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*Attorneys for Plaintiff,*  
JOHN DURANT

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

JOHN DURANT,

Plaintiff,

v.

LAUREATE EDUCATION INC.;  
and DOES 1 through 10 inclusive,

Defendant.

Case No. '19CV0917 LAB BGS

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF**

**DEMAND FOR JURY TRIAL**

Plaintiff JOHN DURANT, for his Complaint against LAUREATE EDUCATION INC. and DOES 1 through 10 inclusive, Defendant, alleges as follows:

**JURISDICTION AND VENUE**

1. This is a civil action seeking damages and injunctive relief for copyright infringement under the Copyright Act of the United States, 17 U.S.C. § 101 *et seq.*

2. This Court has subject matter jurisdiction over Plaintiff's claims for copyright infringement pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant has a physical presence in State of California, Defendant's acts of infringement complained of herein occurred in the State of California, and caused

1 injury to Plaintiff in his intellectual property within the State of California.

2 4. Venue is proper pursuant to 28 U.S.C. § 1391(b) because Defendant  
3 resides in this judicial district and a substantial part of the events giving rise to  
4 Plaintiff's claim occurred in this judicial district. Alternatively, venue is also  
5 proper pursuant to 28 U.S.C. § 1400(b) because Defendant committed the acts of  
6 infringement, and has a regular and established places of business in this judicial  
7 district.

### 8 PARTIES

9 5. Plaintiff John Durant ("Plaintiff" or "Durant") is a highly acclaimed  
10 professional photographer based in San Diego, California.

11 6. Defendant Laureate Education Inc. ("Defendant") is a Delaware  
12 corporation with a principal place of business in Baltimore, Maryland. Defendant  
13 owns and operates the NewSchool of Architecture & Design located in San Diego,  
14 California.

15 7. Plaintiff is unaware of the true names and capacities of the  
16 Defendants sued herein as DOES 1 through 10, inclusive, and for that reason, sues  
17 such Defendants under such fictitious names. Plaintiff is informed and believes  
18 and on that basis alleges that such fictitiously named Defendants are responsible in  
19 some manner for the occurrences herein alleged, and that Plaintiff's damages as  
20 herein alleged were proximately caused by the conduct of said Defendants.  
21 Plaintiff will seek to amend the complaint when names and capacities of such  
22 fictitiously named Defendants are ascertained. As alleged herein, "Defendant"  
23 shall mean all named Defendants and all fictitiously named Defendants.

24 8. For the purposes of this Complaint for Damages, unless otherwise  
25 indicated, "Defendant" includes all agents, employees, officers, members,  
26 directors, heirs, successors, assigns, principals, trustees, sureties, subrogates,  
27 representatives and insurers of Defendant(s) named in this caption.

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**FACTUAL ALLEGATIONS**

9. Plaintiff John Durant is an accomplished photographer whose editorial photos have been used by the world's biggest news outlets. His advertising and commercial photography is used by businesses worldwide. His images typically license for \$5,000 to \$15,000 a year.

10. Durant is the sole author and exclusive rights holder to a photograph of the Hotel Indigo ("the Image") located in downtown San Diego. A true and correct copy of the original Image is attached hereto as Exhibit A.

11. Durant registered the Image with the United States Copyright Office on March 30, 2012 under registration number VAu 1-098-158.

12. Defendant is one of the largest for-profit education companies in the world operating various college campuses across the globe.

13. One of the campuses owned and operated by Defendant is the NewSchool of Architecture & Design located at 1249 F Street, San Diego, California.

14. As part of its operation of NewSchool, Defendant owns and operates the web domain [www.newschoollarch.edu](http://www.newschoollarch.edu) ("Defendant's Website"), which it uses to recruit potential students.

15. On or about December 19, 2017, Durant discovered that a slightly cropped version of his Image was being used on Defendant's Website.

16. Attached hereto as Exhibit B is a true and correct copy of the infringing use of the Image on Defendant's Website.

17. Durant never authorized Defendant to use the Image on Defendant's Website, nor did Durant have record of Defendant ever purchasing a license to use the Image.

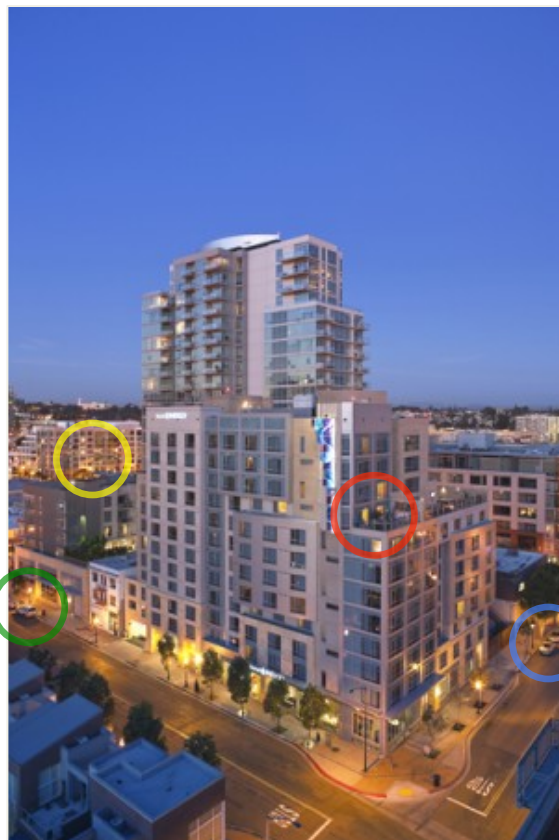
18. Durant is informed and believes that Defendant knew that it did not have permission to use the Image on Defendant's Website and willfully infringed Durant's Image.

19. After discovering the infringing use of his Image on Defendant's Website, Plaintiff's counsel reached out to Defendant to resolve the matter.

20. Defendant's counsel claimed that the photograph on Defendant's Website was not Durant's Image.

21. When comparing the two photographs, Durant could tell that it was his Image because the various lighting elements and placement of the subject matter that were identical with the cropped version that appeared on Defendant's Website:

### Original Image



### Infringing Use

NewSchool is within walking distance from multiple hotels in hotels near our campus.

#### **Hotel Indigo San Diego Gaslamp Quarter**

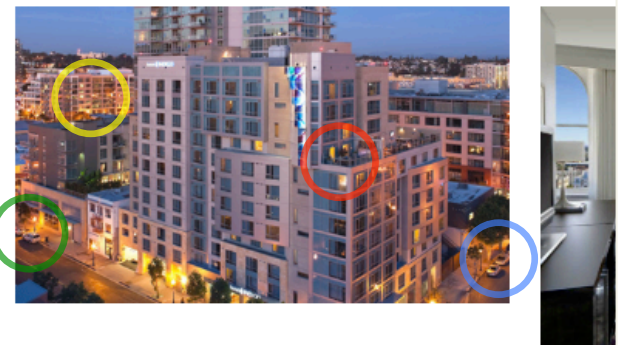
• Online reservations: Visit <http://www.hotelinsd.com/>

• Telephone reservations: Call 877-846-3446

#### **Courtyard Marriott Downtown**

• Online Reservations: Visit [www.marriott.com/sancti](http://www.marriott.com/sancti)

• Telephone Reservations: Call 800-321-2211



22. After corresponding with Defendant's counsel numerous times, Defendant's counsel refused to acknowledge that it was in fact Durant's Image on Defendant's Website, and refused to resolve the matter.

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**FIRST CAUSE OF ACTION  
COPYRIGHT INFRINGEMENT  
17 U.S.C. § 101 *et seq.***

23. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

24. Plaintiff did not consent to, authorize, permit, or allow in any manner the said use of Plaintiff's unique and original Image on Defendant's Website.

25. Plaintiff is informed and believes and thereon alleges that Defendant willfully infringed upon Plaintiff's copyrighted works in violation of Title 17 of the U.S. Code, in that it published, communicated, benefited through, posted, distributed, publicized, and otherwise held out to the public for commercial benefit, the original and unique work of the Plaintiff's consent or authority, and acquired monetary gain and market benefit as a result.

26. Specifically, Plaintiff is informed and believes that Defendant has the right and ability to supervise and control the content that gets posted on Defendant's Website, and that Defendant derives a financial benefit from Defendant's Website because Defendant advertises its for profit educational services using Defendant's Website and encourages prospective customers to enroll at its university and pay tuition to Defendant.

27. Additionally, Plaintiff is informed and believes that Defendant or an authorized agent of Defendant uploaded an unauthorized copy of Plaintiff's Image to Defendant's Website so that it could be publically displayed.

28. As a result of Defendant's violations of Title 17 of the U.S. Code, Plaintiff is entitled to actual damages and profits pursuant to 17 U.S.C. §504(b), or statutory damages in an amount up to \$150,000.00 for each infringement pursuant to 17 U.S.C. § 504(c).

29. As a result of the Defendant's violations of Title 17 of the U.S. Code, the court in its discretion may allow the recovery of full costs as well as reasonable attorney's fees and costs from Defendant pursuant to 17 U.S.C § 505.

30. Plaintiff is also entitled to injunctive relief to prevent or restrain infringement of his copyright pursuant to 17 U.S.C. § 502.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for judgment against Defendant as follows:

- For a finding that Defendant infringed Plaintiff's copyright interest in the Image by copying and displaying it on Defendant's Website without a license or consent;
- For an award of actual damages and disgorgement of all of Defendant's profits attributable to the infringement as provided by 17 U.S.C. § 504 in an amount to be proven or, in the alternative, at Plaintiff's election, an award for statutory damages against Defendant in an amount up to \$150,000.00 for each infringement pursuant to 17 U.S.C. § 504(c), whichever is larger;
- For an order pursuant to 17 U.S.C. § 502(a) enjoining Defendant from any infringing use of any of Plaintiff's works;
- For costs of litigation and reasonable attorney's fees against Defendant pursuant to 17 U.S.C. § 505;
- For pre judgment interest as permitted by law; and
- For any other relief the Court deems just and proper.

Dated: May 15, 2019

Respectfully submitted,

**/s/ Mathew K. Higbee**

Mathew K. Higbee, Esq.

Cal. Bar No. 241380

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*Counsel for Plaintiff*

**DEMAND FOR BENCH TRIAL**

Plaintiff, John Durant, hereby demands a bench trial in the above matter.

Dated: May 15, 2019

Respectfully submitted,

**/s/ Mathew K. Higbee**

Mathew K. Higbee, Esq.

Cal. Bar No. 241380

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