

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

D. ROBERT SILBER, P.A.)
)
 Plaintiff,) Case No. To Be Assigned
) Judge: To Be Assigned
vs.)
)
)
YOUR NAME HERE, and)
DOES 1-10)
)
 Defendants.)
)
)
_____)

COMPLAINT FOR COPYRIGHT INFRINGEMENT AND
UNFAIR AND DECEPTIVE TRADE PRACTICES AND
DEMAND FOR JURY TRIAL

Plaintiff D. Robert Silber, P.A., by and through their
counsel, on personal knowledge as to their own actions and on
information and belief as to the actions, capabilities and motivation
of others, hereby allege as follows:

THE NATURE OF THIS ACTION

1. This action is necessitated by Defendant's blatant copyright infringement by their unauthorized use of Plaintiff's copyrighted material.

JURISDICTION & VENUE

2. This action is brought, and exclusive subject matter jurisdiction lies within this Court upon multiple grounds, including pursuant to the United States Copyright Act, 17 U.S.C. Sections 101 et seq., based on acts of copyright infringement committed in the United States (28 U.S.C. §§ 1331 and 1338(a)).

3. This Court has federal question jurisdiction over this matter pursuant to 28 U.S.C. § 1338(a), and pursuant to 17 U.S.C. § 410(d) and § 411.

4. This Court has personal jurisdiction over Defendant because the acts of infringement complained of are "tortious act[s]" committed "within this state" under Fla. Stat. § 48.193(1)(b). Defendant operates their website, offering goods and services, throughout the United States, including Florida, through which the complained-of acts of infringement take place. The Defendant's website, goods and services are freely accessible to Florida residents.

FACTS COMMON TO ALL CLAIMS FOR RELIEF

5. Plaintiff D. Robert Silber, P.A. is a professional association legally organized in the State of Florida.

6. Defendant operates their website, offering goods and services, throughout the United States, including Florida, through which the complained-of acts of infringement take place. The

Defendant's website, goods and services are freely accessible to Florida residents.

7. Plaintiff is presently unaware of the true names and capacities of Defendants sued herein as DOES 1 through 10, inclusive, and therefore sues said Defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities of such fictitiously named Defendants when the same have been ascertained. Plaintiff is informed and believes and based thereon alleges that each of the fictitiously named Defendants is responsible in some manner for the occurrences, acts and omissions alleged herein and that Plaintiff's damages were proximately caused by their conduct. Hereinafter all Defendants including Doe Defendants will sometimes be referred to collectively as "Defendants." For convenience, each reference to a named Defendant herein shall also refer to the Doe 1 through 10 Defendants, and each of them, as applicable.

8. Plaintiff is informed and believes and based thereon alleges that at all material times Defendants, and each of them, were facilitators providing enabling services, agents, employees, partners, joint venturers, co-conspirators, owners, principals, and employers of the remaining Defendants, and each of them, and are, and at all times herein mentioned were, facilitators providing enabling services, acting within the course and scope of that agency, employment, partnership, conspiracy, ownership or joint venture. Plaintiff is informed and believes and based thereon alleges that the officers, directors and/or managing agents of the Defendant business entities, authorized, directed and/or ratified the wrongful acts of the employees and representatives of said Defendants and, consequently, all of said Defendants are jointly and severally liable to Plaintiff.

PLAINTIFF'S REGISTERED COPYRIGHT

9. Plaintiff Silber wrote a series of Legal Documents to license to Internet Marketers and Websites. Plaintiff previously filed for registration of copyright with the United States Copyright Office (“USCO”) for the subject work, titled "Internet, Software And Product Legal Documents," pursuant to USCO Claim ID Number TX 6-739-695. Said copyright registration application has been fully completed and was submitted, effective as of May 29, 2003, including with full payment tendered of the service fee and deposit of the subject material -- all prior to the infringements set forth herein.

BACKGROUND AND NATURE OF THIS ACTION

10. On or about <insert date>, Plaintiff discovered that a copy of his copyrighted and registered work was, without his knowledge, license or authorization, being used by Defendant on Defendant's Website.

11. Immediately thereafter, Plaintiff made copies of Defendant's Website use of Plaintiff's copyrighted work as evidence to memorialize the infringement.

FIRST CLAIM FOR RELIEF Copyright Infringement [17 U.S.C. § 101 et. seq.] (Against Defendant and DOES 1-10)

12. Plaintiff repeats, realleges and incorporates each and every allegation contained in Paragraphs 1 through 11, inclusive, as though fully set forth herein.

13. Plaintiff is the sole exclusive owner of all right, title and interest in the work and copyright to the materials, and the physical embodiment(s) thereof. The subject work of this claim has been

properly and fully submitted in Plaintiff's name to the U.S. Copyright Office ("USCO") for copyright registration, prior to the infringement alleged herein.

14. Plaintiff is informed and believes and herein alleges that Defendant and Does 1-10, and each of them, whether directly and/or by permitting or facilitating use on Defendant's Website infringed on Plaintiff's registered Website.

15. Defendants' copying of, use, reproduction, distribution, display, transmission and/or dissemination of copies of the registered work and any physical embodiment thereof is unauthorized, and constitutes an infringement of Plaintiff's rights, including of the registered copyright, and is violation of copyright law. Defendants have infringed Plaintiff's exclusive copyright in and to the registered work, directly and indirectly by use, reproduction, display, transmission and/or dissemination of the copyrighted work, causing the copyrighted work to be copied and distributed, all without the consent of Plaintiff.

16. As a direct and proximate result of Defendants' infringing activities, Plaintiff has sustained and will continue to sustain further substantial injury, including damage to his business and profession and loss of value of the work, in an amount not yet known but to be determined according to proof at trial.

17. Plaintiff lacks an adequate remedy at law.

18. Plaintiff is informed and believes and thereon alleges that Defendants had prior knowledge of Plaintiff's rights and, therefore, Defendants' infringing activities are willful and wanton, entitling Plaintiff to an award of punitive damages.

19. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to an order enjoining Defendants' from infringing Plaintiff's copyright;

pursuant to 17 U.S.C. § 503, Plaintiff is entitled to recover statutory or actual damages, at his election at the time of trial, from Defendants' infringement and Defendants' profits attributable to their infringing conduct. Pursuant to 17 U.S.C. § 505, Plaintiff is also entitled to recover the full costs of bringing this action and his reasonable attorneys' fees.

20. Plaintiff has suffered irreparable harm, and will continue to suffer additional irreparable harm until and unless Defendants' infringement is enjoined by this Court.

AS TO THE FIRST CLAIM FOR RELIEF
(FOR VIOLATION OF COPYRIGHT):

1. For actual damages and Defendants' profits in an amount to be determined at trial;
2. For statutory damages in an amount of \$100,000, per infringement, at the discretion of the Court;
3. For punitive and exemplary damages;
4. For a preliminary injunction and a permanent injunction enjoining Defendants, and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from continuing to reproduce, distribute, display, disseminate, transmit, or otherwise use the registered work in any manner whatsoever appropriating or in violation of Plaintiff's copyright;
5. Attorneys' fees and costs, pursuant to 17 U.S.C. §§502-505;
6. For interest on the above-requested damages and at the maximum legal rate as provided by law; and

7. For such other additional relief as the Court deems just and proper.

REQUEST FOR JURY TRIAL

Plaintiff hereby demands a jury trial pursuant to Rule 38 of the Federal Rules 18 of Civil Procedure.

<insert date>

Respectfully submitted,

D . ROBERT SILBER
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