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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

GARRETT EWALD,

Plaintiff,

v.

LONG ISLAND UNIVERSITY;

Defendant.

Civil Action No.:

**COMPLAINT AND
DEMAND FOR A JURY TRIAL**

Plaintiff Garrett Ewald (“Plaintiff” or “Ewald”), by and through undersigned counsel and pursuant to the applicable Federal Rules of Civil Procedure and the Local Civil Rules of this Court, hereby demands a trial by jury of all claims and issues so triable, and for his Complaint against Defendant Long Island University (“Defendant” or “LIU”), asserts and alleges as follows:

PARTIES

1. Plaintiff Ewald is a part-time adjunct assistant professor at LIU in the Department of Journalism and Creative Writing at The Polk School of Journalism and an independent professional photographer who currently resides in the State of New York.

2. Plaintiff is the sole author and registered owner of the copyrights in and to the photographic works (“Photographs”) identified herein and that are the subject of this action.

3. Defendant LIU is a private university with its primary campuses in Brooklyn and Brookville, New York, as well as regional locations in Purchase (Rockland County) and Riverhead, New York.

4. Upon information and belief, Defendant LIU owns and operates various websites and social media accounts on various platforms (together “LIU Websites”) – including but not limited to the website <https://www.liuathletics.com/> and the “liuwbb” account on Instagram – through/on which it advertises and promotes LIU’s brand and athletics teams and events, and sells various merchandise, memorabilia products, and tickets to games and events.

JURISDICTION AND VENUE

5. Jurisdiction for Plaintiff’s claims lies with the United States District Court for the Southern District of New York pursuant to the Copyright Act of 1976, 17 U.S.C. §§ 101, *et seq.*, 28 U.S.C. § 1331 (conferring original jurisdiction “of all civil actions arising under the Constitution, laws, or treaties of the United States”), and 28 U.S.C. § 1338(a) (conferring original jurisdiction over claims arising under any act of Congress relating to copyrights).

6. LIU is a resident of New York state and thus is subject to general personal jurisdiction in New York.

7. Venue is proper in this Court under 28 U.S.C. § 1400(a) since Defendant may be found in this District and conducts substantial and ongoing business in this District, including through its campus in Rockland County, New York.

8. Venue also is proper in this District because Plaintiff owns a home in this District and many of the sporting events at which Plaintiff captured the Photographs were held at venues located in this District.

GENERAL ALLEGATIONS

9. In or about October 2024, Plaintiff contacted personnel in the athletics department at LIU about potentially photographing LIU basketball games and athletic events.

10. Prior to photographing any LIU games or events, Plaintiff made clear that he was an independent sports photographer and charged fees for his services. Plaintiff also advised LIU that he was a professional sports photojournalist who would photograph events as an independent contractor, including by inquiring as to LIU's budget for such services, asking how/whether he would need to be set up as a vendor in order to receive payment for any such work and services, and providing information to LIU regarding his rates and fees.

11. At no time during such discussions did Plaintiff ever state (or imply) that he was offering to volunteer his photographic services for LIU, nor did he ever agree to grant a license to LIU to use any of his Photographs without a written license being issued or any license fees being paid by LIU, nor did any LIU personnel ever state (or imply) to Plaintiff prior to him photographing events that they understood that Plaintiff would be volunteering his services and granting a free license to LIU.

12. After photographing several LIU athletic games and events, Plaintiff sent an invoice to LIU's athletics department on or about December 2, 2024, that included an offer to license the Photographs that Plaintiff created for a specified licensing fee.

13. On or about December 13, 2024, Kendrell Watkins, Senior Associate Athletic Director for Revenue Generation at LIU rejected Plaintiff's offer to license his Photographs to LIU and refused to pay the license fee quoted in Plaintiff's invoice.

14. Immediately thereafter, Plaintiff expressly and repeatedly advised LIU that his granting a license to LIU to use his Photographs was contingent on payment of the license fee and thus no rights, license, permission, or authorization to use his Photographs would be conveyed to LIU if it refused to pay the requisite licensing fees.

15. LIU did not pay the required license fees to Plaintiff and thus did not ever acquire any rights, license, permission, or authorization to copy, publish, distribute, or otherwise use any of Plaintiff's Photographs.

16. Despite rejecting the license offered by Plaintiff in December 2024 and repeatedly being advised by Plaintiff that LIU did not have permission or a license to use any of Plaintiff's Photographs, LIU continued to copy, publish, and use many of Plaintiff's Photographs that it had downloaded from Plaintiff's website.

17. Among other uses, LIU repeatedly published Plaintiff's Photographs on its various websites and social media pages, including the LIU Websites, after being advised by Plaintiff that LIU did not have a license or permission to use his Photographs because it refused to purchase the required license.

18. Despite Plaintiff again notifying LIU that it did not have his permission to use his Photographs, LIU failed to remove any of his works from any LIU Websites and, instead, continued to use and republish his images for many months.

19. Attached hereto as Exhibit 1 is a chart containing URLs and thumbnails of Plaintiff's copyrighted Photographs being used, published, and displayed by Defendant without license or authorization.

20. After LIU refused to pay the required license fee invoiced by Plaintiff, he disabled the download and copying functionality on his website for the galleries of photographs that he created at LIU games and events thereby preventing LIU from being able to continue illegally downloading and copying his works.

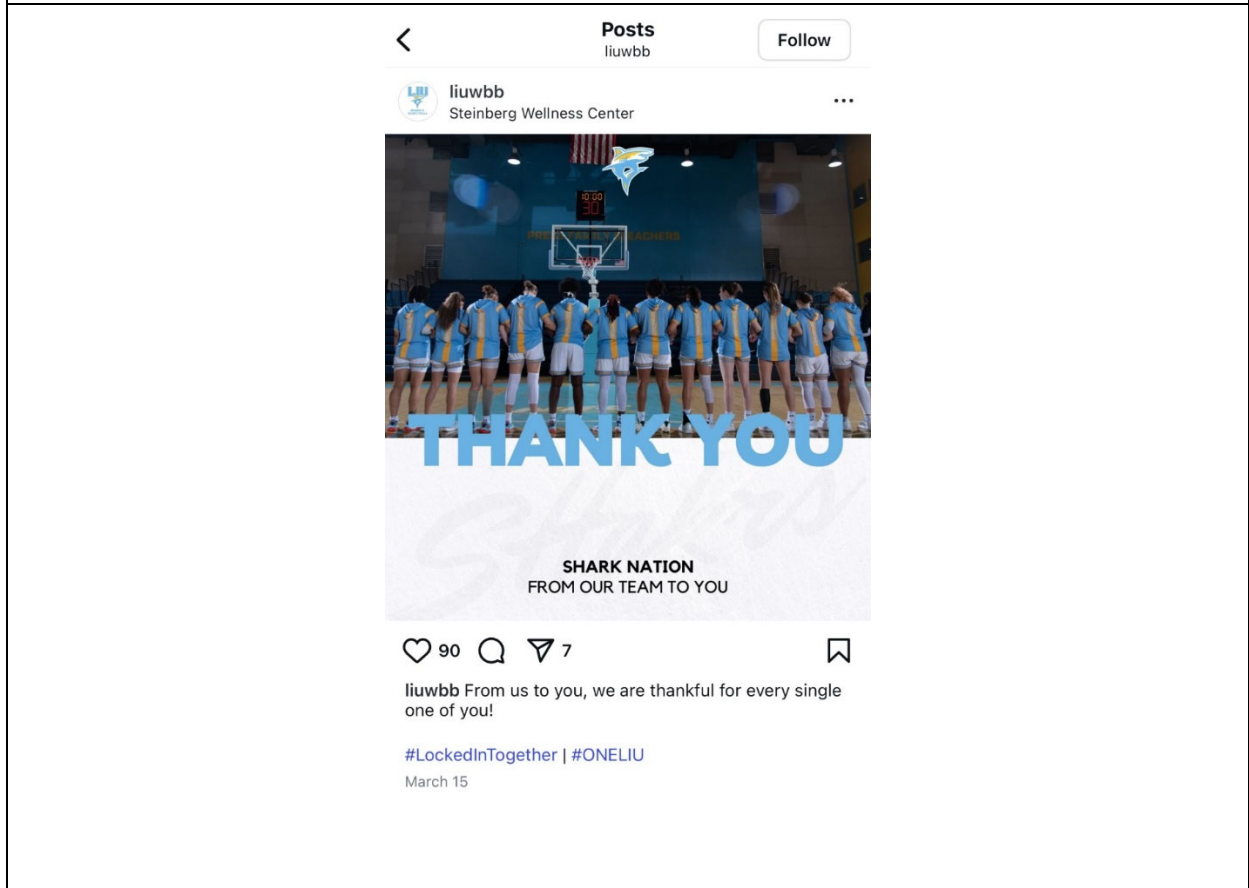
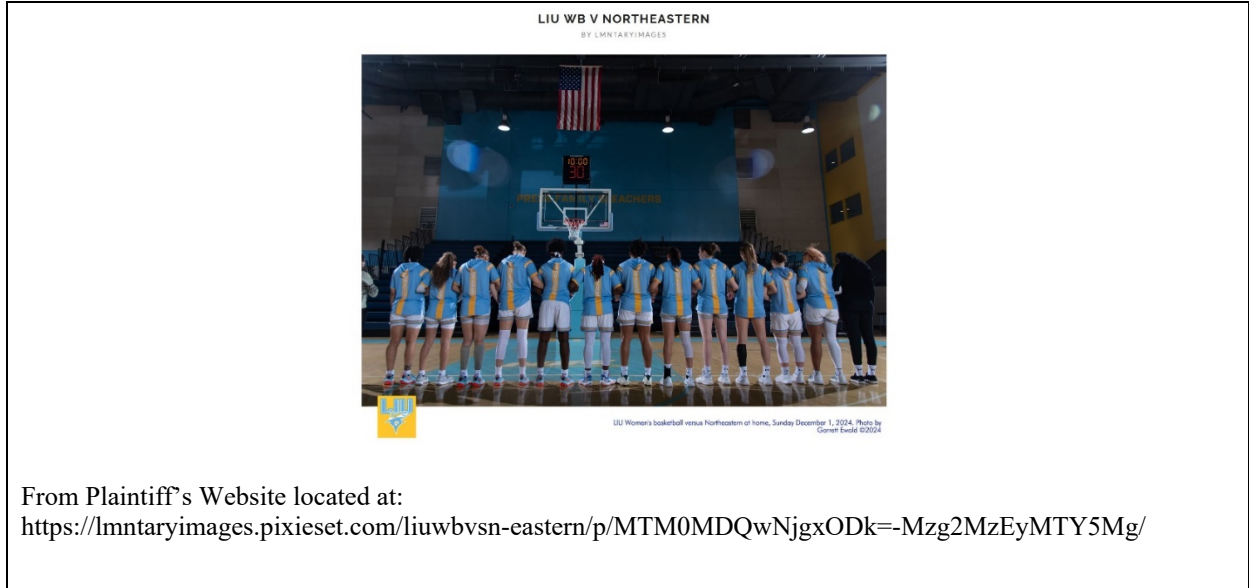
21. Nevertheless, LIU continued to copy and publish Plaintiff's Photographs without permission, evidently taking "screen captures" of the gallery cover images on Plaintiff's website (<https://lmntaryimages.pixieset.com/>) and then republishing the illegally created screen shot images on LIU Websites.

22. The cover photograph for each gallery of LIU events on Plaintiff's website included a "gutter credit" below the image that contained Plaintiff's copyright management information ("CMI") that expressly identified Plaintiff as the copyright owner of the cover image.

23. When LIU improperly created screen shots, it intentionally omitted or "cropped out" the CMI contained in the gutter credit to hide and conceal its illegal conduct and to make it more difficult for Plaintiff to discover LIU's infringements of his copyrights.

24. By way of example, below is a screen shot of the cover photograph from one of the galleries on Plaintiff's website for which all download and copying functionality were disabled, together with a screen capture from LIU's "liuwbb" account on Instagram showing that LIU copied

and published the same photograph illegally on March 15, 2025 – three months after Plaintiff advised LIU that it had no license or rights to copy or use his works and disabled the downloading functionality – demonstrating that LIU intentionally omitted Plaintiff’s CMI.



25. Defendant's infringements and violations of Plaintiff's rights under the Copyright Act were intentional, willful, and knowing.

26. The full scope of Defendant's unlicensed and infringing use of Plaintiff's Photographs is not yet known by Plaintiff, as that information remains in LIU's sole possession, and thus the infringements alleged in Exhibit 1 are not intended to be exhaustive.

COUNT I
COPYRIGHT INFRINGEMENT
PURSUANT TO 17 U.S.C. § 501

27. Plaintiff repeats and re-alleges each allegation set forth in the paragraphs above as if set forth fully herein.

28. As alleged herein, Defendant copied, published, distributed, displayed, and otherwise exploited and used Plaintiff's Photographs in various media without Plaintiff's permission or a license to do so.

29. Plaintiff registered his copyrights in the Photographs with the United States Copyright Office under Registration No. VA0002440048.

30. Plaintiff registered his copyrights prior to the commencement of many of Defendant's infringements and, in all cases, within three months of the first publication of the works. Pursuant to 17 U.S.C. § 412(2), Plaintiff is eligible and entitled to elect, at the appropriate time if he so chooses, to recover statutory damages pursuant to 17 U.S.C. § 504(c).

Willfulness

31. As alleged herein, Plaintiff expressly and repeatedly advised LIU that payment of a license fee was a prerequisite to any license being conveyed to LIU and that he would not agree to or grant a license to LIU unless it paid the required fees.

32. Having been so advised, Defendant was aware, on notice, and knew that it had no license or rights to use Plaintiff's Photographs and could not legally copy, publish, display, or use any photographs created by Plaintiff.

33. Despite being on notice and knowing that it did not have a license, LIU continued to download, copy, publish, distribute, and use Plaintiff's Photographs and refused and/or failed to remove prior articles, posts, and other content that included illegal copies of Plaintiff's works.

34. Despite being on notice and knowing that it did not have a license, LIU also improperly created screen shots of certain Photographs that were displayed on Plaintiff's own website to publish on LIU Websites to promote and advertise LIU's brand and athletics teams.

35. Upon information and belief, at least some of Plaintiff's Photographs remained displayed on LIU's Websites even after Plaintiff's counsel sent notice of Plaintiff's copyright claims to LIU.

36. At the very least, Defendant's conduct constitutes reckless disregard of Plaintiff's copyrights.

COUNT II
INTENTIONAL REMOVAL OF
COPYRIGHT MANAGEMENT INFORMATION
PURSUANT TO 17 U.S.C. § 1202(b)

37. Plaintiff repeats and re-alleges each of the above allegations as if set forth fully herein.

38. As alleged herein, Plaintiff initially provided Defendant with copies of the Photographs that included information identifying Plaintiff as the author and owner of the copyrights in the Photographs.

39. Plaintiff also displayed the Photographs on his portfolio website with a credit line directly beneath the Photographs identifying him as the author and copyright owner thereof.

40. As alleged herein, Defendant intentionally and knowingly removed, omitted, and/or cropped out Plaintiff's CMI from the Photographs without Plaintiff's permission or authorization.

41. As alleged herein, Defendant intentionally and knowingly reproduced and displayed copies of the Photographs on the LIU Websites, knowing that Plaintiff's CMI had been removed and/or cropped out without permission.

42. Defendant removed Plaintiff's CMI knowing, or having reasonable grounds to know, that doing so would induce, enable, facilitate, or conceal its infringement of Plaintiff's copyrights, including because it displayed the Photographs after Plaintiff had expressly notified Defendant that it did not have a license to use, copy, or display the Photographs without paying the required license fees.

WHEREFORE, Plaintiff respectfully prays for judgment on his behalf and for the following relief:

1. A preliminary and permanent injunction against Defendant from copying, displaying, distributing, advertising, promoting, and/or otherwise using the images identified herein, and requiring Defendant to deliver to the Court for destruction or other appropriate disposition all relevant materials, including digital files of Plaintiff's work described in this complaint that are in the control, possession or custody of Defendant;

2. All allowable damages under Section 504 of the Copyright Act, including but not limited to statutory or actual damages, including damages incurred as a result of Plaintiff's loss of licensing revenue, damage to the value of the copyrighted works, and Defendant's profits attributable to the infringement;

3. Plaintiff's recoverable costs and attorneys' fees incurred in pursuing and litigating this matter, as authorized by Section 505 of the Copyright Act;

4. All allowable damages under Section 1203(c) of the Copyright Act, including but not limited to statutory or actual damages resulting from Defendant's unauthorized removal of Plaintiff's copyright management information with respect to the works at issue.

5. For such other and further relief as the Court deems just and proper.

JURY TRIAL DEMANDED

Dated: May 21, 2025

Respectfully submitted,

/s/ Kevin McCulloch

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