

## Photographer Wins Settlement for Images Used on Travel Web Sites

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By [Daryl Lang](#)

A few photos of the exterior of a hotel turned into a multi-year legal battle for [Brian Harness](#), a commercial photographer based in Dallas.

From a set of prints shot for an architectural firm, one photograph found its way onto more than 1,400 web pages without Harness' permission, according to Harness and his attorney.

Harness recently won a settlement from the hotel operator and an Internet service for about \$135,000, he says.

The case, while not precedent-setting, is a reminder of the importance of registering photographic work with the U.S. Copyright Office. Photographers stand to benefit when they can prove they registered an image before it was published.

"When you have to defend your copyright, it is stressful at times and it is time-consuming," Harness says. "But it is worth it. You have to do it."

It isn't cheap to fight a copyright case. Harness' legal bills exceeded \$55,000, according to a memorandum provided by Harness' attorney, **Dana LeJune**. And there was a risk that if he lost, he might have to pay the defendants' legal fees.

LeJune says he took Harness' case in part because Harness had registered the photos with the copyright office, which made the case stronger.

In 2000, Harness shot several images of the Bradford Lincoln Park Hotel in Dallas for the firm that designed the building, Merriman Architects. Harness registered the images with the copyright office and Merriman purchased prints of the photos for promotional purposes.

Later that year, Harness met with **John Wilson**, an officer and director in Investest, the company that manages the hotel.

Wilson had seen Harness' pictures of the hotel in the architect's office and decided to purchase prints from Harness, according to documents provided by LeJune.

Harness says he did not give Wilson permission to use the photos for publication, and became suspicious in 2003 when he received a call from a new ad agency hired to do work for the hotel partnership. The agency was trying to buy all of Harness' rights to the photos.

A Google search for the name of the hotel confirmed Harness' hunch: One of his pictures was being used in hotel promotions without his permission.

As Harness and LeJune figure it, the hotel partnership provided one of the photos to its previous ad agency, which then shared it with Vantis USA, a company that makes travel information available to web sites. The photo then spread across the Internet.

Harness and LeJune also cited several other examples of infringement, including a printed flier that used the photos.

LeJune says he sent a cease and desist letter to Invest in January of 2004, but had trouble convincing their lawyers to take it seriously.

"They looked at it as some little photographer trying to bleed their corporation for innocently and accidentally misusing one photo," LeJune says.

Wilson and his attorney did not return messages from PDN seeking comment.

LeJune and Harness filed a lawsuit in U.S. District Court in September 2004.

The case was finally settled this summer after mediation. Each side provided expert testimony as to how much the copyright infringement was worth; they negotiated the amount of \$135,000, including \$10,000 from Vantis and the remaining \$125,000 from Investest and its insurance company.

Harness continues to register his work. As a routine, he mails a CD of his most recent photos every 90 days to the copyright office. It costs \$30.

"It's very simple to do once you make it part of your workflow," he says.

### Related link:

[How to register a visual work with the U.S. Copyright Office](#)



© Brian Harness

Harness filed a lawsuit over the use of this photo.

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### Links referenced within this article

By Daryl Lang

<mailto:dlang@pdnonline.com>

Brian Harness

<http://www.brianharness.com/>

How to register a visual work with the U.S. Copyright Office

<http://www.copyright.gov/register/visual.html>

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