

AVRAHAMI MOTION

VIRGINIA

IN THE GENERAL DISTRICT COURT OF ARLINGTON COUNTY CIVIL DIVISION
RAM AVRAHAMI
Apartment 110
1001 North Randolph Street
Arlington, Virginia 22201

Plaintiff

v. Civil Action 95-7479

U.S. NEWS & WORLD REPORT, INC.
2400 N Street, N.W.
Washington, D.C. 20037

Defendant

SERVE:

CT Corporation
Suite 400
1025 Vermont Avenue
Washington, D.C. 20005

MOTION FOR JUDGMENT

COMES NOW the Plaintiff, RAM AVRAHAMI, by counsel, and moves this Honorable Court for judgment against the Defendant, U.S. NEWS & WORLD REPORT, INC., hereinafter "U.S. NEWS & WORLD REPORT," on the grounds and in the amount hereinafter set forth.

STATEMENT OF FACTS

1. Plaintiff, RAM AVRAHAMI, is a resident of the Commonwealth of Virginia and resides at Apartment 110, 1001 North Randolph Street, Arlington, Virginia 22201.
2. At all times relevant hereto, Defendant U.S. NEWS & WORLD REPORT was a corporation organized under the laws of the State of Delaware with its principal place of business located at 2400 N Street, N.W., Washington, D.C. 20037, and at all times relevant hereto, Defendant U.S. NEWS & WORLD REPORT solicited and conducted business in the Commonwealth of Virginia.
3. Jurisdiction is invoked against the Defendant under Virginia Code Ann. Section 8.01-328.1.
4. On or about February 25, 1995, Plaintiff received by mail promotional literature from Defendant which included an offer to subscribe to the magazine "U.S. News & World Report."
5. On or about March 10, 1995, Plaintiff accepted Defendant's offer of subscription and mailed said acceptance to Defendant.
6. On or about March 21, 1995, Plaintiff was billed for said subscription and mailed his payment for the subscription in the amount of \$15.00 to defendant.
7. At no time during the course of this contractual relationship or otherwise did Defendant request or did Plaintiff give his consent, either oral, written or otherwise, to Defendant to use Plaintiff's name for any advertising, trade or otherwise commercial purpose of Defendant.
8. On or about May 22, 1995, Plaintiff received by mail promotional literature from the Smithsonian Institution which included an offer to subscribe to the magazine "Smithsonian."
9. On or about May 22, 1995, Plaintiff inquired of the Smithsonian Institution how it received Plaintiff's name and address.
10. On or about June 5, 1995, Plaintiff received by mail a letter from the Circulation Department of the Smithsonian magazine, Smithsonian Institution, attached hereto at Plaintiff's Exhibit A, indicating that the Smithsonian Institution had "rented [Plaintiff's] name from U.S. News and World Report for a one time use."

COUNT I

(Unauthorized Use of Name Virginia Code Section 8.01-40)

11. Plaintiff incorporates by reference paragraphs 1 through 10

12. Without having first obtained the written consent of Plaintiff RAM AVRAHAMI, Defendant U.S. NEWS & WORLD REPORT used Plaintiff's name and/or likeness for the purpose of trade by renting Plaintiff's name to the Smithsonian Institution, Smithsonian magazine, in violation of Virginia Code Section 8.01-40.

13. Without having first obtained the written consent of Plaintiff RAM AVRAHAMI, Defendant U.S. NEWS & WORLD REPORT willfully and knowingly used Plaintiff's name and/or likeness for the purpose of trade by renting Plaintiff's name to the Smithsonian Institution, Smithsonian magazine, in violation of Virginia Code Section 8.01-40.

14. As a direct and proximate result of Defendant U.S. NEWS & WORLD REPORT's use of Plaintiff RAM AVRAHAMI's name and/or likeness for the purpose of trade without Plaintiff's consent, Plaintiff suffered damages, including but not limited to the value of his name as a property interest and the time spent by Plaintiff to investigate how his name and/or likeness was appropriated.

WHEREFORE, the Plaintiff, RAM AVRAHAMI, prays for Judgment against the Defendant, U.S. NEWS & WORLD REPORT, in the amount of \$100.00 compensatory damages and \$1000.00 exemplary damages.

COUNT II

(Conversion)

15. Plaintiff incorporates by reference paragraphs 1 through 14.

16. Plaintiff RAM AVRAHAMI has a property interest in his name and/or likeness.

17. Defendant U.S. NEWS & WORLD REPORT willfully used Plaintiff's property as its own and exercised dominion over it without Plaintiff's consent by renting Plaintiff's name to the Smithsonian Institution, Smithsonian magazine.

18. As a direct and proximate result of Defendant U.S. NEWS & WORLD REPORT's conversion of Plaintiff's name and/or likeness without his consent, Plaintiff suffered damages, including but not limited to the value of his name as a property interest and the time spent by Plaintiff to investigate how his name and/or likeness was appropriated.

WHEREFORE, the Plaintiff, RAM AVRAHAMI, prays for judgment against the Defendant, U.S. NEWS & WORLD REPORT, in the amount of \$100.00 compensatory damages and \$1000.00 exemplary damages.

Respectfully submitted,

RAM AVRAHAMI

By Counsel

/s/
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