

2. Defendant Scott Gray is an individual and owner of Defendant The Ohio Neck and Back Pain Relief Centers, LLC with a residence at 1448 Marion Waldo Road, Marion, OH 43302. Defendant offers chiropractic services in Ohio.

3. Defendant The Ohio Neck and Back Pain Relief Centers, LLC is an Ohio limited liability company. Defendant offers chiropractic services in Ohio.

4. This is a civil action seeking damages and injunctive relief for copyright infringement under the Copyright Act of the United States, 17 U.S.C. § 101, et seq.

5. This Court has subject matter jurisdiction over this copyright infringement action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Defendants because, among other things, Defendants are doing business in the State of Ohio and in this judicial district, the acts of infringement complained of herein occurred in the State of Ohio and in this judicial district, and Defendants have caused injury to Plaintiffs and their intellectual property within the State of Ohio and in this judicial district.

7. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c), and/or § 1400(a).

GENERAL ALLEGATIONS

8. Plaintiff is the author of a work entitled “How 5 Lies About Low Back Pain Will Keep You Hurting, Frustrated & Exhausted ... Forever!” (the “Copyrighted Work”). A copy of the Copyrighted Work is attached hereto as Exh. A.

9. Plaintiff created and owns all rights and the title to the copyright in the Copyrighted Work.

10. The Copyrighted Work is registered with the United States Copyright Office, Reg. No. TX 6-911-243 and the effective date of registration is October 22, 2007. A copy of the Registration is attached hereto as Exh. B.

11. HealthSource has used the Copyrighted Work in print and internet advertising since 2007.

12. In or around Fall 2016, it came to Plaintiff's attention that Defendants and/or their agents reproduced and distributed a substantial portion of the Copyrighted Work without Plaintiff's authorization in internet advertising for their services (the "Infringing Advertisement"). A copy of the Infringing Advertisement is attached hereto as Exh. C.

13. On or about November 16, 2016, Plaintiff, through its attorneys, provided written notice to Defendants that the Infringing Advertisement constitutes infringement of Plaintiff's rights and demanded that Defendants immediately cease and desist from any further use of the Copyrighted Work.

14. On or about June 13, 2017, Plaintiff, through its attorneys, provided another written notice to Defendants that the Infringing Advertisement constitutes infringement of Plaintiff's rights and demanded that Defendants immediately cease and desist from any further use of the Copyrighted Work.

15. As of the date of this filing, Defendants have not responded and continue to use the Copyrighted Work in their internet advertising.

COUNT I

COPYRIGHT INFRINGEMENT – 17 U.S.C. §§ 106 and 501

16. Plaintiff incorporates herein by this reference each and every allegation contained in Paragraphs 1 through 15, inclusive.

17. Through their conduct alleged herein, Defendants have infringed Plaintiff's copyright in the Copyrighted Work in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

18. Defendants' acts of infringement are willful, intentional and purposeful, in disregard of and with indifference to Plaintiff's rights.

19. As a direct and proximate result of said infringement by Defendants, Plaintiff is entitled to damages in an amount to be proven at trial.

20. Plaintiff is also entitled to Defendants' profits attributable to the infringement, including an accounting of and a constructive trust with respect to such profits or statutory damages pursuant to 17 U.S.C. § 504.

21. Plaintiff further is entitled to its attorneys' fees and full costs pursuant to 17 U.S.C. § 505 and otherwise according to law.

22. As a direct and proximate result of the foregoing acts and conduct, Plaintiff has sustained and will continue to sustain substantial, immediate, and irreparable injury, for which there is no adequate remedy at law. Plaintiff is informed and believes and on that basis aver that unless enjoined and restrained by this Court, Defendants will continue to infringe Plaintiffs' rights in the HealthSource Advertisement. Plaintiff is entitled to preliminary and permanent injunctive relief to restrain and enjoin Defendants' continuing infringing conduct.

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, jointly and severally, as follows:

1. For damages in such amount as may be found, or as otherwise permitted by law.

2. For an accounting of, and the imposition of a constructive trust with respect to, Defendants' profits attributable to their infringements of Plaintiff's copyright in the HealthSource Advertisement.
3. For a preliminary and permanent injunction prohibiting Defendants, and their respective agents, servants, employees, officers, successors, licensees and assigns, and all persons acting in concert or participation with each or any of them, from continuing to infringe Plaintiff's copyright in the HealthSource Advertisement.
4. For prejudgment interest according to law.
5. For Plaintiff's attorneys' fees, costs, and disbursements in this action.
6. For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

/s/ Charles W. Zepp

Charles W. Zepp (Bar No. 0068129)
Seeley, Savidge, Ebert & Gourash Co. LPA
26600 Detroit Rd., Suite 300
Cleveland, Ohio 44145
(216) 566-8200; (216) 566-0213 fax
czepp@sseg-law.com

Attorneys for Plaintiff
HealthSource Chiropractic, LLC