

BACKGROUND FACTS

5. During the period of March 1, 1991 to September 29, 1991, Plaintiff created approximately eleven (11) original nonfiction articles that were published by the Albany Times Union between April 14, 1991 and September 29, 1991. Copies of the 11 articles, (herein after referred to as the "Subject Works") are attached hereto as Exhibit A and are listed below by title and initial publication date:

Ecology at Work	April 14, 1991
Exercise Overload	April 28, 1991
Make Me Over --What a Personal Shopper Can Do For You	May 12, 1991
Facing the Drill	June 9, 1991
It's Quittin' Time	June 9, 1991
No More 9-5	July 14, 1991
Scarlett Fever	July 21, 1991
Make Me an Offer	Aug. 4, 1991
A Grand Presentation	Aug. 11, 1991
All Stressed Out	Aug. 18, 1991
Reversal of Function	Sept. 29, 1991

6. The Subject Works contain material wholly original with Plaintiff that is copyrightable subject matter under the laws of the United States. Plaintiff is currently, and at all relevant times, has been the sole proprietor of the right, title and interest, relevant hereto, in and to the copyright in the Subject Works. Plaintiff has produced and distributed the Subject Works in conformity with the provisions of the Copyright Act and other laws governing copyright.

7. On or about January 2, 2001, Plaintiff applied to the Register of Copyrights for a Certificate of Registration for the Subject Works. The Subject Works were included in Certificate of Registration number TX 5-455-584 issued by the Register of Copyrights with an effective date of January 5, 2001. A true and correct copy of the Certificate is attached hereto as Exhibit B.

8. On or about September 1, 1996 Plaintiff discovered the full text of ten of the eleven articles of the Subject Works on the Albany Times Union's website. A true and correct copy of an Albany Times Union Website Search Result is attached hereto as Exhibit C.

9. Upon information and belief, the text ten of the eleven articles of the Subject Works were made available by the Albany Times Union on Internet web sites and to other on-line databases.

10. On or about 1996 Plaintiff discovered that the Albany Times Union was making her articles available upon payment of a fee. On or about April 1, 2002, Plaintiff discovered that the articles were still available for sale by the Albany Times Union. True and correct copies of the eleven articles that were downloaded for payment are attached hereto as Exhibit D.

11. Plaintiff has not authorized the Albany Times Union to reprint, copy, use, distribute or display the Subject Works.

COUNT I

COPYRIGHT INFRINGEMENT

12. Plaintiff realleges and incorporates by reference as if fully set forth herein the allegations in paragraphs 1 through 11, inclusive as if set forth in full as Part of Count I.

13. Upon information and belief, Defendant knowingly and willfully placed Plaintiff's Subject Works onto the Albany Times Union website.

14. Upon information and belief, Defendant has knowingly and willfully distributed, displayed, and reproduced Plaintiff's Subject Works via other on-line databases.

15. Upon information and belief, Defendant has made Plaintiff's Subject Works available to the public upon payment of a fee.

16. The natural and probable and foreseeable result of Defendant's wrongful conduct has been to deprive Plaintiff of the benefit of selling Plaintiff's Subject Works and to injure Plaintiff's relations with present and prospective customers.

17. Plaintiff is entitled to recover from Defendant damages she has sustained and will sustain and any gains, profits and advantages obtained by Defendant as a result of Defendant's acts of infringement. At present profits and advantages cannot be fully ascertained by Plaintiff.

COUNT II

CONTRIBUTORY COPYRIGHT INFRINGEMENT

18. Plaintiff realleges and incorporates by reference as if fully set forth herein the allegations in paragraphs 1 through 17, inclusive as if set forth in full as Part of Count II.

19. Upon information and belief, Defendant Albany Times Union Inc. encouraged, facilitated and/or induced others to display and reproduce unauthorized electronic reproductions of the Subject Works.

COUNT III

VICARIOUS COPYRIGHT INFRINGEMENT

20. Plaintiff realleges and incorporates by reference as if fully set forth herein the allegations in paragraphs 1 through 19, inclusive as if set forth in full as Part of Count II.

21. Upon information and belief, at all times relevant here to, Defendant Albany Times Union had the right and ability to supervise and control the activity of various on-line databases with respect to the content of the Albany Times Union and the Subject Works.

22. Upon information and belief, Defendant Albany Times Union had knowledge of the infringing activity of on-line databases and had a direct financial interest in the exploitation of the Subject Works.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for judgment against the Defendant as follows:

1. That the Court find that the Defendant has infringed the Plaintiff's copyrights in the Subject Works.
2. That the Defendant, its directors and officers, agents servants, employees and all other persons in active concert or in privity or in participation with it, be enjoined from directly or indirectly infringing Plaintiff's copyrights in the Subject Works or to participate or assist in any such activity.

3. That judgment be entered for Plaintiff and against Defendant for Plaintiff's actual damages according to proof and for any profits attributable to infringements of Plaintiff's copyrights in accordance with proof.
4. That Defendant be required to account for all profits, gains, and advantages derived from its acts of infringement and for its other violations of law.
5. That all gains, profits, and advantages derived by Defendant from its acts of infringement and other violations of law be deemed to be held in constructive trust for the benefit of Plaintiff.
6. That the Court grant such other, further and different relief as the Court deems proper under the circumstances.

Dated:

Randolph Law Offices, LLP

By: _____

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By: _____

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JURY DEMAND

Plaintiff hereby demands trial by jury on all issues triable to a jury.

Dated:

Randolph Law Offices, LLP

By: _____

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