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UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

Mi'chelle A. Barnes
Plaintiff,

vs.

Gary Olson (Executive Director)
Alaska Moose Federation.org

Grow More Moose.org

Ron Davis Blue Defendants

Diamond Webs and 2011 Homestead Web

Case # 3:12-cv-00095-SLG

Defendant: Gary Olson, Executive Director, Alaska Moose Federation.org (AMF) and Grow More Moose.org (GMM), 1577 C Street, #304, Anchorage, AK 99501 Phone: (907) 33-Moose.

Ron Davis, Blue Diamond Webs and 2011 Homestead Web

Background:

I am a citizen of the United States of America and reside in Anchorage, Alaska. This complaint is filed against **Gary Olson**, Executive Director **Alaska Moose Federation.org (AMF)**; **Grow More Moose.org (GMM)** and include Ron Davis of Blue Diamond Webs and Ron Davis of 2011 Homestead, web designer of AMF and GMM. (Specific actions of Davis will be provided later). The plaintiff pleads to the Court to recognize that the aforementioned defendants have willfully and intentionally scanned, e-mailed, copied and reproduced the copyrighted and registered image entitled, "Stand Off" without prior license and/or written agreement of Mi'chelle A. Barnes, sole photographer, creator and copyright owner. In the foregoing complaint Mi'chelle A. Barnes will be known as "Barnes."

The image "Stand Off" was taken February 1990 and first published 03/12/1990 during the historic and tragic winter of 1989/1990 when hundreds of Moose were being struck and killed by the Alaska Railroad. Barnes confronted and addressed concerns of the unlicensed and unpermitted usage by Olson, AMF and GMM in May of 2009 after Olson gave her a flash drive of electronic material to use in writing an article to send to media organizations world-wide about Moose deaths in Alaska on a CD Barnes was producing in anticipation of the announcement of the Alaska Railroad increasing train speeds to 60 mph. Olson provided Barnes with a flash drive that contained AMF and GMM materials on past bids submitted to the State of

Under the Copyright Act (1976) 507(B).

Alaska Department of Transportation; promotional materials which contained AMF newsletters; AMF letters to organizations; AMF fundraising efforts; studies by the Alaska Department of Fish & Game; (ADF&G) Moose Resource studies conducted by other private companies; correspondence between Cori Ross of ADF&G and AMF; proof of AMF liability insurance and much more.

Barnes began reviewing the vast amount of electronic files and information provided on the flash drive which also contained other ADF&G department images and Barnes noted that there were no releases and/or photo credits provided in any of the materials Olson provided from the flash drive. Barnes then found materials from the flash drive which contained Olson's, AMF's and GMM's unlicensed and unpermitted usage of her image "Stand Off." As best as Barnes could tell from the materials on the flash drive, AMF and GMM usage began with the genesis of the AMF 1st Annual Seward Moose Benefit (see exhibits of AMF 1st Annual Seward Moose Benefit flyer); on AMF letterhead; AMF newsletters; the AMF banquets, which solicited corporate sponsorships from Cabelas and more.

Barnes confronted Olson about how he came to be in possession of the image "Stand Off" and where he got it from? At first Olson asserted that he copied and pasted it from the Alaska Railroad website. Barnes scoured the Alaska Railroad website and could find no such unlicensed usage of "Stand Off" posted on the Alaska Railroad internet and confronted Olson again. Olson finally admitted he electronically scanned the image "Stand Off" from a postcard which Barnes had produced years earlier.

Olson used "Stand Off" to commercially promote and finance AMF and GMM using Barnes' image "Stand Off" which also appeared without proper photo credit and implied that Barnes endorsed the philosophies and practices of AMF and GMM personnel and board members, which Barnes does NOT and has NOT due to the unlicensed usage of "Stand Off."

History of "Stand Off":

The image, "Stand Off" was taken one day after grooming trails for the Moose when Barnes was flying back to the South Birchwood Airport. Barnes and her late mother, former Speaker of the House Rep. Ramona Barnes of Alaska, spearheaded a public relations (PR) campaign to feed starving Moose throughout south central Alaska and raise public awareness of the high mortality rate and tragic loss of life inflicted on Moose living in that region by the Alaska Railroad. "Stand Off" was first published on 03/12/1990 by the Anchorage Daily News and picked up and published again by the AP; Christian Science Monitor; New York Times and more by and thru one of Barnes' agencies representing her work, Gamma Liaison of New York.

Barnes conceived and founded "Save the Moose" in January 1990 raising public donations totaling more than \$450K which was used to put in 310 miles of new trails to feed moose; utilize Army personnel to put in trails with track vehicles along with snow machine volunteers that helped packed down trails for Moose to walk on and conserve energy. Additionally, funds were raised by public donation to feed starving Moose hay in critical corridors and open new areas for Moose to forage using bombardier track vehicles in the Palmer Susitna Valley.

Barnes later published "Stand Off" as a postcard in 1995 under her "Alaska Stock Classic" product line which was distributed statewide and nationally. In a 2009 conversation with the Defendant, Olson acknowledged that he electronically scanned the image from a postcard and used "Stand Off" on AMF letterhead; AMF Newsletters; power point presentations and for various AMF Corporate solicitations.

It is the argument of this plaintiff that Olson; AMF and GMM further utilized "Stand Off" in many different mediums and formats without prior permission and/or written license and without providing proper photo credit.

On 05/10/2009, Barnes drafted in invoice for the unlicensed use of "Stand Off" addressed to Olson, AMF and GMM. Barnes hand delivered that invoice dated 05/10/2009 to Olson on 05/13/2009 for \$15,000 due immediately upon receipt (see electronic copy of the image of Olson receiving the invoice in person at Barnes' home residence on 05/13/2009).

Barnes e-mailed Olson again on 5/18/2009 at 6:05 p.m. and sent another copy of the invoice and demand for payment. To date, the AMF and the GMM organizations **have failed to pay Barnes**, although they have raised more than three million dollars and Barnes invoiced them repeatedly discussing same.

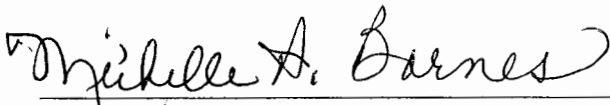
I, the plaintiff, Mi'chelle A. Barnes give notice to the Court that I am entitled to actual, punitive and professional damages *for the willful and intentional* Copyright Violations *known but not limited to* the following:

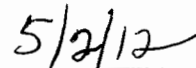
- 1) The Defendant used the image "Stand Off" for purposes of commercial advantage, public and private financial gain as the Executive Director of AMF and GMM. Unlicensed use began at or about the year 2000 by Olson who was AMF's chairman at the time.
- 2) Repeated failure to provide proper photo credit for each unlicensed use of "Stand Off" in every medium and format by Olson, AMF and GMM.
- 3) Methods of *unlicensed use* included, but are not limited to, scanning, e-mailing, and reproducing "Stand Off" in other derivative works.
- 4) Repeated violations of the copyright license and registration of the owner and creator, Mi'chelle A. Barnes for unlicensed use of "Stand Off."
- 5) Violating Barnes' copyright *by creating a derivative work*, (image) which was altered from the original image without prior written permission and license.
- 6) AMF and GMM's Reproducing, scanning, altering, and e-mailing the image "Stand Off" and using it on AMF letterhead, AMF fundraising, AMF print collateral, AMF web publications, AMF internet and AMF newsletters in derivative, altered and unlicensed states.
- 7) Further AMF and GMM used "Stand Off" for their own corporate gain to solicit and receive public and corporate donations suggesting Barnes endorsement of AMF and GMM by and through the use of, Barnes' image "Stand Off," and the *"Save the Moose" PR campaign methods* of 1989/1990.
- 8) AMF and GMM copied and utilized the exact Moose mitigation techniques of the "Save the Moose" 1990 PR campaign which include but are not limited to:
 - Feeding Moose hay during severe winters
 - Working with Alaska Railroad personnel to implement the cracker shell program to chase Moose off the tracks before being run over on the tracks by the trains.

- Using track vehicles to put in trails for Moose to walk on and to find new areas of browse.
- Saving Moose calves through AF&G policy for both improving Moose habitat and targeting Moose predators.
- Legislative involvement to have roads designated as high collision/impact zones and “giving Moose a break.”

9) As evidence to show that Olson, AMF and GMM knew their actions to be “*willful and intentional*,” the plaintiff provides to the Court copies of the AMF and GMM website dated in 2009 which states, “Copyright © 2000 The Alaska Moose Federation.” This shows Olson, AMF and GMM knew their obligations under the Copyright Act (1976) and used the copyright symbol to serve notice to AMF and GMM internet viewers that they expected all the rights and protections of the Federal Copyright Act (1976) by inserting the following, “Copyright © 2000 The Alaska Moose Federation,” although they repeatedly failed to abide by the Copyright Act (1976) which also protected Barnes’ PR and photographic work entitled, “Stand Off.”

I, the plaintiff, Mi’chelle A. Barnes, give notice to the Court that the above mentioned facts and attached documents are true and correct to the best of my knowledge and are presented as plausible on their face such that the Defendant, Gary Olson, AMF and GMM should be held liable for the above mentioned willful and intentional unlicensed use of “Stand Off” to maximum penalties allowed. Further, I am entitled to actual, punitive and professional damages in the final amount to be determined by the Court for the willful and intentional violations of my copyright and registration. Further, I reserve the right to further amend this compliant with additional violations at any time.


Mi’chelle A. Barnes


05/02/2012