

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CLARISSA CARDENAS,  
Plaintiff,

- against -

NETFLIX STUDIOS, LLC and JERRY MEDIA LLC  
Defendants.

Docket No. 1:19-cv-1937

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Clarrisa Cardenas (“Cardenas” or “Plaintiff”) by and through her undersigned counsel, as and for her Complaint against Defendants Netflix Studios, LLC (“Netflix”) and Jerry Media LLC (“Jerry” and together with Netflix “Defendants”) 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 Defendants unauthorized reproduction and public display of a copyrighted video of the Fyre Music Festival, owned and registered by Cardenas. Accordingly, Cardenas 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. Upon information and belief, this Court has personal jurisdiction over Defendants because Defendants reside 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. Cardenas has a usual place of business at 2114 Goodrich Avenue, Unit #3, Austin, Texas 78704.

6. Upon information and belief, Netflix is a foreign limited liability company organized and existing under the laws of the State of Delaware, with a place of business at 245 West 17<sup>th</sup> Street, New York, New York 10011. Upon information and belief, Netflix is registered with the New York State Department of Corporations to do business in New York. At all times material hereto, Netflix has produced the documentary called “Frye” a film about the Frye Music Festival (the “Film”).

7. Upon information and belief, Jerry is a domestic limited liability company organized and existing under the laws of the State of Delaware, with a place of business at 495 Broadway, New York, New York 10012. At all times material hereto, Jerry has produced the documentary called “Frye” a film about the Frye music festival (the “Film”).

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff’s Ownership of the Video**

8. Cardenas took video of the Frye Festival (the “Video”).
9. Cardenas is the author of the Video and has at all times been the sole owner of all right, title and interest in and to the Video, including the copyright thereto.

10. The Video was registered with United States Copyright Office and was given Copyright Registration Number PA 2-153-792.

#### **B. Defendants Infringing Activities**

11. Defendants ran the Video in the Film. A screenshot of the Video in the film is attached hereto as Exhibit A.

12. Defendants did not license the Video from Plaintiff for its Film, nor did Defendants have Plaintiff's permission or consent to publish the Video on its Film.

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

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Defendants infringed Plaintiff's copyright in the Video by reproducing and publicly displaying the Video on the Film. Defendants is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Video.

15. The acts of Defendants 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.

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

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

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

19. Plaintiff 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 Defendants be adjudged to have infringed upon Plaintiff's copyrights in the Video in violation of 17 U.S.C §§ 106 and 501;
2. Defendants 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 USC 501;
3. Plaintiff be awarded either: a) Plaintiff's actual damages and Defendants profits, gains or advantages of any kind attributable to Defendants infringement of Plaintiff's Video; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
4. That Defendants be required to account for all profits, income, receipts, or other benefits derived by Defendants as a result of its unlawful conduct;
5. That Plaintiff be awarded her costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
6. That Plaintiff be awarded pre-judgment interest; and
7. 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

February 28, 2019

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