



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SCOTT HARGIS, d/b/a SCOTT HARGIS
PHOTO, an individual,

Plaintiff,

v.

PACIFICA SENIOR LIVING
MANAGEMENT, LLC, a California limited
liability corporation; and DOES 1-10,
inclusive,

Defendants.

Case No. 2:22-cv-06989-MCS-PD

VERDICT FORM

VERDICT FORM

We, the Jury, answer the questions submitted to us as follows:

PART A

DIRECT COPYRIGHT INFRINGEMENT

It has been established that Defendant infringed 43 photographs, 41 of which are owned by Plaintiff. With regard to Plaintiff's ownership of the remaining 2 photographs:

1. Did Plaintiff show by a preponderance of the evidence that "hargis_180622_8226" represents the same photograph as "Atria_Rancho_Penasquitos8226-2," for which Plaintiff holds a valid registration?

YES X NO ____

2. Did Plaintiff show by a preponderance of the evidence that he holds a registered copyright to the photograph "hargis_140509_6527"?

YES ____ NO X

NUMBER OF WORKS

3. Do you find that all of the photographs taken at a single property constitute one copyrighted "work," as Defendant contends?

YES ____ NO X

If you answer "YES" to Question 3, skip PART B and proceed to PART C, starting at page 9.

If you answer "NO" to Question 3 please, proceed directly to PART B below and ignore PART C.

PART B

WILLFULNESS/INNOCENCE

4. It has been established that Defendant infringed 5 of Plaintiff's photographs willfully. Did Plaintiff show by a preponderance of the evidence that Defendant infringed any of the other 38 photographs willfully?

YES X NO

If you answer "YES" please proceed to Question 5.

If you answer "NO" please skip Question 5 and proceed directly to Question 6.

5. In addition to the 5 photographs infringed willfully, how many of the other 38 photographs do you find that Defendant infringed willfully?

38

6. For any photograph that was not infringed willfully, did Defendant show by a preponderance of the evidence that Defendant infringed any of the other 38 photographs innocently?

YES NO X

If you answer "YES" please proceed to Question 7.

If you answer "NO" please skip Question 7 and proceed directly to Question 8.

7. How many of the other 38 photographs, other than those willfully infringed, do you find that Defendant infringed innocently?

Because an infringement cannot be both willful and innocent, your number should not include any photographs you found were infringed willfully. In other words, your number should not exceed the difference between 38 and your response to Question 5, if applicable

STATUTORY DAMAGES

Please fill out the provided Table 1 starting on the next page, consistent with your answers to the following Questions.

8. For infringement that is willful, what statutory damages do you award for each copyrighted work (\$750 up to \$150,000)?





\$150,000

9. For infringement that is not willful, but also not innocent, what statutory damages do you award for each copyrighted work (\$750 - \$30,000)?

10. For infringement that is innocent, what statutory damages do you award for each copyrighted work (\$200 - \$30,000)?

Table 1***Instructions:***

1. *For each photograph, indicate whether the infringement was willful by checking "Yes" or "No."*
2. *If you check "No" to willfulness, indicate whether the infringement was innocent by checking "Yes" or "No."*
3. *An infringement cannot be both willful and innocent, so you should only check "Yes" in one of the two columns.*
4. *At the same time, if you find that the infringement was neither willful nor innocent, you should check "No" in both columns.*

	File name	Photo	Location	Did Plaintiff establish willful infringement for this Photo? (Yes or No)	If the infringement was not willful, did Defendant establish innocent infringement of this Photo? (Yes or No)
1	hargis_180613_7239		Fresno	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
2	hargis_180613_7276		Fresno	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
3	hargis_180613_7290:		Fresno	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
4	hargis_180613_7306		Fresno	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>

	File name	Photo	Location	Did Plaintiff establish willful infringement for this Photo? (Yes or No)	If the infringement was not willful, did Defendant establish innocent infringement of this Photo? (Yes or No)
5	hargis_180613_7336		Fresno	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
6	hargis_180613_7353		Fresno	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
7	hargis_180613_7369		Fresno	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
8	hargis_180613_7207		Fresno	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
9	hargis_180621_7829		Menifee	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
10	hargis_180621_7835		Menifee	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
11	hargis_180621_7874		Menifee	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
12	hargis_180621_7914		Menifee	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
13	hargis_180621_7948		Menifee	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>

	File name	Photo	Location	Did Plaintiff establish willful infringement for this Photo? (Yes or No)	If the infringement was not willful, did Defendant establish innocent infringement of this Photo? (Yes or No)
14	hargis_180621_7972		Menifee	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
15	hargis_180621_8014		Menifee	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
16	hargis_180621_8040		Menifee	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
17	hargis_190510_0209		Bonita	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
18	hargis_190510_0233		Bonita	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
19	hargis_190510_0247		Bonita	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
20	hargis_190510_0256		Bonita	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
21	hargis_190510_0284		Bonita	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
22	hargis_190510_0311		Bonita	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
23	hargis_190510_0369		Bonita	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
24	hargis_190624_1600		Encinitas	Yes <u>X</u> No ____	Yes ____ No <u>X</u>

	File name	Photo	Location	Did Plaintiff establish willful infringement for this Photo? (Yes or No)	If the infringement was not willful, did Defendant establish innocent infringement of this Photo? (Yes or No)
25	hargis_190624_1621		Encinitas	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
26	hargis_190624_1640		Encinitas	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
27	hargis_190624_1666		Encinitas	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
28	hargis_190624_1673		Encinitas	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
29	hargis_190624_1715		Encinitas	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
30	hargis_190624_1733		Encinitas	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
31	Atria_Rancho_Penasquitos8072		Rancho Penasquitos	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
32	Atria_Rancho_Penasquitos8090		Rancho Penasquitos	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
33	Atria_Rancho_Penasquitos8117		Rancho Penasquitos	Yes <u>X</u> No ____	Yes ____ No <u>X</u>

	File name	Photo	Location	Did Plaintiff establish willful infringement for this Photo? (Yes or No)	If the infringement was not willful, did Defendant establish innocent infringement of this Photo? (Yes or No)
34	Atria_Rancho_Penasquitos8152		Rancho Penasquitos	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
35	Atria_Rancho_Penasquitos8206		Rancho Penasquitos	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
36	Atria_Rancho_Penasquitos8226-2		Rancho Penasquitos	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
37	hargis_180821_0424		Sterling	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
38	hargis_180821_0439		Sterling	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
39	hargis_180821_0470		Sterling	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
40	hargis_180821_0543		Sterling	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
41	hargis_180821_0579		Sterling	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
42	hargis_180821_0600		Sterling	Yes <u>X</u> No ____	Yes ____ No <u>X</u>
43	hargis_140509_6527		Burlingame	Yes <u>X</u> No ____	Yes ____ No <u>X</u>

PART C

If you answered "YES" to Question 3, please, answer Questions 11 through 18 below.

If you answered "NO" to Question 3 and filled out PART B above, you have completed the verdict form. Do not answer any of the questions below.

WILLFULNESS/INNOCENCE

To answer questions 11 through 18 below, you may inspect the chart at Table 2 below which groups the photographs by copyrighted Works.

11. It has been established that Defendant infringed 2 of Plaintiff's Works willfully, the Works known as the Sterling Photographs and the Rancho Penasquitos Photographs. Did Plaintiff show by a preponderance of the evidence that Defendant infringed any of the other 5 Works willfully?

YES ____ NO ____

If you answer "YES" please proceed to Question 12.

If you answer "NO" please skip Question 12 and proceed directly to Question 13.

12. In addition to the 2 Works infringed willfully, what other Works do you find that Defendant infringed willfully?

For each Work, answer "Yes" or "No"

<u>Works</u>	<u>Infringed Willfully?</u>	
Fresno Photographs	Yes ____	No ____
Menifee Photographs	Yes ____	No ____
Bonita Photographs	Yes ____	No ____
Encinitas Photographs	Yes ____	No ____
Burlingame Photographs	Yes ____	No ____

13. For any Work that was not infringed willfully, did Defendant show by a preponderance of the evidence that Defendant infringed any of the Works innocently?

YES ____ NO ____

If you answer "YES" please proceed to Question 14.

If you answer "NO" please skip Questions 14 and 15 and proceed directly to Question 16.

14. What Works do you find that Defendant infringed innocently?

For each Work, answer "Yes" or "No." Because and infringement cannot be both willful and innocent, do not answer "Yes" for any Work you found was infringed willfully.

<u>Works</u>	<u>Infringed Innocently?</u>	
Fresno photographs	Yes ____	No ____
Menifee photographs	Yes ____	No ____
Bonita photographs	Yes ____	No ____
Encinitas photographs	Yes ____	No ____
Burlingame photographs	Yes ____	No ____

15. How many of the Works, other than those willfully infringed, do you find that Defendant infringed innocently?

STATUTORY DAMAGES

16. For infringement that is willful, what statutory damages do you award for each copyrighted work (\$750 up to \$150,000)?

17. For infringement that is not willful, but also not innocent, what statutory damages do you award for each copyrighted work (\$750 - \$30,000)?










18. For infringement that is innocent, what statutory damages do you award for each copyrighted work (\$200 - \$30,000)?













Please check your answers to make sure you followed the instructions on this form, and then have the jury foreperson sign and date the verdict form.












12/08/23
Date












REDACTED
Foreperson

Table 2

Copyrighted Work	File name	Photo	Location
Fresno Photographs	hargis_180613_7239		Fresno
Fresno Photographs	hargis_180613_7276		Fresno
Fresno Photographs	hargis_180613_7290		Fresno
Fresno Photographs	hargis_180613_7306		Fresno
Fresno Photographs	hargis_180613_7336		Fresno
Fresno Photographs	hargis_180613_7353		Fresno
Fresno Photographs	hargis_180613_7369		Fresno
Fresno Photographs	hargis_180613_7207		Fresno
Menifee Photographs	hargis_180621_7829		Menifee

Copyrighted Work	File name	Photo	Location
Menifee Photographs	hargis_180621_7835		Menifee
Menifee Photographs	hargis_180621_7874		Menifee
Menifee Photographs	hargis_180621_7914		Menifee
Menifee Photographs	hargis_180621_7948		Menifee
Menifee Photographs	hargis_180621_7972		Menifee
Menifee Photographs	hargis_180621_8014		Menifee
Menifee Photographs	hargis_180621_8040		Menifee
Bonita Photographs	hargis_190510_0209		Bonita
Bonita Photographs	hargis_190510_0233		Bonita
Bonita Photographs	hargis_190510_0247		Bonita
Bonita Photographs	hargis_190510_0256		Bonita
Bonita Photographs	hargis_190510_0284		Bonita

Copyrighted Work	File name	Photo	Location
Bonita Photographs	hargis_190510_0311		Bonita
Bonita Photographs	hargis_190510_0369		Bonita
Encinitas Photographs	hargis_190624_1600		Encinitas
Encinitas Photographs	hargis_190624_1621		Encinitas
Encinitas Photographs	hargis_190624_1640		Encinitas
Encinitas Photographs	hargis_190624_1666		Encinitas
Encinitas Photographs	hargis_190624_1673		Encinitas
Encinitas Photographs	hargis_190624_1715		Encinitas
Encinitas Photographs	hargis_190624_1733		Encinitas
Rancho Penasquitos Photographs	Atria_Rancho_Penasquitos8072		Rancho Penasquitos
Rancho Penasquitos Photographs	Atria_Rancho_Penasquitos8090		Rancho Penasquitos

Copyrighted Work	File name	Photo	Location
Rancho Penasquitos Photographs	Atria_Rancho_Penasquitos8117		Rancho Penasquitos
Rancho Penasquitos Photographs	Atria_Rancho_Penasquitos8152		Rancho Penasquitos
Rancho Penasquitos Photographs	Atria_Rancho_Penasquitos8206		Rancho Penasquitos
Rancho Penasquitos Photographs	Atria_Rancho_Penasquitos8226-2		Rancho Penasquitos
Sterling Photographs	hargis_180821_0424		Sterling
Sterling Photographs	hargis_180821_0439		Sterling
Sterling Photographs	hargis_180821_0470		Sterling
Sterling Photographs	hargis_180821_0543		Sterling
Sterling Photographs	hargis_180821_0579		Sterling
Sterling Photographs	hargis_180821_0600		Sterling
Burlingame Photographs	hargis_140509_6527		Burlingame