in connection with an article titled “Nearly 100 NYC Sanitation workers hauled in more than \$100,000 in OT- pushing s...”:

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<sup>1</sup> Plaintiff first published the Work in December 2021.



19. Upon information and belief, Defendant copied and/or downloaded the Work from the foregoing New York Post article (or some other New York Post article that likewise contained a gutter credit identifying Plaintiff as the creator of the Work). Thus, in publishing the Work online, Defendant cropped the Work so as to remove Plaintiff's copyright management information (the gutter credit). The remaining details of the photographs, however, unequivocally show the photographs on Defendant's website, webpage, and/or social media to be the same as the Work.

20. A true and correct copy of screenshots of Defendant's website, webpage, and/or social media, displaying the copyrighted Work, is attached hereto as **Exhibit "B."**

21. Defendant is not and has never been licensed to use or display the Work. Defendant never contacted Plaintiff to seek permission to use the Work in connection with its website or for any other purpose.

22. Defendant utilized the Work for commercial use.

23. Upon information and belief, Defendant located a copy of the Work on the internet

(on the NY Post website with copyright management information intact) and, rather than contact Plaintiff to secure a license, simply copied the Work for its own commercial use.

24. Through his ongoing diligent efforts to identify unauthorized use of his photograph, Plaintiff discovered Defendant's unauthorized use/display of the Work in July 2022. Following Plaintiff's discovery, Plaintiff notified Defendant in writing of such unauthorized use. To date, Plaintiff has been unable to negotiate a reasonable license for the past infringement of his Work.

25. All conditions precedent to this action have been performed or have been waived.

### **COUNT I – COPYRIGHT INFRINGEMENT**

26. Plaintiff re-alleges and incorporates paragraphs 1 through 25 as set forth above.

27. Each photograph comprising the Work is an original work of authorship, embodying copyrightable subject matter, that is subject to the full protection of the United States copyright laws (17 U.S.C. § 101 *et seq.*).

28. Plaintiff owns a valid copyright in each photograph comprising the Work, having registered the Work with the Register of Copyrights and owning sufficient rights, title, and interest to such copyright to afford Plaintiff standing to bring this lawsuit and assert the claim(s) herein.

29. As a result of Plaintiff's reproduction, distribution, and public display of the Work, Defendant had access to the Work prior to its own reproduction, distribution, and public display of the Work on its website, webpage, and/or social media.

30. Defendant reproduced, distributed, and publicly displayed the Work without authorization from Plaintiff.

31. By its actions, Defendant infringed and violated Plaintiff's exclusive rights in violation of the Copyright Act, 17 U.S.C. § 501. Defendant's infringement was either direct,

vicarious, and/or contributory.

32. Defendant's infringement was willful as it acted with actual knowledge or reckless disregard for whether its conduct infringed upon Plaintiff's copyright. Notably, Defendant itself utilizes a copyright disclaimer on its website ("© 2024 CIRCLE CITY BROADCASTING I, LLC. | ALL RIGHTS RESERVED."), indicating that Defendant understands the importance of copyright protection and intellectual property rights and is actually representing that it owns each of the photographs published on its website. See, e.g., Bell v. ROI Prop. Grp. Mgmt., LLC, No. 1:18-cv-00043-TWP-DLP, 2018 U.S. Dist. LEXIS 127717, at \*3 (S.D. Ind. July 31, 2018) ("[T]he willfulness of ROI's infringement is evidenced by the fact that at the bottom of the webpage on which the Indianapolis photograph was unlawfully published appeared the following: 'Copyright © 2017.' By placing a copyright mark at the bottom of its webpage that contained Mr. Bell's copyrighted Indianapolis Photograph, Mr. Bell asserts ROI willfully infringed his copyright by claiming that it owned the copyright to everything on the webpage."); John Perez Graphics & Design, LLC v. Green Tree Inv. Grp., Inc., Civil Action No. 3:12-cv-4194-M, 2013 U.S. Dist. LEXIS 61928, at \*12-13 (N.D. Tex. May 1, 2013) ("Once on Defendant's website, Defendant asserted ownership of Plaintiff's Registered Work by including a copyright notice at the bottom of the page. Based on these allegations, the Court finds Plaintiff has sufficiently pled a willful violation...."). Defendant clearly understands that professional photography such as the Work is generally paid for and cannot simply be copied from the internet.

33. Defendant not only utilizes a copyright disclaimer on its website, but also has an "Intellectual Property" policy (at <https://www.wishtv.com/terms-of-use/>) whereby it specifically claims copyright ownership of all photographs and other intellectual property published on its website:



The Properties and all the materials available on the Properties are the property of us or our licensors, and are protected by copyright, trademark, and other intellectual property laws. You may not use the Properties or the materials available on the Properties in a manner that infringes the owner's rights or that has not been authorized by the owner. Except as otherwise expressly provided in these Terms of Use, you may not copy, distribute, transmit, display, perform, reproduce, publish, license, modify, rewrite, create derivative works from, transmit, transfer, sell, exploit, or distribute in any manner or medium (including by email or other electronic means) any material contained on the Properties without the prior consent of the owner. None of the material contained on the Properties may be reverse-engineered, disassembled, decompiled, transcribed, stored in a retrieval system, translated into any language or computer language, retransmitted in any form or by any means (electronic, mechanical, photo reproduction, recordation or otherwise), resold or redistributed without our prior written consent.

34. Plaintiff has been damaged as a direct and proximate result of Defendant's infringement.

35. Plaintiff is entitled to recover his actual damages resulting from Defendant's unauthorized use of the Work and, at Plaintiff's election (pursuant to 17 U.S.C. § 504(b)), Plaintiff is entitled to recover damages based on a disgorgement of Defendant's profits from infringement of the Work, which amounts shall be proven at trial.

36. Alternatively, and at Plaintiff's election, Plaintiff is entitled to statutory damages pursuant to 17 U.S.C. § 504(c), in such amount as deemed proper by the Court.

37. Pursuant to 17 U.S.C. § 505, Plaintiff is further entitled to recover his costs and attorneys' fees as a result of Defendant's conduct.

38. Defendant's conduct has caused and any continued infringing conduct will continue to cause irreparable injury to Plaintiff unless enjoined by the Court. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to a permanent injunction prohibiting infringement of Plaintiff's exclusive rights under copyright law.

**WHEREFORE**, Plaintiff demands judgment against Defendant as follows:

- a. A declaration that Defendant has infringed Plaintiff's copyrights in the Work;
- b. A declaration that such infringement is willful;
- c. An award of actual damages and disgorgement of profits as the Court deems proper or, at Plaintiff's election, an award of statutory damages for willful infringement up to \$150,000.00 for each photograph comprising the Work;
- d. Awarding Plaintiff his costs and reasonable attorneys' fees pursuant to 17 U.S.C. § 505;
- e. Awarding Plaintiff interest, including prejudgment interest, on the foregoing amounts;
- f. Permanently enjoining Defendant, its employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries and assigns, and all those in active concert and participation with Defendant, from directly or indirectly infringing Plaintiff's copyrights or continuing to display, transfer, advertise, reproduce, or otherwise market any works derived or copied from the Work or to participate or assist in any such activity; and
- g. For such other relief as the Court deems just and proper.

**COUNT II – REMOVAL OR ALTERATION  
OF COPYRIGHT MANAGEMENT INFORMATION**

39. Plaintiff re-alleges and incorporates paragraphs 1 through 25 as set forth above.

40. As evidenced above, Plaintiff's name appeared in a gutter credit near each photograph comprising the Work identifying Plaintiff as the owner/creator of the Work. The gutter credit qualifies as protectable copyright management information identifying Plaintiff as the owner/creator of the Work.

41. Defendant knowingly and with the intent to enable or facilitate copyright infringement, removed or altered the copyright management information from the Work in violation of 17 U.S.C. § 1202(b).

42. Defendant committed these acts knowing or having reasonable grounds to know that it will induce, enable, facilitate, or conceal infringement of Plaintiff's rights in the Work.

43. If Defendant did not remove or alter the copyright management information itself, Defendant caused, directed, and authorized others to commit these acts knowing or having reasonable grounds to know that it will induce, enable, facilitate, or conceal infringement of Plaintiff's rights in the Work.

44. As a direct and proximate result of Defendant's conduct in removing or altering the foregoing copyright management information, Plaintiff has been damaged.

45. Defendant's conduct has caused, and any continued infringing conduct will continue to cause, irreparable injury to Plaintiff unless enjoined by the Court. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. § 1203(b), Plaintiff is entitled to a permanent injunction prohibiting any further violation of 17 U.S.C. § 1202 by Defendant.

**WHEREFORE**, Plaintiff demands judgment against Defendant as follows:

- a. A declaration that Defendant has violated Plaintiff's copyrights in the Work by removing or altering or causing to be removed or altered Plaintiff's copyright management information displayed thereon;
- b. A declaration that such violation is willful;
- c. An award of actual damages and disgorgement of profits as the Court deems proper or, at Plaintiff's election, an award of statutory damages for willful infringement up to \$25,000.00 for each infringement of the Work;
- d. Awarding Plaintiff his costs and reasonable attorneys' fees pursuant to 17 U.S.C. § 1203(b)(5);
- e. Awarding Plaintiff interest, including prejudgment interest, on the foregoing amounts;

- f. Permanently enjoining Defendant, its employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries and assigns, and all those in active concert and participation with Defendant, from directly or indirectly further violating Plaintiff's copyrights by further displaying or distributing the Work with its copyright management information removed; and
- g. For such other relief as the Court deems just and proper.

**Demand For Jury Trial**

Plaintiff demands a trial by jury on all issues so triable.

Dated: February 22, 2024

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