



Client Alerts

“Don’t Steal My Aesthetic”: First-of-its-kind Influencer Lawsuit

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Social media influencers have carved out a lucrative niche in the digital landscape, generating income through various methods. Influencers achieve success by strategically combining authenticity, niche focus, and consistent engagement with their audience. By selecting a specific niche that aligns with their passions—be it fashion, travel, or fitness—they attract a dedicated following.

In the influencer world, generating a loyal following can expand an influencer’s ability to earn income on social media. Primarily, they earn money by partnering with brands for sponsored posts, where they promote products to their followers in exchange for payment. Additionally, many influencers engage in affiliate marketing through companies like Amazon, earning commissions on sales generated through unique links they share. Some of the top influencers can generate tens of thousands of dollars for a single post, resulting in hundreds of thousands, or millions of dollars a year.

Sydney Nicole Gifford is an influencer with over 800,000 followers across various social media platforms. Alyssa Sheil is also an influencer with nearly 500,000 followers across various social media platforms. According to the complaint, Gifford spends over 70 hours a week researching products, creating a content plan, and curating the beige, neutral aesthetic displayed on her platforms. The complaint also contains numerous side-by-side posts to demonstrate the alleged copying, for example:

TikTok Content

Plaintiffs:



Defendants:



Gifford claims that Sheil stole her aesthetic and is causing Gifford financial harm and confusing Gifford’s followers. Gifford alleges that Sheil has violated federal copyright laws, the Digital Millenium Copyright Act, tortiously interfered with Gifford’s business relations, misappropriated Gifford’s likeness, committed unfair trade practices and unfair competition, and has been unjustly enriched. This week, United States Magistrate Judge Howell recommended that the unfair trade practices, unfair competition, and unjust enrichment claims be dismissed, but recommended that all other pending claims proceed to the discovery phase of the litigation.

The outcome of this groundbreaking case could permanently change social media platforms, because to-date, no court has held that an influencer has intellectual property rights worth protecting. This case could be the first to do it.

The case is *Gifford et al. v. Sheil et al.*, Cause No. 1:24-cv-00423, pending in the United States District Court for the Western District of Texas.

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