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NEWS

Little Guide Against Big Photo Lawsuits

By Andrew Asch Retail Editor

Designers, stop before you slap a graphic of a photo on a T-shirt.

Think first on these questions. Did a model sign a photo release? Does your company have the copyright for the photo? If the answer was no, chances are someone is going to get sued. And there has been a few notable photo copyright and model release form suits filed recently.

The “Project Runway” TV show has recently been sued for copyright infringement over photos. *The Los Angeles Times* was recently sued over photo copyright infringement. Last week **Urban Outfitters** and Los Angeles-based fashion label **Blood Is the New Black** were accused in a suit filed in New York City of over model release forms.

The trouble for Urban and Blood suit started last year when L.A.-based photographer Jason Lee Parry shot provocative photos of then 15-year-old Hailey Clauson. According to the \$28 million suit, Parry agreed that he would not release the photos after Clauson’s agent complained about the shots depicting the tall, blonde Clauson looking all pouty faced at a gritty motorcycle shop.

But the images ended up in a German magazine and on a T-shirt distributed by Blood is the New Black. Later it ended up on the shelves of Urban Outfitters.

The offending T-shirts were taken off of store shelves. Blood is the New Black released a statement last week. It said “Neither Urban Outfitters nor Blood is the New Black were aware that the photographer had failed to obtain a model release from the Teen Model or her parents, who were present at the shoot.” Parry did not answer a call and an e-mail requesting comment on Blood’s statement.

Since so many seem to have problems with model releases and photo



One of the controversial Hailey Clauson photographs by Jason Lee Parry.

copyright infringements, I decided to ask a couple of lawyers how to avoid a suit. According to Crystal A. Zarpas of **Mann & Zarpas LLC**, the easiest way to avoid a suit is just doing some good old due diligence.

First, Zarpas recommended to confirm who owns the copyright of the photo. “Then a fashion label should request a written warranty and representation of the copyright owner confirming ownership and the usage rights,” she wrote.

Later the fashion label should request indemnification, or an agreement not to sue, in order to stop future suits over the matter. Fashion labels also should get a copy of model releases from the copyright owner. They also must confirm if the model release jibes with state laws. Different states have different laws regarding model releases.

Sound like a lot of work? It is. But Zarpas said will be a lot cheaper and less time consuming than a trial.

Insurance may help with lawsuit relief. Photographers are also recommended to take out media liability and/or errors and omissions insurance, according to Victor Perlman, the general counsel and managing director of **American Society of Media Photographers**. Taking out this insurance is just a cost of doing business he said, similar to doctors having to buy medical malpractice insurance.

This case also might prove that a little scandal never hurt anyone involved in media. The **Sophisticates United** events company will produce a gallery show of Jason Lee Parry’s photography on Aug. 30 at the Mesa club in Costa Mesa, Calif. It is a prominent spot where Costa Mesa’s and much of Orange County’s influential fashion set goes to party.