

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

	)
Arline Paul, James A. Bellanca, and	)
Mark Paul, individuals,	)
	)
Plaintiffs,	)
	)
v.	)
	)
Eric L. Miller, an individual, and Wicker	)
Park Press, Ltd.,	)
	)
Defendants.	)

**VERIFIED COMPLAINT FOR COPYRIGHT INFRINGEMENT AND VIOLATIONS OF FEDERAL AND STATE UNFAIR COMPETITION LAW**

Plaintiffs (collectively sometimes, “the Editors”), by and through counsel, for their Complaint against Defendants (collectively sometimes, “Miller”) state as follows:

**I. NATURE OF THE ACTION**

1. This is a six-count action seeking declaratory and injunctive relief as well as damages, punitive damages, and costs and attorneys’ fees arising from:

a) Miller’s threats to assert copyright infringement claims against the Editors, whom he knows own the copyrights in and to the work he is accusing them of infringing, namely, the book titled, *Becoming Self-Directed Learners: Student & Faculty Memoirs of an Experimenting High School 40 Years Later* (the “Center Book”); and,

b) Miller’s past and continuing willful infringement of the Editors’ intellectual property, namely, the copyright registered Center Book; and,

c) Miller’s past and present acts of unfair competition, including false and misleading

representations made to the public, including in advertising, concerning the sponsorship, source, or affiliation of Defendants' infringing, unauthorized, and inferior product, which they are offering for sale to the public under a former working title that is confusingly similar to the title of the real book, and are offering the infringing book in direct competition with the Editors' Center Book; and,

d) Miller's violation of Plaintiff Editors' rights of publicity by falsely representing for commercial purposes that the Editors are affiliated with the unauthorized book and, separate and apart from the Center Book, with Miller's business generally, Defendant Wicker Park Press, Ltd.

## **II. THE PARTIES**

2. Plaintiff Editors are individuals who have volunteered their time over the past several years to create a high quality, unique book comprising the reflections of former students, teachers, and parents who participated in a unique educational experiment carried out at New Trier High School in Winnetka, Illinois for the decade spanning the 1972 through 1983 school years. The experimental program was called the Center for Self-Directed Learning (the Center), and Plaintiff Editors James A. Bellanca and Arline Paul were career high school teachers who helped develop the concept for the program and then participated as teacher/facilitators in the Center, for its entire 10-year life span in the case of Arline Paul. Mark Paul is Arline Paul's son. He is a freelance writer and editor with extensive experience in marketing.

3. On information and belief, the individual Defendant, Eric Miller, is the owner of Defendant Wicker Park Press, Ltd., which public records indicate is a corporation registered in Illinois with an address in River Forest, Illinois.

4. Also on information and belief, at all times relevant to this action Wicker Park Press, Ltd., comprised Miller and no one else.

### **III. JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction over the copyright infringement and federal unfair competition causes of action pleaded herein pursuant to 17 U.S.C. §§ 101 *et seq.*, and 15 U.S.C. §§1125 *et seq.*, respectively, and pursuant to 28 U.S.C. §§ 1331,1338(a) and (b). This Court has subject matter jurisdiction over the substantially related state law unfair competition claims pursuant to 28 U.S.C. §1338(b) and by virtue of 28 U.S.C. §1367. Pursuant to Rule 65 of the Federal Rules of Civil Procedure (FRCP) and the pertinent provisions of the substantive statutes this Court is authorized to issue the temporary, preliminary, and permanent injunctive relief requested, and to grant the requested declaratory judgment concerning copyright ownership under the Declaratory Judgment Act, 28 U.S.C. §§2201 and 2202, implemented through Rule 57, FRCP.

6. Venue is proper in this Judicial District pursuant to 28 U.S.C. §1391 because all of the individual parties reside here, the corporate defendant is located here, and the acts complained of were initiated here and are continuing to occur here, and by virtue of 28 U.S.C. §1400 because those acts include acts of copyright infringement for which redress is sought under the federal Copyright Act.

### **IV. FACTS COMMON TO ALL COUNTS OF THE COMPLAINT**

#### **A. Defendants' Pending State Court Action**

7. Plaintiff Editors advise the Court that Miller has recently served two of them, Arline Paul and Mark Paul, with a complaint filed in the Circuit Court of Cook County, Illinois. The case is captioned, *The Wicker Park Press, Ltd., and Eric Miller v. James Bellanca, Arline Paul, and Mark Paul*, 2013 L 009464. The nine-count complaint is primarily directed at alleged contract issues and also includes a count for false light invasion of privacy and a count for

defamation *per se*.

8. Despite Miller's repeated threats to charge the Editors with copyright infringement, which threats are detailed further below, the state court complaint **does not** raise any challenge to the Editors' copyright ownership.

9. Also, despite Miller's many statements to the public and even in his state court complaint that the publishing contract "remains in full force and effect" until he is paid the money he demands, he **has not** asked the state court to rule on that unique legal theory.

10. The complaint seeks only money judgments, and does not concern any of the issues raised in the instant action.

11. On October 15, 2013 the Editors filed their "Motion to Dismiss the Complaint Styled Verified Complaint and Each Count Thereof" in the state court case.

### **B. Background Leading to This Action**

12. As is explained in Section II, above, Plaintiffs are editors and copyright owners of a work titled, *Becoming Self-Directed Learners: Student & Faculty Memoirs of an Experimenting High School 40 Years Later*, referred to as the "Center Book". They filed their application to register their copyrights in the book on July 12, 2013. [Plaintiffs' Copyright Application and related documents are attached hereto as Ex. 1]<sup>1</sup>

13. The Center Book project was conceived in 2009 and, at the request of former Center students, the Editors agreed to take on the project and began then to collect the memoirs and other materials that comprise the volume.

14. All of the writings included in the Center Book were contributed *gratis* and each writer signed a release granting the Editors permission to include his or her memoir in the Center

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<sup>1</sup> "\*\*\*\*an application for registration must be filed before the copyright can be sued upon." *Chicago Board of Education v. Substance, Inc.*, 354 F.2d 624, 631 (7<sup>th</sup> Cir. 2003).

Book. [Ex. 2, Release Form signed by Center Book contributors]

15. After volunteers who have incurred costs and expenses in connection with the Center Book have been reimbursed all proceeds from book sales will go into a dedicated scholarship fund.

16. In the spring of 2012, when most of the material for the Center Book had been collected, the Editors contacted Defendant Miller, a Center alumnus, about publishing the Center Book.

17. In November 2012 the parties entered into a publishing contract. [Ex. 3, “9/3/12” Publishing Contract]<sup>2</sup>

18. Disappointed by a general lack of competence and a marked failure to follow through with tasks and responsibilities on Miller’s part, the Editors emailed him on April 25, 2013 and again on April 26, 2013 informing Miller that the Editors terminated the publishing contract pursuant to its clause 2(g) [Ex. 3] and, in that connection, directed him to: a) provide proof of his sunk costs, i.e., “costs and expenses” incurred in connection with the project; b) remove all references to the Center Book from Defendants’ website; and, c) return all materials pertaining to the Center Book. [Ex. 4, three emails: 4/25/13 from Mark Paul to Eric Miller, 4/25/13 from Eric Miller to Mark Paul, 4/26/13 from Mark Paul to Eric Miller]

19. On April 27, 2013, Miller sent the Editors a “Fees” invoice for types and amounts of charges with which the Editors vigorously disagree, and which are at issue in the above referenced state court action. This seven and a half page invoice is referenced here and its first page is attached as Exhibit 5 to establish Miller’s unambiguous admission that Defendants

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<sup>2</sup> Many of the Exhibits attached to this Complaint are taken from those included in the Defendants’ state court complaint. The felt tip pen writing on them is how Miller marked those documents in that action. For this Complaint, Plaintiffs use Exhibit tags.

drafted the terminated publishing contract (see first entry 09/03/2012). [Ex. 5, first page of 4/27/13 “Fees” Invoice]

20. Miller has refused to modify Defendants’ website and as of October 29, 2013 is still offering for sale what he is falsely representing is the Center Book and falsely representing that the Editors are connected or affiliated with it. The website’s url is: [www.wickerpark-3ibooks.com](http://www.wickerpark-3ibooks.com) [Ex. 6, Screen Grabs from Defendants’ web site showing date they were taken].

**COUNT I**  
**(Declaratory Relief, 28 U.S.C. §§ 2201, 2202)**

21. Plaintiff Editors hereby incorporate each of the preceding paragraphs numbered 1 through 20 as though fully set forth herein.

22. Since April 26, 2013, in addition to offering for sale what amounts to a bootleg version of the Editors’ copyright registered Center Book, Miller has been making representations to the public such as the following on the Center for Self-Directed alumni Face Book page:

Mrs. Paul [Plaintiff Editor Arline Paul] is spreading misinformation here about ownership rights to this book. The Paul’s [sic] and Mr. Bellanca have not properly terminated their contract with Wicker Park Press. They have granted **all** the rights to the Wicker Park Press and the contract is still in force. Unless or until they do properly terminate their contract, Wicker Park Press holds **all** rights to the work, as granted to the Press by the Editors under their contract. Neither Center Press [Editors’ dba] nor the Paul’s [sic] have any right to Publish “On Becoming a Self-Directed Learner” under this title or any other, and in any version. Only the Wicker Park Press currently holds these rights. The Wicker Park Press will come out with its edition of “On Becoming a Self-Directed Learner” in the next two or three months. [Emphasis supplied]

23. The assertions by Miller quoted in Paragraph 22, above, were made on July 9, 2013 as part of a comment trail that included Editor Arline Paul’s earlier statement that the Editors were no longer working with Miller, that Wicker Park Press no longer had the rights to publish the work, that the Editors would be publishing the Center Book on their own, and that readers should accept no substitutes for the real, complete, and authorized Center Book. [see, Ex. 7, July

9th comments made on Face Book by Arline Paul at 11:29 a.m., and comments made as part of the same comment trail by Eric Miller at 8:29 and 8:32 p.m.]

24. Paragraph 128 of the state court complaint credits Miller with “\*\*\*creating the manuscript of the Work\*\*\*”. [Ex. 8, copy of pp. 15 and 1 of the “Verified Complaint” in *The Wicker Park Press Ltd., and Eric Miller v. James Bellanca, Arline Paul, and Mark Paul*, 2013 L 009464]

25. He has ignored the Editors’ direction to return Center Book materials and in fact has demanded that the Editors return the manuscript of the Center Book to him, as is detailed further below.

26. The Editors are very apprehensive that Miller has misled and is misleading third parties into believing that the “all rights” he has asserted that Defendants “own” include copyrights in and to the Center Book, when this is most assuredly not the case.

27. This apprehension is not based on mere supposition. In addition to the erroneous statements made by Miller himself, in three of the four letters the Editors’ undersigned counsel has received from the attorney representing Miller in the above described state court action counsel has asserted that his clients somehow hold copyrights in the Center Book and intend to enforce them. These statements are:

“If they [the Editors] publish this work [the Center Book] in any form before completing the contract’s termination by fully reimbursing Mr. Miller for his efforts, as required by the contract, we intend to treat any such publication not only as a breach of contract but also as a copyright infringement, because the rights to the work have been granted to Mr. Miller...If we have to go down that road, a court may award statutory damages for willful copyright infringement, in addition to attorney’s fees, a possible injunction, and other statutory remedies.”

and, “Any attempt by your clients [the Editors] to publish this work [the Center Book] will be treated as a copyright infringement of the Wicker Park Press’s rights to the work as granted by your contract with the Press, and as a violation of other rights under the contract.”

and, “Contrary to your fantastic assertions, in this matter I have not abandoned any claims of copyright infringement on my client’s behalf.”

[Ex. 9, 5/31/13 Letter of Gareth E. Gollrad, Esq., see, p. 2, ¶ 2, lines 9 through 11, and 14 through 16; 7/8/13 Letter of Gareth E. Gollrad, Esq., see, ¶ 2, lines 1 through 3; 9/11/13 Letter of Gareth E. Gollrad, Esq., see, ¶ 2, lines 1 and 2]

28. These threats and claims against the Editors concerning copyright infringement have been repeated despite the fact that Miller did not provide any creative or other proprietary content for the Center Book.

29. These threats and claims against the Editors concerning copyright infringement have been repeated despite the fact that the terminated publishing contract effectively acknowledges the Editors’ copyright ownership in the Center Book by providing that Defendants only had the right to register the copyright, “...in the **Author’s** name...” and could only sue third parties for copyright infringement in the **Author’s** name. [Emphasis supplied] [Ex. 3, cl. 3(c); cl. 4(c).]<sup>3</sup>

30. These threats and claims against the Editors concerning copyright infringement have been repeated despite the fact that the former publishing contract does not include any sort of copyright assignment. [See, Ex. 3, generally]

31. These threats and claims against the Editors concerning copyright infringement have been repeated despite the fact that, in addition to being devoid of any relevant survival clauses, the former publishing contract does not contain any provision that permits Miller to assert *any* rights to the Center Book post contract termination. The “at will” termination provision, drafted by Miller, limits his recovery to “costs and expenses” (properly defined and supported). [Ex. 3, cl. 2(g)]

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<sup>3</sup> The terminated publishing contract refers to the Editors as “Author”. [See generally, Ex. 3]



32. The irreparable harm to the Editors posed by Miller's misleading statements and by the threats made by those acting on his behalf is grave and will become worse imminently if this objectionable conduct continues because the Editors are on the verge of launching an intensive marketing campaign that will depend in large part on leveraging the good names of Editors James Bellanca and Arline Paul within the Center and broader educational and publishing communities. The Editors will assume the costs of sending galley proofs and other information to potential reviewers, and will approach various sellers and distributors of electronic and print books. Any hint of a copyright dispute, no matter how completely groundless, even frivolous, the allegations against the Editors by Miller and those acting on his behalf may be, would likely prove inimical to the Editors' efforts to gain interest in the Center Book and third-party commitments to promote and sell the Center Book, which the Editors have been working on for almost five years.

WHEREFORE, the Plaintiff Editors respectfully request that this Court enter judgment in their favor and against Defendants Eric Miller and Wicker Park Press, Ltd., and each of them:

- (a) Declaring that the Editors are the owners of the copyrights in and to the book titled, *Becoming Self-Directed Learners: Student & Faculty Memoirs of an Experimenting High School 40 Years Later*, which is the subject of registration, a certificate of registration to be issued in due course; and,
- (b) Declaring that Eric Miller and Wicker Park Press, Ltd., do not hold copyrights in or to the book *Becoming Self-Directed Learners: Student & Faculty Memoirs of an Experimenting High School 40 Years Later*, **or** a book titled *On Becoming a Self-Directed Learner: Memoirs of an Experimenting High School*, or any work of similar title or content; and,
- (c) Award the Plaintiff Editors any and all other relief the Court deems necessary and just.

**COUNT II**  
**(COPYRIGHT INFRINGEMENT, 17 U.S.C. §101 et seq.)**

33. Plaintiff Editors hereby incorporate each of the preceding paragraphs numbered 1 through 32 as though fully set forth herein.

34. The terminated publishing contract acknowledges the fact that the Editors provided Miller with the Center Book manuscript. [Ex. 3, cl. 2(a)]

35. Although for some purposes Miller has claimed he “created” the Center Book manuscript (see, e.g., Ex. 8, ¶128), at other times, for other purposes, he has stated to third parties that the Plaintiff Editors had “submitted” the Center Book manuscript to him. [Ex. 10, 7/27/13 email responses from Miller to contributors who wrote him that they did not want their writings included in the Defendants’ unauthorized product]

36. The terminated publishing contract created a voluntary bailment that required Miller to exercise a degree of care with regard to the Editors’ Center Book manuscript. [Ex. 3, cl. 2(b)]

37. The terminated publishing contract provided that Miller could revise and edit the manuscript, or require the Editors to revise and edit the manuscript. [Ex. 3, cl. 2(d), cl. 2(3)]

38. Nothing in the contract cedes ownership of the manuscript of the Center Book in any form or under any conditions to Miller. [See, generally, Ex. 3]

39. As such, Defendants’ possession of the manuscript and any right to make copies of it or any part of it were pursuant to license, which was extinguished when the publishing contract was terminated.

40. As stated above, the Editors directed Miller to return to them all Center Book materials [Ex. 4, specifically, the 4/25/13 email from Mark Paul to Eric Miller], which direction Miller has ignored.

41. Indeed, in addition to claiming that he “created” the manuscript [Ex. 8],<sup>4</sup> Miller has accused the Editors of “misappropriating” it [Ex. 8] and, through counsel, has demanded its return [Ex. 11, 7/19/13 letter of Gareth E. Gollrad, Esq., p. 1, ¶1, lines 8 through10], although in his state court complaint he does not seek its “return” but rather \$30,000 in damages in connection with it. [Ex. 8]

42. In addition to the fact that Miller has impermissibly copied and retained the Editors’ copyright protected manuscript even after the Editors have demanded its return, an instance of willful copyright infringement itself, Miller has been and is of the date this Complaint is filed offering for sale on the Wicker Park Press, Ltd., website a work that infringes the Editors’ copyrights, albeit with a cover different from that of the real Center Book and under a slightly different title. [Ex. 6]

43. The order page for the infringing volume indicates that the infringing volume is, “In Stock”, comprises 240 pages, costs \$22.50, for a paperback copy (“COMING October 2013”), and \$9.95 for an e-book version. [Ex. 6, 3rd page]

44. Conducting a Google search for the title of the infringing book, *On Becoming a Self-Directed Learner*, turns up as the second search result a link to Defendants’ promotion and order page for the infringing book.

45. Because of so-called “on-demand publishing” of both e-books and print volumes whereby they are not produced until they are ordered it may be that Defendants’ production of infringing books is not yet very great, but the reality of willful copyright infringement and the threat of future willful copyright infringement are present nonetheless.

46. Any offer for sale Miller has made for the infringing book, whether on Defendants’

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<sup>4</sup> This assertion is most confounding because the manuscript is a compilation of writings from a large group of volunteer authors that *does not* include Miller.

website or otherwise, directly injures the Editors by confusing the market and lowering future sales of the Center Book, and the fact that traffic on Millers' website is likely very low does not make his infringement any less willful, only less successful commercially.

47. Any order that Miller has received for the infringing book produced from the impermissibly retained and copied Center Book manuscript, whether such orders have been placed through Defendants' website or otherwise, directly injures the Editors and creates confusion in the market. This is true even for orders received prior to April 25, 2013 if Defendants have not refunded purchasers' money as well as for any orders received after Miller received notice of termination.

48. The Editors are on the verge of launching their marketing, promotion, and sales effort and Defendants' continuing willful infringement of the Editors' copyrights is inimical to those efforts.

WHEREFORE, The Editors respectfully request that this Court enter judgment in their favor and against Defendants Eric Miller and Wicker Park Press, Ltd., and each of them and:

- (a) Temporarily, preliminarily, and permanently enjoin Defendants from infringing the Editors' copyrights in the Center Book by 1) copying the Center Book manuscript provided to Defendants by the Editors, regardless of any changes Defendants have made to the copy or copies of the manuscript that they retain, and 2) selling, offering for sale, or distributing any work based in whole or in part on the Center Book manuscript, whether under the title *On Becoming a Self-Directed Learner: Memoirs of an Experimenting High School*, or otherwise; and,
- (b) Order Defendants to account to the Editors for each and every pre-order and order Defendants have received for, and every sale Defendants have made of, the book titled, *On Becoming a Self-Directed Learner: Memoirs of an Experimenting High School*; and,
- (c) Order Defendants to surrender to Plaintiffs for destruction each and every print copy and digital copy of the book titled *On Becoming a Self-Directed Learner: Memoirs of an*

*Experimenting High School*, that is in Defendants' possession or that is under their control, including any galley proofs or other copies regardless whether such copies include covers, such surrender to take place within eight (8) days of the Court's Order and at a location in either Cook or Lake County, Illinois, designated by Plaintiff Editors; and,

(d) Order Defendants to delete permanently from any computers in their possession or under their control, each and every electronic copy of the book titled *On Becoming a Self-Directed Learner: Memoirs of an Experimenting High School*, and to certify to Plaintiffs in writing that they have done so, said deletion and certification to be effectuated within eight (8) days of the Court's Order; and,

(e) Order Defendants to surrender to Plaintiffs each and every hard copy and digital copy of the Center Book manuscript that is in Defendants' possession or that is under their control, regardless how it may have been modified by Defendants, such surrender to be effectuated at the same time and location as the surrender described in subparagraph (c) above; and,

(f) Order Defendants to delete permanently from any computers in their possession or under their control, each and every electronic copy of the Center Book manuscript regardless how it may have been modified by Defendants, and to certify to Plaintiffs in writing that they have done so, said deletion and certification to be effectuated within eight (8) days of the Court's Order; and,

(g) Temporarily, preliminarily, and permanently enjoin Defendants from operating the [www.wickerpark-3ibooks.com](http://www.wickerpark-3ibooks.com) website, and from establishing any new website, until such time as Defendants modify their current website by removing all references to the infringing book *On Becoming a Self-Directed Learner: Memoirs of an Experimenting High School*, or any other work of similar title or content and by adding to the website's homepage and any landing page of the website connected with search engine web searches the following statement boxed, in prominent position, and in at least 12 pitch Arial Black or similar font:

**Please be advised that neither Eric Miller nor the Wicker Park Press, Ltd., holds any copyrights or other rights in or to *Becoming Self-Directed Learners: Student & Faculty Memoirs of an Experimenting High School 40 Years Later, or On Becoming a***

***Self-Directed Learner: Memoirs of an Experimenting High School, or any work of similar title or content. We regret any confusion earlier statements by us may have caused.***

**Information about *Becoming Self-Directed Learners: Student & Faculty Memoirs of an Experimenting High School 40 Years Later* can be found at: <https://www.facebook.com/pages/Becoming-Self-Directed-Learners/590845120981781#>**

such statement to appear continuously for six (6) months from the date of the Court's order, or six (6) months from when it is first posted, whichever is later; and,

(h) Enter judgment in favor of the Editors and against Defendants for statutory damages for willful copyright infringement; and,

(i) Award Plaintiff Editors their reasonable costs and attorneys' fees; and,

(j) Award the Editors any and all other relief that the Court deems necessary and just.

### COUNT III

#### **(FALSE ADVERTISING, LANHAM ACT 15 U.S.C. §1125(a), et seq.)**

49. Plaintiff Editors hereby incorporate each of the preceding paragraphs numbered 1 through 48 as though fully set forth herein.

50. As recounted above, when the Editors terminated the publishing contract on April 25, 2013 they told Miller to remove all references to the Center Book from his website.[Ex. 4, specifically, 4/25/13 email from Mark Paul to Eric Miller]

51. Miller did not do so and has not done so to this day as the screen shots of the offending pages from his website attached hereto as Exhibit 6 clearly establish.

52. The book Defendants are offering on their website is titled *On Becoming a Self-Directed Learner: Memoirs of an Experimenting High School*, which is a former working title of the Center Book now titled, *Becoming Self-Directed Learners: Student & Faculty Memoirs of an Experimenting High School 40 Years Later*. The title Miller is using is confusingly similar to the Center Book's title, and is likely to mislead reasonable consumers to the detriment of both

consumers and the Editors.

53. Although undoubtedly similar to the Center Book because it is a substantial copy of the Center Book manuscript, Defendants' infringing book is not the Center Book, which is a significantly improved product since termination of the former publishing contract.

54. Miller is publishing false advertising to the effect that the book he is offering for sale is the Editors' Center Book and is using the Editors' names and biographical information in a literally false or misleading description of fact or a literally false or misleading representation of fact in his false advertising placed in interstate commerce in connection with his promotion of the product he is offering for sale and for which he is apparently taking orders.

55. In reality, the Editors are not associated with and do not endorse the infringing volume that Miller is offering for sale and are directly harmed or are likely to be directly harmed by Miller's illicit use of their names in his promotion of the unauthorized book and by his promotion of the unauthorized book generally, such harm comprising diversion of sales for which the parties are competing directly and/or by the lessening of the good will enjoyed by the Editors caused by a false association with Defendants' unauthorized and inferior product

56. These illicit acts on the part of Defendants are willful and are being undertaken by them to intentionally deceive consumers.

WHEREFORE, the Editors respectfully request that this Court enter judgment in their favor and against Defendants Eric Miller and Wicker Park Press, Ltd., and each of them and:

(a) Temporarily, preliminarily, and permanently enjoin Defendants from operating the [www.wickerpark-3ibooks.com](http://www.wickerpark-3ibooks.com) website, and from establishing any new website, until such time as Defendants modify their current website by removing all references to the Editors and the misleadingly and confusingly titled book, *On Becoming a Self-Directed Learner: Memoirs of an Experimenting High School*, or any other work of similar title or content and by adding to the website's homepage and any landing page of the website connected with search engine web

searches the following corrective advertising statement boxed, in prominent position, and in at least 12 pitch Arial Black or similar font:

**Please be advised that neither Eric Miller nor the Wicker Park Press, Ltd., holds any copyrights or other rights in or to *Becoming Self-Directed Learners: Student & Faculty Memoirs of an Experimenting High School 40 Years Later*, or *On Becoming a Self-Directed Learner: Memoirs of an Experimenting High School*, or any work of similar title or content. We regret any confusion earlier statements by us may have caused.**

**Information about *Becoming Self-Directed Learners: Student & Faculty Memoirs of an Experimenting High School 40 Years Later* can be found at: <https://www.facebook.com/pages/Becoming-Self-Directed-Learners/590845120981781#>**

such statement to appear continuously for six (6) months from the date of the Court's order, or six (6) months from when it is first posted, whichever is later; and,

(b) Enjoin Defendants to provide to the Plaintiff Editors within eight (8) days of the Court's Order a list of all individuals and entities Defendants have contacted concerning the review, or sale, or distribution of the misleadingly and confusingly titled book, *On Becoming a Self-Directed Learner: Memoirs of an Experimenting High School*, or any other work of similar title or content and certify in writing to the Editors that each such entity or individual has been sent a written copy of the statement set forth in subparagraph (a), immediately above; and,

(c) Temporarily, preliminarily, and permanently enjoin Defendants from representing to any book reviewers, book sellers or distributors, libraries, and any other individual and entity, that Defendants are offering for sale or have the rights to sell or distribute the Center Book endorsed by the Editors or any version, copy, or derivative work based on the Center Book manuscript, including but not limited to *On Becoming a Self-Directed Learner: Memoirs of an Experimenting High School*; and,

(f) Award Plaintiff Editors damages and enhanced damages; and,

(g) Award Plaintiff Editors their reasonable costs and attorneys' fees; and,

(i) Award Plaintiff Editors any and all other relief that the Court deems necessary and just.



**COUNT IV**

**(State Law Consumer Fraud and Deceptive Business Practices, 815 ILCS 505/1 et seq.)**

57. Plaintiff Editors hereby incorporate each of the preceding paragraphs numbered 1 through 56 as though fully set forth herein.

58. Defendants are advertising, selling, and taking orders for an incomplete version of a book that is not authorized by the copyright owners and that bears the title, *On Becoming a Self-Directed Learner: Memoirs of an Experimenting High School*, which title is confusingly similar to that of the Editors' book, *Becoming Self-Directed Learners: Student & Faculty Memoirs of an Experimenting High School 40 Years Later*.

59. Defendants persist in this illicit conduct, which includes using the identities of the Editors in association with the unauthorized book, more than six months after the first time they were directed to cease their deceptive behavior. [See, Ex. 6]

60. Miller is in direct, albeit illicit, competition with the Editors for book sales, and is employing deception, misrepresentation, and the concealment, suppression, or omission of material facts, namely, the highly material facts that he is not offering the complete, authorized book of the Editors and that the Editors are not associated with his inferior product, and Miller is doing so with the intent that consumers rely on such deceptions to their detriment.

WHEREFORE, the Editors respectfully request that this Court enter judgment in their favor and against Defendants Eric Miller and Wicker Park Press, Ltd., and each of them and:

(a) Temporarily, preliminarily, and permanently enjoin Defendants from operating the [www.wickerpark-3ibooks.com](http://www.wickerpark-3ibooks.com) website, and from establishing any new website, until such time as Defendants modify their current website by removing all references to the Editors and the misleadingly and confusingly titled book, *On Becoming a Self-Directed Learner: Memoirs of an Experimenting High School*, or any other work of similar title or content and by adding to the website's homepage and any landing page of the website connected with search engine web

searches the following corrective advertising statement boxed, in prominent position, and in at least 12 pitch Arial Black or similar font:

**Please be advised that neither Eric Miller nor the Wicker Park Press, Ltd., holds any copyrights or other rights in or to *Becoming Self-Directed Learners: Student & Faculty Memoirs of an Experimenting High School 40 Years Later*, or *On Becoming a Self-Directed Learner: Memoirs of an Experimenting High School*, or any work of similar title or content. We regret any confusion earlier statements by us may have caused.**

**Information about *Becoming Self-Directed Learners: Student & Faculty Memoirs of an Experimenting High School 40 Years Later* can be found at: <https://www.facebook.com/pages/Becoming-Self-Directed-Learners/590845120981781#>**

such statement to appear continuously for six (6) months from the date of the Court's order, or six (6) months from when it is first posted, whichever is later; and,

(b) Enjoin Defendants to provide to the Plaintiff Editors within eight (8) days of the Court's Order a list of all individuals and entities Defendants have contacted concerning the review, or sale, or distribution of the misleadingly and confusingly titled book, *On Becoming a Self-Directed Learner: Memoirs of an Experimenting High School*, or any other work of similar title or content and certify in writing to the Editors that each such entity or individual has been sent a written copy of the statement set forth in subparagraph (a), immediately above; and,

(c) Temporarily, preliminarily, and permanently enjoin Defendants from representing to any book reviewers, book sellers or distributors, libraries, and any other individual and entity, that Defendants are offering for sale or have the rights to sell or distribute the Center Book endorsed by the Editors or any version, copy, or derivative work based on the Center Book manuscript, including but not limited to *On Becoming a Self-Directed Learner: Memoirs of an Experimenting High School*; and,

(d) Award Plaintiff Editors any and all other relief that the Court deems necessary and just.

**COUNT V**  
**(State Law Deceptive Trade Practices, 815 ILCS 510/1 et seq.)**

61. Plaintiff Editors hereby incorporate each of the preceding paragraphs numbered 1 through 60 as though fully set forth herein.

62. By advertising, offering for sale, and taking orders for an incomplete, inferior, and unauthorized version of the Editors' Center Book under a title that is confusingly and misleadingly similar to that of the real book and in doing so using the Editors' identities to create the false impression that they are associated with and endorse the bogus product, Miller is passing off the unapproved product as the authorized one by creating a likelihood of confusion or misunderstanding as to source or sponsorship of the offending goods.

63. Miller is a competitor, albeit an illicit one, of the Editors and the Editors are being harmed by or are likely to be harmed by Miller's deceptive trade practices.

WHEREFORE, the Editors respectfully request that this Court enter judgment in their favor and against Defendants Eric Miller and Wicker Park Press, Ltd., and each of them and:

(a) Temporarily, preliminarily, and permanently enjoin Defendants from operating the [www.wickerpark-3ibooks.com](http://www.wickerpark-3ibooks.com) website, and from establishing any new website, until such time as Defendants modify their current website by removing all references to the Editors and the misleadingly and confusingly titled book, *On Becoming a Self-Directed Learner: Memoirs of an Experimenting High School*, or any other work of similar title or content and by adding to the website's homepage and any landing page of the website connected with search engine web searches the following corrective advertising statement boxed, in prominent position, and in at least 12 pitch Arial Black or similar font:

**Please be advised that neither Eric Miller nor the Wicker Park Press, Ltd., holds any copyrights or other rights in or to *Becoming Self-Directed Learners: Student & Faculty Memoirs of an Experimenting High School 40 Years Later*, or *On Becoming a Self-Directed Learner: Memoirs of an Experimenting High School*, or any work of similar title or content. We regret any confusion**

**earlier statements by us may have caused.**

**Information about *Becoming Self-Directed Learners: Student & Faculty Memoirs of an Experimenting High School 40 Years Later* can be found at: <https://www.facebook.com/pages/Becoming-Self-Directed-Learners/590845120981781#>**

such statement to appear continuously for six (6) months from the date of the Court's order, or six (6) months from when it is first posted, whichever is later; and,

(b) Enjoin Defendants to provide to the Plaintiff Editors within eight (8) days of the Court's Order a list of all individuals and entities Defendants have contacted concerning the review, or sale, or distribution of the misleadingly and confusingly titled book, *On Becoming a Self-Directed Learner: Memoirs of an Experimenting High School*, or any other work of similar title or content and certify in writing to the Editors that each such entity or individual has been sent a written copy of the statement set forth in subparagraph (a), immediately above; and,

(c) Temporarily, preliminarily, and permanently enjoin Defendants from representing to any book reviewers, book sellers or distributors, libraries, and any other individual and entity, that Defendants are offering for sale or have the rights to sell the Center Book endorsed by the Editors or any version, copy, or derivative work based on the Center Book manuscript, including but not limited to *On Becoming a Self-Directed Learner: Memoirs of an Experimenting High School*; and,

(d) Award Plaintiff Editors any and all other relief that the Court deems necessary and just.

#### **COUNT VI**

**(State Law Right to Publicity, 765 ILCS 1075/1 et seq.)**

64. Plaintiff Editors hereby incorporate each of the preceding paragraphs numbered 1 through 63 as though fully set forth herein.

65. Miller has appropriated and is using in a way that is highly offensive to the Editors and misleading to consumers the Editors' rights of publicity, and is doing so for commercial purposes and wholly without permission.

66. Miller's violation of the Editors' rights of publicity is being perpetrated by his associating the Editors' names and biographical information with the incomplete, inferior, and unauthorized book he is advertising, offering for sale, and taking orders for under a title that is confusingly and misleadingly similar to the title of the Editors' book. [Ex. 6]

67. Miller's violation of the Editors' rights of publicity is also being perpetrated by his identifying the Editors as Wicker Park Press Ltd., "editors" generally, i.e., unassociated with any particular book or project, when such is most decidedly not the case. [Ex. 12, dated screen grab from Defendants' website describing Plaintiffs Arline Paul, James A. Bellanca, and Mark Paul as Wicker Park Press editors]

WHEREFORE, the Editors respectfully request that this Court enter judgment in their favor and against Defendants Eric Miller and Wicker Park Press, Ltd., and each of them and:

- (a) Temporarily, preliminarily, and permanently enjoin Defendants from operating the [www.wickerpark-3ibooks.com](http://www.wickerpark-3ibooks.com) website, and from establishing a new website, until such time as Defendants modify their current website by removing all references to the Editors; and,
- (b) Award Editors their actual damages, Miller's profits derived from his unauthorized use of the Editors' identities, or both; or \$1,000, whichever is greater; and,
- (c) Award Editors punitive damages in the light of Miller's willful violation of the Editors' rights of publicity; and,
- (d) Award the Editors their reasonable attorneys' fees and costs; and,
- (e) Award Plaintiff Editors any and all other relief that the Court deems necessary and just.

Dated: October 29, 2013

Respectfully Submitted,

/s/ C. Michael Kendall  
Plaintiff Editors' Attorney

C. Michael Kendall  
662 Green Briar Lane  
Lake Forest, Illinois 60045  
Tel: 847.987.2597  
Email: [cmkendall5555@gmail.com](mailto:cmkendall5555@gmail.com)

## VERIFICATION

Under penalty of perjury under the laws of the United States of America and the State of Illinois, I declare that I have read the foregoing, and that the facts alleged therein with respect to the Plaintiff Editors' work on the Center Book project and our dealings with the Defendants are true and correct to the best of my knowledge and belief. I understand that a false statement in this Verification will subject me to penalties of perjury.

/s/ Arline Paul

Dated this 29th day of October, 2013.

**ATTORNEY'S LIMITED VERIFICATION**

Under penalty of perjury under the laws of the United States of America and the State of Illinois, I verify that the exhibits attached to the Verified Complaint are true and accurate copies of what they are described to be and that the facts set forth concerning the referenced state court action are true and accurate to the best of my knowledge and belief.

/s/ C. Michael Kendall  
Plaintiffs' Attorney

Dated this 29th day of October 2013

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

Arline Paul, James A. Bellanca, and	)	
Mark Paul, individuals,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
Eric L. Miller, an individual, and Wicker	)	
Park Press, Ltd.,	)	
	)	
Defendants.	)	

**EXHIBITS TO THE VERIFIED COMPLAINT FOR COPYRIGHT INFRINGEMENT  
AND VIOLATIONS OF FEDERAL AND STATE UNFAIR COMPETITION LAW**

EXHIBITS

1. Plaintiffs' Copyright Application and related documents.
2. Release Form signed by Center Book contributors.
3. "9/3/12" Publishing Contract (terminated).
4. Three emails: 4/25/13 from Mark Paul to Eric Miller, 4/25/13 from Eric Miller to Mark Paul, 4/26/13 from Mark Paul to Eric Miller.
5. First page of 4/27/13 "Fees" Invoice.
6. Dated screen grabs from Defendants' web site promoting unauthorized book.
7. July 9th comment made on Face Book by Arline Paul at 11:29 a.m., and comments made as part of the same comment trail by Eric Miller at 8:29 and 8:32 p.m.
8. Copy of pp. 15 and 1 of the "Verified Complaint" in *The Wicker Park Press Ltd., and Eric Miller v. James Bellanca, Arline Paul, and Mark Paul*, 2013 L 009464.
9. 5/31/13 Letter of Gareth E. Gollrad, Esq.; 7/8/13 Letter of Gareth E. Gollrad, Esq.; 9/11/13 Letter of Gareth E. Gollrad, Esq.
10. 7/27/13 email responses from Miller to contributors who wrote him that they did not want



EXHIBITS, cont.,

their writings included in the Defendants' unauthorized product.

11. 7/19/13 letter of Gareth E. Gollrad, Esq.
12. Dated screen grab from Defendants' website describing Plaintiffs Arline Paul, James A. Bellanca, and Mark Paul as Wicker Park Press "editors".