UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

JULIE DERMANSKY, Plaintiff, - against - UNIVERSITY OF COLORADO Defendant.	Docket No. 1:19-cv-2954 JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Julie Dermansky ("Dermansky" or "Plaintiff") by and through her undersigned counsel, as and for her Complaint against Defendant University of Colorado ("University of Colorado" 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 ongoing pipeline construction work in the Atchafalaya Basin, owned and registered by Dermansky, a professional photographer. Accordingly, Dermansky 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. This Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in Colorado.

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

PARTIES

5. Dermansky is a professional photographer in the business of licensing her photographs to online and print media for a fee having a usual place of business at 2357 Cours Carson Street, Mandeville, Louisiana 70448.

6. Upon information and belief, University of Colorado has a place of business at 1800 Grant Street, Denver, Colorado 80203. At all times material, hereto, University of Colorado has owned and operated a website at the URL: www.Colorado.edu (the "Website").

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photograph

7. Dermansky photographed the ongoing pipeline construction work in the Atchafalaya Basin (the "Photograph"). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Dermansky 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 the United States Copyright Office and was given registration number VA 2-130-242.

B. Defendant's Infringing Activities

10. University of Colorado ran an article on the Website entitled *Thanksgiving 2.0 #2018: Continuously Inspired by Standing Rock.* See: https://www.colorado.edu/center/cde/2018/11/12/thanksgiving-20-2018-continuously-inspired-standing-rock. The article featured the Photograph. A true and correct copy of the article and a screenshot of the Photograph on the Website are attached hereto as Exhibit B.

11. University of Colorado did not license the Photograph from Plaintiff for its article, nor did University of Colorado have Plaintiff's permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST UNIVERSITY OF COLORADO)
(17 U.S.C. §§ 106, 501)

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

13. University of Colorado infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. University of Colorado 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 University of Colorado 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 University of Colorado 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
October 16, 2019

LIEBOWITZ LAW FIRM, PLLC

By: /s/Richard Liebowitz
Richard P. Liebowitz
11 Sunrise Plaza, Suite 305
Valley Stream, New York 11580

Tel: (516) 233-1660
RL@LiebowitzLawFirm.com

Attorneys for Plaintiff Julie Dermansky