

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NKECHI DIALLO A/K/A RACHEL DOLEZAL,

Plaintiff,

- against -

ENTTECH MEDIA GROUP LLC

Defendant.

Docket No. 1:19-cv-8208 (KPF)

JURY TRIAL DEMANDED

AMENDED COMPLAINT

Plaintiff Nkechi Diallo a/k/a Rachel Dolezal (“Dolezal” or “Plaintiff”) by and through her undersigned counsel, as and for her Amended Complaint against Defendant ENTtech Media Group LLC (“Enttech Media” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of Plaintiff, a former NAACP chapter president. Accordingly, Dolezal seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Dolezal is an individual residing at 618 East 36th Ave. Spokane, WA 99203.

6. Upon information and belief, Enttech Media is a foreign limited liability company duly organized and existing under the laws of the State of Delaware, with a place of business 15 East 32nd Street, 11th Floor, New York, New York 10016.

7. Upon information and belief Enttech Media is registered with the New York Department of State Division of Corporations to do business in the State of New York.

8. At all times material, hereto, Enttech Media has owned and operated a website at the URL: www.PaperMag.com (the "Website").

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photograph

9. Dolezal took a self-portrait of herself. (the "Photograph"). A true and correct copy of the Photograph is attached hereto as Exhibit A.

10. The Photograph was first published on or about June 15, 2019.

11. Plaintiff posted the Photograph for the purpose of showing what she looked like.

12. The Photograph was registered with the United States Copyright Office and was given registration number VA 2-163-244, with effective date of July 20, 2019 (the "244 Registration"). A true and correct copy of the 244 Registration, as it appears on the Copyright Office's website, is attached hereto as Exhibit B.

B. Defendant's Infringing Activities

13. On or about June 16, 2019, Enttech Media ran an article on the Website titled *Rachel Dolezal Comes Out as Bisexual*. See URL: <https://www.papermag.com/rachel-dolezal->

[bisexual-2638880910.html](https://www.fox.com/bisexual-2638880910.html). (the “Infringing Article”). The Infringing Article prominently featured the Photograph. A true and correct copy of screenshots from the Infringing Article are attached hereto as Exhibit C.

14. Enttech not only used the Photograph as part of a composite shot from Instagram, but it also used it as part of the top headline to the Infringing Article, separate and apart from the way it was displayed on Instagram.

15. Enttech did not direct any commentary or criticism at the Photograph itself; rather it reported on Dolezal (the subject depicted in the Photograph) and her sexual orientation.

16. Enttech Media did not license the Photograph from Plaintiff for its article, nor did Enttech Media have Plaintiff’s permission or consent to publish the Photograph on its Website.

17. Enttech is a for-profit entity.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

18. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-16 above.

19. Enttech Media infringed Plaintiff’s copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Enttech Media is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photograph.

20. The acts of Defendant complained of herein constitute infringement of Plaintiff’s copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

21. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff’s rights.

22. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

23. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

24. Plaintiff is further is entitled to her attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Enttech Media be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded her costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
January 10, 2020

LIEBOWITZ LAW FIRM, PLLC

By: /s/Richard Liebowitz
Richard P. Liebowitz
11 Sunrise Plaza, Suite 305
Valley Stream, NY 11580
(516) 233-1660
rl@liebowitzlawfirm.com

Attorney for Plaintiff

EXHIBIT A



EXHIBIT B

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.



United States Register of Copyrights and Director

Registration Number

VA 2-163-244

Effective Date of Registration:

July 20, 2019

Copyright Registration for One Work by One Author

Registration issued pursuant to 37 CFR §202.3

Title

Title of Work: 6.15.19 -Rachel Dolezal_Polaris

Completion/Publication

Year of Completion: 2019
Date of 1st Publication: June 15, 2019
Nation of 1st Publication: United States

Author

- Author: Nkechi Diallo AKA Rachel Dolezal
Author Created: Photograph
Domiciled in: United States

Copyright Claimant

Copyright Claimant: Nkechi Diallo AKA Rachel Dolezal
618 E 36th Ave., Spokane, WA, 99203, United States

Certification

Name: Richard Liebowitz, Authorized agent of Author/Owner
Date: July 20, 2019

Copyright Office notes: Regarding basis for registration: A work may be registered with the Single Application only if the following requirements have been met: 1) The registration covers one work; 2) The work must be created by one individual; 3) All of the material contained within the work must be created by the same individual; 4) The author and the owner of the work must be the same person,

and that person must own all of the rights in the work; 5) The work cannot be a work made for hire.

Registration #: VA0002163244
Service Request #: 1-7897868371



Richard Liebowitz
11 Sunrise Plaza
Suite 305
Valley Stream, NY 11580 United States



Help Search History Titles Start Over

Public Catalog

Copyright Catalog (1978 to present)

Search Request: Left Anchored Copyright Number = VA0002163244

Search Results: Displaying 1 of 1 entries

previous next

Labeled View

6.15.19 -Rachel Dolezal_Polaris.

Type of Work: Visual Material

Registration Number / Date: VA0002163244 / 2019-07-20

Application Title: 6.15.19 -Rachel Dolezal_Polaris.

Title: 6.15.19 -Rachel Dolezal_Polaris.

Description: Electronic file (eService)

Copyright Claimant: Nkechi Diallo AKA Rachel Dolezal. Address: 618 E 36th Ave., Spokane, WA, 99203, United States.

Date of Creation: 2019

Date of Publication: 2019-06-15

Nation of First Publication: United States

Authorship on Application: Nkechi Diallo AKA Rachel Dolezal; Domicile: United States. Authorship: Photograph.

Copyright Note: Regarding basis for registration: A work may be registered with the Single Application only if the following requirements have been met: 1) The registration covers one work; 2) The work must be created by one individual; 3) All of the material contained within the work must be created by the same individual; 4) The author and the owner of the work must be the same person, and that person must own all of the rights in the work; 5) The work cannot be a work made for hire.

Names: [Diallo AKA Rachel Dolezal, Nkechi](#)

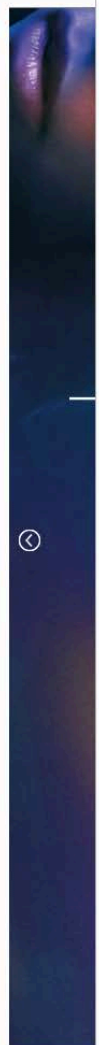
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EXHIBIT C



≡ PAPER

- FASHION ▾
- ENTERTAINMENT ▾
- BREAK THE INTERNET ®
- CARE ▾
- PRIDE
- SHOP
- SUBSCRIBE

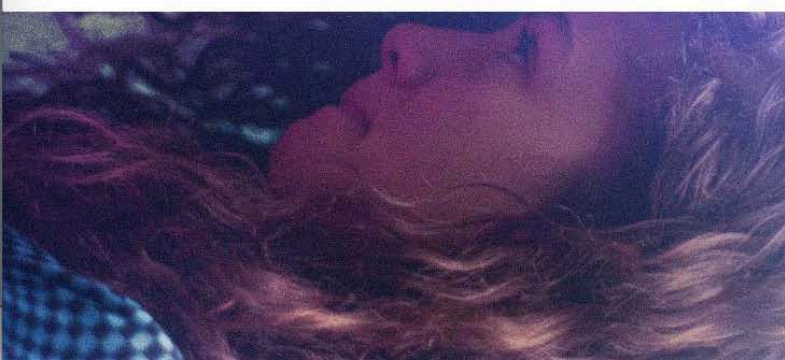


LGBTQ

Rachel Dolezal Comes Out as Bisexual

Jasmine Ting | 16 June

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Rachel Dolezal — the infamous former head of the Spokane, Washington NAACP branch who self-identifies as black — has now come out as bisexual. On Saturday, Dolezal posted a selfie on Instagram in honor of Pride Month, with a caption that details what being bi means to her with a message on bi visibility.





But as tweeter @sophomorphism points out, there is absolutely nothing wrong with Dolezal coming out as bisexual, but she definitely cannot take ownership of the identity of a black woman.

See Chloë's other Tweets

Wooloo Liker @sophomorphism

- Things Rachel Dolezal can be:
- bisexual
 - a clown
 - verified, apparently

Things Rachel Dolezal cannot be:
• black twitter.com/RachelADolezal...

Rachel Anne Dolezal @RachelADolezal

Just wanted to take a moment to recognize Pride Month. I am in absolutely no rush to explore a new relationship, but it still matters to stay visible. I am bisexual. #pride #bisexual



Just wanted to take a moment to recognize Pride Month. I am in absolutely no rush to explore a new relationship, but it still matters to stay visible. I am bisexual. #pride #bisexual

16:16 12:41 PM - Jun 16, 2019

See Wooloo Liker's other Tweets

