

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION



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CASE NO.: 1:25-cv-00116

HAROLD DAVIS,

Plaintiff,

v.

FORT WAYNE ALLERGY & ASTHMA  
CONSULTANTS, INC.,

Defendant.

**COMPLAINT FOR COPYRIGHT INFRINGEMENT**

**(INJUNCTIVE RELIEF DEMANDED)**

Plaintiff HAROLD DAVIS by and through his undersigned counsel, brings this Complaint against Defendant FORT WAYNE ALLERGY & ASTHMA CONSULTANTS, INC. for damages and injunctive relief, and in support thereof states as follows:

**SUMMARY OF THE ACTION**

1. Plaintiff HAROLD DAVIS (“Davis”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Davis' original copyrighted Work of authorship.

2. Davis is a world-class artist and photographer who has expanded the parameters of his field with imagery, new techniques, and as an author and educator. Honored with the prestigious Photographic Society of America Progress award in 2022 for his development of a unique technique for photographing flowers for transparency, these works have been described as “ethereal” and having “a purity and translucence that borders on spiritual.”

**SRIPLAW**

CALIFORNIA ♦ FLORIDA ♦ GEORGIA ♦ INDIANA ♦ NEW YORK ♦ TENNESSEE ♦ TEXAS

3. Defendant FORT WAYNE ALLERGY & ASTHMA CONSULTANTS, INC. (“FW Allergy”) is Fort Wayne Allergy & Asthma Consultants, Inc. is an Indiana corporation specializing in diagnosis and treatment of allergic disorders, and asthma.. At all times relevant herein, FW Allergy owned and operated the internet website located at the URL <https://www.fortwayneallergy.com/> (the “Website”).

4. Davis alleges that FW Allergy copied Davis’s copyrighted Work from the internet in order to advertise, market and promote its business activities. FW Allergy committed the violations alleged in connection with Defendant's business for purposes of advertising and promoting sales to the public in the course and scope of the FW Allergy's business.

#### **JURISDICTION AND VENUE**

5. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

6. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

7. FW Allergy is subject to personal jurisdiction in Indiana.

8. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, FW Allergy engaged in infringement in this district, FW Allergy resides in this district, and FW Allergy is subject to personal jurisdiction in this district.

#### **DEFENDANT**

9. Fort Wayne Allergy & Asthma Consultants, Inc. is an Indiana Corporation, with its principal place of business at 7964 West Jefferson Boulevard, Fort Wayne, Indiana, 46825, and can be served by serving its Registered Agent, at the same address.

**THE COPYRIGHTED WORK AT ISSUE**

10. In 2005, Davis created the photograph entitled “WASP,” which is shown below and referred to herein as the “Work”.



11. Davis registered the Work with the Register of Copyrights on May 18, 2016, and was assigned registration number VA 2-010-611. The Certificate of Registration is attached hereto as **Exhibit 1**.

12. At all relevant times Davis was the owner of the copyrighted Work at issue in this case.

**INFRINGEMENT BY FW ALLERGY**

13. FW Allergy has never been licensed to use the Work at issue in this action for any purpose.

14. On a date after the Work at issue in this action was created, but prior to the filing of this action, FW Allergy copied the Work.

15. On or about March 16, 2023, Davis discovered the unauthorized use of his Work on the Website. FW Allergy used the image in a post titled “Stinging Insect Allergy.”

16. FW Allergy copied Davis' copyrighted Work without Davis' permission.

17. After FW Allergy copied the Work, it made further copies and distributed the Work on the internet to promote the sale of goods and services as part of its allergy and asthma medical services business.

18. FW Allergy copied and distributed Davis' copyrighted Work in connection with Defendant's business for purposes of advertising and promoting Defendant's business, and in the course and scope of advertising and selling products and services.

19. FW Allergy committed copyright infringement of the Work as evidenced by the documents attached hereto as **Exhibit 2**.

20. Davis never gave FW Allergy permission or authority to copy, distribute or display the Work at issue in this case.

21. Davis notified FW Allergy of the allegations set forth herein on July 13, 2023 and January 08, 2024. To date, the parties have failed to resolve this matter.

**COUNT I**  
**COPYRIGHT INFRINGEMENT**

22. Davis incorporates the allegations of paragraphs 1 through **Error! Reference source not found.** of this Complaint as if fully set forth herein.

23. Davis owns a valid copyright in the Work at issue in this case.

24. Davis registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

25. FW Allergy copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Davis' authorization in violation of 17 U.S.C. § 501.

26. FW Allergy performed the acts alleged in the course and scope of its business activities.

27. Defendant's acts were willful.

28. Davis has been damaged.
29. The harm caused to Davis has been irreparable.

WHEREFORE, the Plaintiff HAROLD DAVIS prays for judgment against the Defendant FORT WAYNE ALLERGY & ASTHMA CONSULTANTS, INC. that:

- a. FW Allergy and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;
- b. FW Allergy be required to pay Davis his actual damages and Defendant's profits attributable to the infringement, or, at Davis' election, statutory damages, as provided in 17 U.S.C. § 504;
- c. Davis be awarded his attorneys' fees and costs of suit under the applicable statutes sued upon;
- d. Davis be awarded pre- and post-judgment interest; and
- e. Davis be awarded such other and further relief as the Court deems just and proper.

**JURY DEMAND**

Davis hereby demands a trial by jury of all issues so triable.

Dated: March 13, 2025

Respectfully submitted,

/s/ J. Campbell Miller  
J. CAMPBELL MILLER  
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