

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERT BARBERA,

Plaintiff,

- against -

JUSTIN BIEBER BRANDS, LLC and JUSTIN BIEBER

Defendant.

Docket No. 1:19-cv-9532

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Robert Barbera (“Barbera” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Justin Bieber Brands, LLC (“Justin Bieber Brands”) and Justin Bieber (“Bieber” and together with Justin Bieber Brands “Defendants”) 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 Defendants unauthorized reproduction and public display of a copyrighted photograph of singer-songwriter Justin Bieber, owned and registered by Barbera, a New York based professional photographer. Accordingly, Barbera 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 in and/or transacts business in New York.

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

PARTIES

5. Barbera is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 300 West 55th Street, Suite 6B, New York, New York 10019.

6. Upon information and belief, Justin Bieber Brands is a domestic limited liability company duly organized and existing under the laws of the State of Delaware, with a place of business at 1755 Broadway, New York, New York 10019. Upon information and belief, Justin Bieber Brands operates an Instagram Page at the URL: www.Instagram.com/JustinBieber (the “Website”)

7. Upon information and belief, Justin Bieber is an individual residing in New York. Upon information and belief, Justin Bieber operates an Instagram Page at the URL: www.Instagram.com/JustinBieber (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

8. Barbera photographed singer-songwriter Justin Bieber (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

9. Barbera 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.

10. The Photograph was registered with the United States Copyright Office and was given registration number VA 2-142-998.

B. Defendant’s Infringing Activities

11. Defendants ran the Photograph on the Website. A screenshot of the Photograph on the Website is attached hereto in Exhibit B.

12. The Website received 3,905,147 likes.

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

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

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

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

15. The acts of Defendants 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 Defendants have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Defendants 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 Plaintiff's actual damages and Defendants profits, gains or advantages of any kind attributable to Defendants infringement of Plaintiff's Photograph;
3. That Defendants be required to account for all profits, income, receipts, or other benefits derived by Defendants as a result of its unlawful conduct;
4. That Plaintiff be awarded punitive damages for copyright infringement;
5. That Plaintiff be awarded attorney's fees and costs;
6. That Plaintiff be awarded pre-judgment interest; and
7. 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 15, 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 Robert Barbera