

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JULIE DERMANSKY,
Plaintiff,

- against -

TRUMP ORGANIZATION LLC

Defendant.

Docket No. 17-cv-04714

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Julie Dermansky (“Dermansky” or “Plaintiff”), by and through her undersigned counsel, as and for her Complaint against Defendant Trump Organization LLC (“TO” 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 a Donald Trump rally owned and registered by Dermansky, a New Orleans based photojournalist. 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.* 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 in and/or is transacting business in New York.

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

PARTIES

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

6. Upon information and belief, TO is a domestic limited liability company duly organized and existing under the laws of the State of Delaware, with a place of business at 725 5th Avenue, New York, New York 10022. Upon information and belief, TO is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, TO has operated their Instagram page RealDonaldTrump (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Dermansky photographed a Donald Trump rally (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 is registered with the United States Copyright Office and was given copyright number VA 2-000-285.

B. Defendant’s Infringing Activities

10. Upon information and belief, TO posted the Photograph on its Instagram page RealDonaldTrump. See <https://www.instagram.com/p/BASGvDz mhXW/>. The Website prominently featured the Photograph. A true and correct copy of the Website is attached hereto as Exhibit C.

11. The Page received 27,871 likes with the Photograph.

12. TO did not license the Photograph from Plaintiff for its Website, nor did TO have Plaintiff's permission or consent to publish the Photograph on its Website.

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

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

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

15. 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.

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

17. As a direct and proximate cause of Defendant's infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover her damages and defendant's profits pursuant to 17 U.S.C. § 504(b).

18. 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).

19. Plaintiff further is entitled to recover 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 TO be adjudged to have infringed upon Plaintiff's copyright in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That 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 attorney's 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 22, 2017

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