JS 44 (Rev. 12/12)

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ontained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, exceed the United States in September 1974, is required for the use of the Clerk of Court for the papers of the papers of the papers of the Clerk of Court for the papers of the papers of

I. (a) PLAINTIFFS 1. Samantha Hines; 2. Eric Hines				DEFENDANTS The Pros Entertain	ment Services .	5745	
(b) County of Residence of First Listed Plaintiff Prince George Coun (EXCEPT IN U.S. PLAINTIFF CASES)				County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.			
(c) Attorneys (Firm Name, Address, and Telephone Wumber) Mark Rhoades, One Liberty Plaza, 1650 Market Street, 36th Floor,				Attorneys (If Known)			
Philadelphia, PA 19103, P. 215-496-9002							
II. BASIS OF JURISDI	CTION (Place an "X" in O	ne Box Only)		TIZENSHIP OF P	RINCIPAL PARTIES	(Place an "X" in One Box for Plaint and One Box for Defendant)	
7 1 U.S. Government Plaintiff				PTF DEF Citizen of This State			
2 U.S. Government Defendant	Diversity (Indicate Citizenshi	ip of Parties in Item III)	Citiz	en of Another State	2		
				en or Subject of a reign Country	3 🗆 3 Foreign Nation	□ 6 □ 6	
IV. NATURE OF SUIT			1 T	DRFEITURE/PENALTY/	BANKRUPTCY	OTHER STATUTES	
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excludes Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise REAL-PROPERTY 210 Land Coudenmation 220 Foreclosure 230 Rent Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property	PERSONAL INJURY □ 310 Airplane □ 315 Airplane Product Liability □ 320 Assault, Libel & Slander □ 330 Federal Employers' Liability □ 340 Marine □ 345 Marine Product Liability □ 350 Motor Vehicle □ 355 Motor Vehicle Product Liability □ 360 Other Personal Injury □ 362 Personal Injury - Medical Malpractice □ 3440 Other Civil Rights □ 441 Voting □ 442 Employment □ 443 Housing/ Accommodations □ 445 Amer. w/Disabilities - Employment □ 446 Amer. w/Disabilities - Other □ 448 Education	PERSONAL INJUR 365 Personal Injury - Product Liability 367 Health Care/ Pharmaceutical Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability PERSONAL PROPEL 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage Product Liability PRISONER PETITIO Habeas Corpus: 463 Alieu Detainee 510 Motions to Vacate Sentence 530 General 535 Death Penalty Other: 540 Mandamus & Oth 550 Civil Rights 555 Prison Coudition 560 Civil Detainee Conditions of		25 Drug Related Seizure of Property 21 USC 381 20 Other LABOR 10 Fair Labor Standards Act 20 Labor/Management Relations 10 Railway Labor Act 51 Family and Medical Leave Act 20 Other Labor Litigation 51 Employee Retirement Income Security Act LMMIGRATION 52 Naturalization Application 55 Other Immigration Actions	422 Appeal 28 USC 158 43 Withdrawal 28 USC 157 PROPERTY RIGHTS 820 Copyrights 830 Patent 840 Trademark 861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g)) 870 Taxes (U.S. Plaintiff or Defendant) 871 IRS—Third Party 26 USC 7609	□ 375 False Claims Act □ 400 State Reapportionment □ 410 Antitrust □ 430 Banks and Banking □ 450 Commerce □ 460 Deportation □ 470 Racketeer Influenced and Corrupt Organizations □ 480 Consumer Credit □ 490 Cable/Sat TV □ 850 Securities/Commodities/ Exchange □ 890 Other Statutory Actions □ 891 Agricultural Acts □ 893 Environmental Matters □ 895 Freedom of Information Act □ 896 Arbitration □ 899 Administrative Procedure Act/Review or Appeal of Agency Decision □ 950 Constitutionality of State Statutes	
Proceeding Sta	moved from 3 te Court Cite the U.S. Civil Sta	Appellate Court	Reo	istated or 5 Transfe pened Anothe (specify)	r District Litigation		
VI. CAUSE OF ACTIO	Brief description of ca Copyright violatio	n, invasion of priva			Iding photos in publication		
VII. REQUESTED IN COMPLAINT:	CHECK IF THIS UNDER RULE 2	IS A CLASS ACTION 3, F.R.Cv.P.	N D	EMAND \$	CHECK YES only JURY DEMAND:	if/demanded in complaint: X Yes □ No	
VIII. RELATED CASI IF ANY	(See instructions):	JUDGE			DOCKET NUMBER		
DATE D/12/15 FOR OFFICE USE ONLY		SIGNATURE OF AT	TORNEY	OF RECORD (wyl	J_	

JUDGE

APPLYING IFP

MAG. JUDGE

UNITED STATES DISTRICT COURT

15

5745

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar. Address of Plaintiff: Samantha and Fric Hines 11544 Waesche Dr Mitchellville MD 2072/ Byberry Rd Snite 1401 Huntington Valley, PA 19004 Mintermen Place of Accident, Incident or Transaction: Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock? lo 🖫 (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) No D Does this case involve multidistrict litigation possibilities? Yes□ RELATED CASE, IF ANY: Case Number: Judge Date Terminated: Civil cases are deemed related when yes is answered to any of the following questions: 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? $N_0\square$ Yes□ 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously $N_0\square$ terminated action in this court? 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? $N_0\square$ Yes□ CIVIL: (Place / in ONE CATEGORY ONLY) A. Federal Question Cases: B. Diversity Jurisdiction Cases: 1. □ Insurance Contract and Other Contracts 1. Indemnity Contract, Marine Contract, and All Other Contracts 2. D FELA 2. □ Airplane Personal Injury 3. D Jones Act-Personal Injury 3.

Assault, Defamation 4.

Antitrust 4. □ Marine Personal Injury 5.

Motor Vehicle Personal Injury 5. □ Patent 6. □ Other Personal Injury (Please specify) 6. □ Labor-Management Relations 7. D Civil Rights 7. D Products Liability 8.

Habeas Corpus 8.

Products Liability — Asbestos Securities Act(s) Cases 9. □ All other Diversity Cases ocial Security Review Cases (Please specify) All other Federal Question Case Please specify) _ ARBITRATION CERTIFICATION (Check Appropriate Category) MARKL. KHOADES counsel of record do hereby certify: Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs: Relief other than monetary damages is sought Attorney-at-Law NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38. I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

CIV. 609 (5/2012)

Attorney-at-Law

80641

NCT 22 2015



IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE I	MANAGEMENT TRACK DE	SIGNATION FORM	
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SELECT ONE OF THE F	OLLOWING CASE MANAC	GEMENT TRACKS:	
(a) Habeas Corpus – Cases	brought under 28 U.S.C. § 224	41 through § 2255.	()
	requesting review of a decision reying plaintiff Social Security		()
(c) Arbitration - Cases req	uired to be designated for arbita	ration under Local Civil Rule 53.2.	()
(d) Asbestos – Cases involence exposure to asbestos.	ving claims for personal injury	or property damage from	()
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(f) Standard Management	- Cases that do not fall into any	one of the other tracks.	
10-8275	Mark Rhodes	Dlaintiff	
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215-49le-4002		Bhadexa Phander	1c.com
Telephone	FAX Number	E-Mail Address	

(Civ. 660) 10/02



IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SAMANTHA HINES and ERIC HINES

11544 Waesche Drive Mitchellville, MD 20721,

Plaintiffs,

V.

15 5745

Civil Action No.

JURY TRIAL DEMANDED

THE PROS ENTERTAINMENT SERVICES, INC.

1800 Byberry Road, Suite 1401 Huntingdon Valley, PA 19006,

Defendant.

COMPLAINT

Plaintiffs Samantha Hines and Eric Hines, by and through the undersigned counsel, hereby file this Complaint and alleges as follows:

I. INTRODUCTION

1. This action arises from Defendant's willful and knowing violations of Plaintiffs' privacy and copyrights by publishing Plaintiffs' wedding photograph on promotional brochures despite informing Samantha Hines that her photographs would remain private and would not be used for promotional purposes.

II. PARTIES

2. Plaintiff, Samantha Hines ("Mrs. Hines"), is a natural person who resides in the state of Maryland. Mrs. Hines hired Defendant to provide photography services for her wedding in or around July 2014.

- 3. Co-Plaintiff, Eric Hines ("Mr. Hines"), is a natural person who resides in the state of Maryland. Mr. Hines is married to Plaintiff, Samantha Hines (collectively, "Plaintiffs").
- 4. Defendant, The Pros Entertainment Services Inc., ("Defendant" or "The Pros") is a Pennsylvania corporation that provides professional wedding services such as photography. Defendant claims to be the first photography company to give the negatives and copyrights of photographs to the brides. Defendant's principle place of business is 1800 Byberry Road, Suite 1401, Huntingdon Valley, PA 19006.

III. JURISDICTION

- 5. This Court has jurisdiction over Plaintiff Mrs. Hines's copyright infringement claim pursuant to 28 U.S.C. §§ 1331 and 1338(a).
- 6. This Court has supplemental jurisdiction over Plaintiffs' other claims pursuant to 28 U.S.C. § 1367.
- 7. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c) and §1400(a).

IV. FACTS COMMON TO ALL COUNTS

- 8. On or around December 31, 2013, Mrs. Hines made a deposit with The Pros for wedding photography services.
- 9. On June 9, 2014, prior to the services being rendered, Mrs. Hines received an email from Wedding Advisor, Kym Smith ("Ms. Smith"), stating that it was "time to cross our t's and dot our i's." In the email, Ms. Smith wrote "Your wedding photos may also be selected as a 'Photo of the Week' or a featured Wedding of the Month...."
- 10. The same day, Mrs. Hines replied, "This looks great except I would like to opt out having any of my wedding photos used for any promotional use or usage outside of my private

collection for my groom and I. We are private people and would not like any of our photos displayed to strangers."

- The following day, on or around June 10, 2014, Ms. Smith agreed and informed Mrs. Hines that The Pros would keep her photographs private and would not use them for promotional purposes.
- 12. On or around July 12, 2014, the day of Plaintiffs' wedding, Defendant performed the photography services that Plaintiffs had requested and paid for in full.
- 13. Mrs. Hines again requested that her photographs remain private on or around July 30, 2014. In response, Ms. Smith reassured Mrs. Hines that the photographs would be private and not used for promotional purposes. Ms. Smith provided Mrs. Hines with a password so she could access her photographs online to preserve their confidentiality.
- 14. In or around June 2015, Plaintiffs saw one of Defendant's wedding brochures that had Plaintiffs' wedding photograph on the cover, despite the fact that Plaintiffs had been assured that their photographs would remain private and would not be used for promotional purposes.
- Defendant knew Plaintiffs owned the copyright of the photographs as Defendant's own website boasts: "In 1991, we began offering photography as the first company to give the negatives and copyrights to our brides." (emphasis added).
- 16. After discovering this infringement, Mrs. Hines registered her photographs with the United States Copyright Office on or around July 1, 2015.

V. <u>CAUSES OF ACTION</u>

COUNT I

COPYRIGHT INFRINGEMENT (17 U.S.C. § 501)

Mrs. Hines against Defendant

- 17. This paragraph reincorporates paragraphs 1-16 of this Complaint as though more fully set forth herein.
- 18. Mrs. Hines registered her photograph with the United States Copyright Office on or around July 1, 2015.
- 19. Defendant violated the exclusive rights of Mrs. Hines as the copyright owner by publishing Mrs. Hines's photograph on the promotional brochure.
- 20. Defendant's acts of infringement were willful, intentional, and purposeful, in blatant disregard of Mrs. Hines's rights.
- 21. Mrs. Hines is entitled to Defendant's profits attributable to the infringement pursuant to 17 U.S.C. § 504(b).
- WHEREFORE, Mrs. Hines is entitled to actual damages and profits or statutory damages, as well as attorneys' fees and costs pursuant to 17 U.S.C. § 505, under Count I of this Complaint.

COUNT II

INVASION OF PRIVACY – Misappropriation of Likeness

Mr. and Mrs. Hines against Defendant

23. This paragraph reincorporates paragraphs 1-22 of this Complaint as though more fully set forth herein.

- 24. Defendant appropriated to its use and benefit Plaintiffs' likenesses without their consent or permission.
- 25. Defendant deliberately used Plaintiffs' likenesses to promote its company and for its own financial interest, knowing that it did not have the permission or consent to do so.
- 26. Defendant misappropriation of Plaintiffs' likenesses was not for a newsworthy purpose.
- 27. Defendant derived or intended to derive financial advantage or benefit from the unauthorized use of Plaintiffs' likenesses.
- 28. Plaintiffs seeks damages for all injuries, damages and losses resulting from Defendant's misappropriation of their likeness and invasion of privacy including the fair market value for the use of their likeness and for emotional, pain, suffering and humiliation.
- 29. Plaintiffs also seeks injunctive relief in the form of an order requiring Defendant to cease and desist from using Plaintiffs' likenesses on any advertising or promotional material in connection with any of its products.
- 30. **WHEREFORE**, Plaintiffs demand injunctive relief and damages against the Defendant in an amount to be terminated at trial, together with interest, punitive damages, an award of attorneys' fees, and such other relief as this Court deems just and necessary.

COUNT III

MISAPPROPRIATION OF RIGHT OF PUBLICITY

Mr. and Mrs. Hines against Defendant

31. This paragraph reincorporates paragraphs 1-30 of this Complaint as though more fully set forth herein.

- 32. By using Plaintiffs' photograph on an advertising brochure, Defendant has used for commercial purposes Plaintiffs' image and identity without Plaintiffs' consent. This use is in violation of Plaintiffs' exclusive right to control the commercial value of their likeness.
- 33. Plaintiffs seeks damages for all injuries, damages and losses resulting from Defendant's misappropriation of her right of publicity including the fair market value for the use of their likenesses and for emotional, pain, suffering and humiliation.
- 34. Plaintiffs also seeks injunctive relief in the form of an Order requiring Defendant to cease and desist from using Plaintiffs' likeness on any advertising or promotional material in connection with any of its products.
- 35. **WHEREFORE**, Plaintiffs demand injunctive relief and damages against the Defendant in an amount to be terminated at trial, together with interest, punitive damages, an award of attorneys' fees, and such other relief as this Court deems just and necessary.

COUNT IV

VIOLATIONS OF THE PENNSYLVANIA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW (73 P.S. §§ 201-1 et seq.)

Mrs. Hines against Defendant

- 36. This paragraph reincorporates paragraphs 1-35 of this Complaint as though more fully set forth herein.
 - 37. Mrs. Hines is a person as defined by 73 P.S. § 201-2(2).
- 38. Defendant performed unfair or deceptive practices as defined by 73 P.S. §201-2(4)(v), (xiv), and/or (xxi) by representing to Mrs. Hines that her photographs would be private and then proceeding to use Mr. Hines's photograph on a promotional brochure.
- 39. Mrs. Hines relied on Defendant's representations when she decided to make the final payment and have Defendant perform the contract by photographing her wedding. Mrs.

Hines did not pay Defendant the full amount until Defendant reassured her that her photographs would remain private.

40. **WHEREFORE**, Mrs. Hines is entitled to a judgment against Defendant for three (3) times the actual damages or one hundred dollars (\$100.00), whichever is greater, reasonable attorneys' fees and costs, and any other relief deemed necessary and proper pursuant to 73 P.S. § 201-9.2.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court grant the following relief:

- 1. Award Mrs. Hines actual damages and profits or statutory damages, as well as attorneys' fees and costs, pursuant to 17 U.S.C. § 505, under Count I of this Complaint;
- 2. Award Plaintiffs injunctive relief and damages against Defendant in an amount to be terminated at trial, together with interest, punitive damages, an award of attorneys' fees under Count II of this Complaint;
- 3. Award Plaintiffs injunctive relief and damages against Defendant in an amount to be terminated at trial, together with interest, punitive damages, an award of attorneys' fees under Count III of this Complaint;
- 4. Award Mrs. Hines judgment against Defendant for three (3) times the actual damages or one hundred dollars (\$100.00), whichever is greater, reasonable attorneys' fees and costs, and any other relief deemed necessary and proper pursuant to 73 P.S. § 201-9.2, under Count IV of this Complaint;
 - 5. Award Plaintiffs pre and post judgment interest; and
 - 6. Any other relief that this Court deems just and proper.

Respectfully submitted,

Mark L. Rhoades, Esquire (I.D. No. 80641)

RHOADES LLC

One Liberty Place, 36th Floor 1650 Market Street Philadelphia, PA 19103 215-496-9002 telephone rhoades@rhoadesllc.com

Counsel for Plaintiffs, Samantha Hines and Eric Hines

Dated: October 18, 2015

General Information

Court United States District Court for the Eastern District of

Pennsylvania; United States District Court for the Eastern

District of Pennsylvania

Federal Nature of Suit Property Rights - Copyrights[820]

Docket Number 2:15-cv-05745