

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

ERIC BOWERS,

Plaintiff,

v.

ORENDA REAL ESTATE SERVICES, LLC
d/b/a ORENDA REAL ESTATE SERVICES,

Serve:

Christopher S. Dawson, Registered Agent
5231 NE Antioch Rd., Suite 210
Kansas City, MO 64119

and

CHRISTOPHER S. DAWSON,

Serve at:

5231 NE Antioch Rd., Suite 210
Kansas City, MO 64119

Defendants.

JURY TRIAL DEMANDED

Case No. _____

COMPLAINT FOR COPYRIGHT INFRINGEMENT
(INJUNCTIVE RELIEF DEMANDED)

COMES NOW Plaintiff Eric Bowers (“Plaintiff”), by and through his undersigned counsel, and hereby states for his Complaint against defendants, Orenda Real Estate Services LLC d/b/a Orenda Real Estate Services (“Orenda”) and Christopher S. Dawson (“Dawson” and collectively referred to with Orenda as “Defendants”), as follows:

SUMMARY OF THE ACTION AND PARTIES

1. Plaintiff brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Plaintiff's original copyrighted work of authorship.

2. Plaintiff's Work (as defined herein) at issue is part of his portfolio that depicts Kansas City's iconic Plaza. Plaintiff's portfolio was years in the making.

3. To create the Work, Plaintiff used professional-grade photography equipment that he purchased for thousands of dollars.

4. To create the Work, Plaintiff invested many hours of his professional time.

5. Plaintiff is well-paid for the Work. The minimum fee for the time and a use-limited license of the Work that Defendants used without permission in this case is more than \$1,000 per individual image for a licensee who wishes to use the image nationally.

6. Upon information and belief, Orenda is a Missouri limited liability company with its registered office located in Clay County, Missouri. Upon information and belief, Orenda operates a real estate business that markets, lists and sells homes and apartments throughout the Kansas City metro area, including those located in Clay County and Jackson County Missouri, and has done business as Orenda Real Estate Services.

7. Upon information and belief, Dawson resides or can be found in Clay County, Missouri. Upon information and belief, Dawson is the Manager and/or Managing Member of Orenda who directed, controlled, supervised and approved Orenda's activities that are the subject of this Complaint and had a direct financial interest in the use of Plaintiff's copyrighted Work without permission or payment.

8. At all times relevant, Orenda was Dawson's agent and acted with Dawson's express consent, knowledge, and permission.

9. Upon information and belief, Dawson directly profited from Defendants' use of Plaintiff's Work.

10. Upon information and belief, Defendants copied Plaintiff's copyrighted Work from the internet in order to nationally advertise, market and promote their business activities. Defendants committed the violations alleged in connection with Defendants' business for purposes of advertising and promoting sales to the public in the course and scope of Defendants' business.

JURISDICTION AND VENUE

11. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

12. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

13. Upon information and belief, Orenda is a Missouri limited liability company with its principal place of business located in Clay County, Missouri.

14. Upon information and belief, Dawson is a natural person who resides or can be found in Clay County, Missouri as set forth above.

15. Defendants are subject to personal jurisdiction in Missouri because they took and used Plaintiff's Work of the Plaza, located in Kansas City, Missouri, to promote their business located in Clay County, Missouri.

16. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in Kansas City, Clay County, Missouri in

this district. Upon information and belief, Defendants engaged in infringement in this district, and Defendants are subject to personal jurisdiction in this district and reside or can be found in this district.

THE COPYRIGHTED WORK AT ISSUE

17. In or about 2012, Plaintiff created a photograph entitled “plaza_lights_kansas_city-1”, which is shown below and referred to herein as the “Work”.



18. Plaintiff registered the Work with the Register of Copyrights on June 1, 2015 and was assigned the registration number “VA 1-965-604”. The Certificate of Registration for the Work is attached hereto as **Exhibit 1** and incorporated herein by reference.

19. At all relevant times Plaintiff was the owner of the copyrighted Work at issue in this case.

INFRINGEMENT BY DEFENDANTS

20. Defendants have never been licensed to use the Work at issue in this action for any purpose.

21. On a date after the Work at issue in this action was created, but prior to the filing of this action, Defendants copied the Work.

22. Defendants copied Plaintiff's copyrighted Work without Plaintiff's permission.

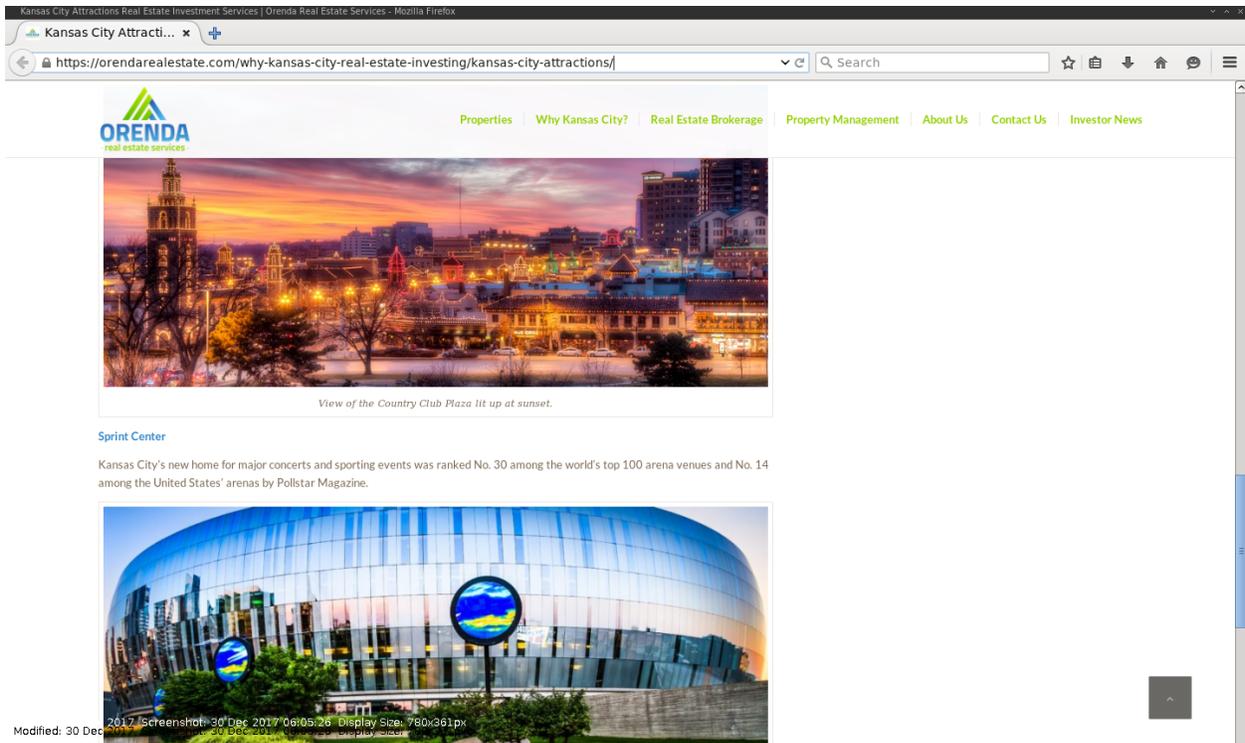
23. After Defendants copied the Work, they distributed the Work on the internet to promote the sale of goods and services as part of their real estate business.

24. Specifically, Defendants displayed the Work on advertisements about Defendants' real estate business on a website that Defendants own, control, and/or operate, located at orendarealestate.com.

25. Defendants' display of the Work was repeated and continuous.

26. Defendants displayed the Work continuously from September of 2016 through February of 2019 in order to attract customers to their business.

27. Defendants' display of the Work is captured on their website in the following screenshot:



28. Defendants copied and distributed Plaintiff's copyrighted Work in connection with Defendants' business for purposes of advertising and promoting Defendants' business, and in the course and scope of advertising and selling products and services.

29. Plaintiff's Works are protected by copyright, but are not otherwise confidential, proprietary, or trade secrets.

30. Defendants committed copyright infringement of the Work as evidenced by the screenshot attached herein.

31. Plaintiff never gave Defendants permission or authority to copy, distribute, or display the Work at issue in this case.

32. Plaintiff notified Defendants of the allegations set forth herein on April 4, 2018 and has attempted to settle the matter amicably and for a minimum of expense with Defendants

over the last eight months via additional written correspondence sent in May of 2018, June of 2018, and September of 2018.

33. Defendants ignored Plaintiff and never otherwise responded.

34. Plaintiff has engaged the undersigned attorneys and has agreed to pay them a reasonable fee.

COUNT I
COPYRIGHT INFRINGEMENT

35. Plaintiff incorporates by reference all prior paragraphs of this Complaint as if such were fully set forth herein.

36. Plaintiff owns a valid copyright in the Work at issue in this case.

37. Plaintiff registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

38. Defendants copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Plaintiff's authorization in violation of 17 U.S.C. § 501.

39. Defendants performed the acts alleged in the course and scope of their business activities.

40. Plaintiff has been damaged.

41. The harm caused to Plaintiff has been irreparable.

WHEREFORE, Plaintiff Eric Bowers prays for judgment against Defendants, jointly and severally, such that:

a. Defendants and their agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;

b. Defendants be required to pay Plaintiff his actual damages and Defendants' profits attributable to the infringement, or, at Plaintiff's election, statutory damages as provided in 17 U.S.C. § 504;

c. Plaintiff be awarded his attorneys' fees and costs of suit under the applicable statutes sued upon; and

d. Plaintiff be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.

Respectfully submitted,

ROSS & VOYTAS, LLC

/s/ Nathan E. Ross

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