

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

CHARLES HARRIS, as an individual and
UNIQUE PRODUCTS AND SERVICES, a Pennsylvania Corporation

Plaintiffs,

vs.

OPRAH WINFREY, as an individual, and
THE OPRAH WINFREY SHOW d/b/a HARPO PRODUCTIONS INC., an Illinois corporation.

Defendants.

No.

**COMPLAINT FOR
EQUITABLE RELIEF AND
DAMAGES**

Jury Trial Requested

James Lee, Esquire (Atty. Id # 307181), 1500 Market Street, 12th Floor/East Tower, Philadelphia, PA 19102.

Plaintiffs, Charles Harris and Unique Products and Services (collectively, "Plaintiffs"), by and through its undersigned counsel, files this Complaint against Defendants, Oprah Winfrey and Oprah Winfrey Show d/b/a Harpo Productions Inc, (collectively, "Defendants") and in support thereof alleges as follows.

I. PARTIES

1. Plaintiff Charles Harris ("Mr. Harris") is an individual residing in Pennsylvania.

2. Plaintiff Unique Products and Services ("Unique") is a

1 corporation organized and existing under the laws of Pennsylvania with
2 a principal place of business at 7330 Germantown Avenue, Unit D3,
3 Philadelphia, Pa 19119

4 3. Defendant, Oprah Winfrey (“Ms. Winfrey”) is an individual
5 residing in Illinois.

6 4. Defendant, Oprah Winfrey Show doing business as Harpo
7 Productions Inc., (“Harpo”) is a corporation organized and existing
8 under the laws of Illinois with a principal place of business at 1058 W
9 Washington Blvd. Chicago, IL 60607-2116.

10 5. Plaintiffs allege on information and belief that at all times
11 relevant herein, Defendants and their employees, subsidiaries, affiliates,
12 and other related entities, were the agents, servants and employees of
13 each other, and at all times relevant herein, each was acting within the
14 purpose and scope of that agency and employment.

15 6. Whenever reference in this Complaint is made to any act or
16 transaction of the Defendants, such allegation shall be deemed to mean
17 that the principals, officers, directors, employees, agents, and/or
18 representatives of Defendants committed, knew of, performed,
19 authorized, ratified and/or directed that act or transaction on behalf of
20 Defendants while actively engaged in the scope of their duties.

21 7. All allegations herein are based on information and belief
22 and/or are likely to have evidentiary support after reasonable
23 opportunity for further investigation and discovery.

24
25 **II. VENUE AND JURISDICTION**

26 8. This action alleges claims arising under the Copyright Act of
27 1976, as well as state law claims of tortious conversion, unjust
28 enrichment and quantum meruit. This Court has jurisdiction over this

1 action pursuant to 28 U.S.C. §§ 1331, 1338(a) and 1338(b) and over the
2 state law claims pursuant to its supplemental jurisdiction under 28
3 U.S.C. § 1367.

4 9. Venue is proper in this district pursuant to 28 U.S.C. §§
5 1391 and 1400(a).

7 III. FACTUAL ALLEGATIONS

8 10. Mr. Harris is the author of the booklet “How America Elects
9 Her Presidents”. During and prior to 2000, Mr. Harris created and
10 wrote “How America Elects Her Presidents”, a non-dramatic literary
11 work authored in the United States. Mr. Harris had applied for and
12 received a Certificate of Registration for his booklet “How America
13 Elects Her Presidents”, dated and identified as follows: January 6, 2000,
14 No. TXu-931-707. Thus, Mr. Harris is the owner of the copyright in the
15 booklet. A true and correct copy of the Certificate of Registration is
16 attached herewith as “**Exhibit 1**”. The booklet has also been
17 acknowledged by The Democratic Party (Democratic National
18 Committee) and The Republican Party (Republican National
19 Committee). True and correct copies of the acknowledgements dated
20 2004 are attached herewith as “**Exhibit 2 and Exhibit 3**” respectively.
21 This suffices as proof of Mr. Harris’ copyright in the booklet.

22 11. Mr. Harris has been corporately selling “How America
23 Elects Her Presidents” through his company Unique Products and
24 Services (Unique).

25 12. The cause of action in this matter arose during Senator
26 Obama's campaign for President of the United States of America. Ms.
27 Winfrey through HARPO was supporting Senator Obama’s campaign
28 through her “Oprah Winfrey Show”.

1 13. Considering this as a good business opportunity and to
2 widely publicize the booklet “How America Elects Her Presidents”,
3 Unique offered HARPO to include booklet in then Senator Obama’s,
4 now President Obama's campaign for President of the United States.

5 14. That, on January 1, 2008, Mr. Harris, on behalf of Unique,
6 sent a letter to Ms. Winfrey inquiring as to her potential interest in
7 utilizing “How America Elects Her Presidents” in her television show,
8 the “Oprah Winfrey Show.” A true and correct copy of the said letter is
9 attached hereto as “**Exhibit 4**”.

10 15. Mr. Harris also shipped 10 copies of the proposed booklet
11 for the Presidential campaign to the Oprah Winfrey Show in Chicago.
12 A true and correct copy of the front cover page of the proposed booklet
13 is attached herewith as “**Exhibit 5**”.

14 16. The letter and the proposed 10 copies of booklet were
15 certified and tracked to have been delivered on January 11, 2008 to The
16 Oprah Winfrey Show. A true and correct copy of the certified receipt of
17 the shipment is attached herewith as “**Exhibit 6**”.

18 17. After waiting five weeks with no response, Mr. Harris
19 contacted HARPO and spoke with Mr. Carlton. Mr. Carlton claimed
20 that neither the Oprah Winfrey show nor HARPO accepted any calls or
21 packages at any time. Mr. Carlton could not explain why he was then in
22 fact taking the current call. Mr. Carlton further claimed that no packages
23 or deliveries were ever accepted from Unique Products and Services.
24 Mr. Harris did receive confirmation of booklet delivery via certified
25 United States Post Office.

26 18. Mr. Harris wrote another letter to Ms. Winfrey on February
27 10, 2008 enquiring the 2008 election proposal relative to the
28 Presidential election bid of Senator Obama. A true and correct copy of

1 the letter is attached hereto as “**Exhibit 7**”. No response to this letter
2 was received.

3 19. That on February 16, 2009, at 4 P.M. (EST) Mr. Harris was
4 watching Oprah Winfrey show and to his shock and dismay he saw Ms.
5 Winfrey reading out to the studio and viewing audiences several of the
6 exact same questions that are included in his booklet “How America
7 Elects Her Presidents”. Ms. Winfrey was reading out the questions
8 verbatim as in the booklet “How America Elects Her Presidents” from
9 4x6 laminated Q cards in her hand.

10 20. The language and the structure of the questions were exactly
11 the same to material copyrighted in Mr. Harris’s booklet. Ms. Winfrey
12 had developed one of her daily programs based on the information in
13 the booklet. She was also highly praising of the information contained
14 in the booklet.

15 21. The questions in the booklet “How America Elects Her
16 Presidents” were developed and designed by and for Unique, not for the
17 Ms. Winfrey show. Defendants copied questions verbatim from Mr.
18 Harris’ “Copyrighted Work”, without his permission or license. This
19 amounts to infringement of Mr. Harris’s copyright in the booklet “How
20 America Elects Her Presidents”.

21 22. That on July 09, 2010, Plaintiffs sent a demand letter to the
22 Defendants demanding an amicable settlement of the dispute. A true
23 and correct copy of the Demand Letter is attached hereto as “**Exhibit**
24 **8**”. Defendants have refused amicable settlement of this dispute.

25 23. To date, Defendants have not cured the above violation of
26 Plaintiffs’ “Copyrighted Work”.
27
28

1
2
3
4
5
6
7

IV. CAUSES OF ACTIONS
COUNT I
COPYRIGHT INFRINGEMENT IN VIOLATION OF 17
U.S.C. §§ 101 ET SEP. AGAINST DEFENDANTS MS.
WINFREY AND HARPO

8
9
10
11

24. Plaintiffs reallege and incorporate by reference the allegations set forth in each of the preceding paragraphs of this Complaint.

12
13
14
15

25. The fact that Mr. Harris had sent Defendants 10 copies of booklets for consideration of his offer clearly bolsters the allegation that Defendants had easy access to Mr. Harris' booklet to plagiarize the questions verbatim from his booklet and use them for Defendants' show which constitutes infringement of copyrighted work.

16
17
18
19
20

26. The acts of Defendants, Ms. Winfrey and HARPO, of unauthorized use and/or reproduction and/or derivative work and plagiarizing from Mr. Harris' booklet "How America Elects Her Presidents" constitute copyright infringement in violation of the Copyright Act, 17 U.S.C. §§ 101, et seq.

21
22
23
24

27. The unlawful actions of Defendants in the unauthorized use and/or reproduction of the booklet "How America Elects Her Presidents" was deliberate, willful, malicious, oppressive and without regard to Plaintiff's property rights.

25
26
27
28

28. Defendants' copyright infringement has caused and will continue to cause Plaintiffs to suffer substantial injury, loss and damage to its property and exclusive rights to the copyrights in the booklet "How America Elects Her Presidents", and further has damaged

1 Plaintiffs' business reputation and goodwill, diverted its trade and has
2 caused a loss of profits all in an amount not yet ascertained.

3 29. Defendants' copyright infringement and the threat of
4 continuing infringement have caused and will continue to cause
5 Plaintiffs repeated and irreparable injury. It would be difficult to
6 ascertain the amount of money damages that would afford Plaintiffs
7 adequate relief at law for Defendants' wrongful acts. Plaintiffs' remedy
8 at law is not adequate to compensate it for the injuries already inflicted
9 and further threatened by Defendants. Therefore Defendants should be
10 restrained and enjoined from use and dissemination of related materials
11 pursuant to the Copyright Act, 17 U.S.C. § 101 et seq.

12 30. Plaintiffs are entitled to recover actual damages in an amount
13 to be determined at trial, plus an award for Defendants' profits resulting
14 from the unlawful use of and infringement on the Plaintiffs' booklet
15 "How America Elects Her Presidents"; or alternatively, statutory
16 damages for each act of infringement in an amount provided by law, as
17 set forth in 17 U.S.C. §504 for damages of up to \$150,000 per each
18 incident of intentional unlawful use by Defendants. Plaintiffs are
19 entitled to injunctive relief prohibiting Defendants from further
20 infringing Plaintiffs' exclusive rights under the Copyright Act of 1976
21 and ordering that Defendants destroy all copies of the "Copyrighted
22 Work" made in violation of those rights. Plaintiffs are further entitled to
23 recover prejudgment and post judgment interest and for an award of
24 Plaintiffs' reasonable attorney's fees pursuant to 17 U.S.C. §505
25 together with costs of suit.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT II
TORTUOUS CONVERSION AGAINST DEFENDANTS MS.
WINFREY AND HARPO

31. Plaintiffs reallege and incorporate by reference the allegations set forth in each of the preceding paragraphs of this Complaint.

32. In the alternative, Defendants have tortuously converted the contents of Mr. Harris' copyrighted work by virtue of unauthorized appropriation thereof and incorporation of the same in Ms. Winfrey's Q cards for the "Oprah Winfrey Show".

33. Defendants' unauthorized conversion of Plaintiffs' copyrighted work has occurred without legal justification and without Plaintiffs' consent.

34. Plaintiffs have suffered actual, incidental, and consequential damages on the basis of Defendants' tortuous conversion of Plaintiffs' copyrighted work together with loss of value and the benefits thereof.

35. Defendants remain solely, jointly, or jointly and severally liable and indebted to Plaintiffs for and in the amount of all actual, incidental, and consequential damages that Plaintiffs have suffered and will likely suffer in the future as the direct and proximate result of Defendants' tortuous conversion.

36. Defendants additionally remain solely, jointly, or jointly and severally liable and indebted to Plaintiffs in the amount of all gains, benefits, and advantages that they have individually and/or collectively derived and will likely derive in the future by virtue of their improper and unauthorized conversion.