



INFOCUS



THE SANDHILLS PHOTOGRAPHY CLUB

P.O. Box 763, Southern Pines, NC 28388

Enriching Our World Through Photography

VOL XXXVI, NUMBER 9

www.sandhillsphtoclub.org

SEPTEMBER 2020

UPCOMING EVENTS

NEXT MEETING..... September 14

PROGRAMS

September..... Kate Silvia

Get Creative with Photographic Textures

November..... Brian Osborne

COMPETITIONS 2020

October:..... Spontaneous Public Scenes

December:..... Less is More

WORKSHOPS

Nov 3 & 17:..... Black & White & Sepia
Brian Osborne

Virtual OUTINGS

September..... Architecture

PRESIDENT'S NOTES

NEVA SCHEVE

Despite the circumstances, these will be very busy last days of Summer for SPC.

By the time this newsletter comes out, the Street Photography workshop and the Mike Moats Macro Zoom presentation will have already happened, and the Black and White Workshop with Brian Osborne will be on the November schedule, thanks to the Workshop Committee. The exhibit that we have partnered with the Artist's League will be underway with a reception on September 4. Thank you, **Pat Anderson** and the Exhibit committee.

Veep, **John Patota** has arranged for presentations by Kate Silvia for September and Brian Osborne for November.

The Board has been working very hard to clarify copyright infringement laws for the benefit of all of us. Our competitions have brought to light some questions about how copyright regulations affect us as photographers. You



will be hearing about our findings.

This may be the time to think about how YOU can contribute to the club for next year. There is no telling how Covid will affect us in the near future, but we will still be working to keep the club active and productive. November will be the time to start nominating new officers and committee members for 2021. It seems like it's far away, but it will be here before we know it. I have asked each committee chair to write a job description that describes the duties of his/her office, plus directions to perform those duties. We will be publishing those on the website before it's time for the elections so members can read what would be required for each position. My hope is that members who have been hesitant to volunteer for a position in the past can see what may be involved and realize there is help in place to make the transition a smooth one. I hope you will think about it.

See you at the next meeting September 14.

Neva

Is Taking Photos of Artwork a Copyright Infringement?

By Jacques M. Wood, Esquire

There have been questions recently raised about whether photographs of artwork entered into club competitions constitute copyright infringement. The short answer is that it is unlikely that any such conduct would be found by a court to be violative of copyright law. While most artwork has copyright protection, photos of art entered into competitions like Sandhills Photography Club's bi-monthly judging would likely fall under the "fair use" exception to copyright protection. This article is however intended to provide an overview of the general principles concerning taking photographs of artwork in the United States. It should not be used a substitute for legal advice; photographers should seek counsel for specific situations from an attorney with knowledge of copyright law.

The starting point for analysis is ascertaining what work has copyright protection. Today, every creator of an artistic work automatically receives copyright protection. There is no need to register works with the U.S. Copyright Office or other international registering bodies. Even so-called "illegal" or unauthorized art—graffiti or street art—is copyrighted from the moment of its creation.

So, the only works that would likely not receive copyright protection are those works where copyright has expired. In the U.S, copyright duration is Life of the Author plus 70 years.

Copyright Protection

There are six basic rights protected by copyright. The owner of copyright has the exclusive right to do and to authorize others to do the following:

- To *reproduce* the work in copies ...
- To prepare *derivative works* based upon the work
- To *distribute* copies ... of the work to the public by sale ... or lending
- To *publicly perform* the work ...
- To *publicly display* the work, in the case of ... pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work
- To *digitally* transmit sound recordings by means of digital audio transmission

A violation of any of these exclusive rights of the copyright holder is a copyright infringement, unless fair use (or a similar affirmative defense) applies.

Fair Use

Fair use is a doctrine in United States copyright law that allows limited use of copyrighted material without requiring permission from the rights holder, such as use for scholarship or review. Fair use deals with the concept that even though a work is copyrighted, and the artist, photographer, or writer has exclusive rights, certain uses do not constitute copyright infringement.

As defined by Section 107, under Title 17 of the United States Code:

§ 107. Limitations on exclusive rights: Notwithstanding the provisions of sections 106 and 106A, **the fair use of a copyrighted work ... is not an infringement of copyright.** In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include:

- (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes
- (2) the nature of the copyrighted work
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work

(emphasis added)

Photographing public art is allowed, subject to either gallery or museum restrictions. It's the use of that photograph, however, that may require permission. This is where the concept of copyright comes into the picture. In the U.S., we value the ability of artists and other creative people to make money from their own work. Therefore, artworks that were created since 1976 are automatically copyrighted by the original artist as soon as they are completed, and only the artist can determine who else can make money from their work. Its placement in public doesn't matter. This means that although someone can normally take a photo of the artwork, the artist must give permission for them to receive income from that photo—also called a “commercial use”.

Certain uses of that image are permissible. “Personal use”, or having the photo available so someone can refer to it doesn't require permission from the artist. Journalists can use the photo as part of their reporting, particularly if they are writing an article about the artwork. Teachers can show it in class. These are all examples of “fair use”. Such uses have been determined to be in the public interest, and outweigh the private interests the artist as its creator may have. It would also be very difficult to prove that these uses negatively affect the ability to receive income from the art work, which is what copyright law is intended to protect.

“Incidental use”, where the artwork is virtually unrecognizable in the image or is not the main purpose of the image in which it is included, is also unlikely to cause any harm if someone else makes money from it. Likewise, if the artwork is included in a general streetscape view and is a very minor element of the image, it would be difficult to show that any income realized from the image is due to the appearance of the artwork in it.

Additionally, “transformative” uses are more likely to be considered fair. Transformative uses are those that add something new, with a further purpose or different character, and do not substitute for the original use of the work. For example, photos of three dimensional works, such as sculptures, could be considered transformative because they require the photographer’s consideration of shadow, angle, lighting, and depth of field.

Fair Use of the Iconic “Putter Boy” Image



To bring this discussion into tack sharp focus let’s examine a hypothetical example of potential fair use of my “Putter Boy” photograph. Say I entered that photo in our June contest of images taken within 25 miles of Sandhills Community College. Would such conduct fall under the “fair use” exception?

I am confident that any competent judge would so rule. My use of the image is non-commercial and arguably transformative. The purpose of our competitions is education; we learn from shooting the image and having the image evaluated by a professional photographer:

The objective of the Sandhills Photography Club Competitions is to promote creative activity, and participation. It should broaden a member's field of interest and aid in perfecting their photographic skills.

Section 1.3 of Competition Manual

Winning or losing, I would not make one dollar by entering my photo in the contest. Moreover, there is no negative financial impact on the Pinehurst Resort (or the deceased sculpture artist, Lucy Richards) by my entering the image in our contest. Consequently, my entry fits the "fair use" exception.

On the other hand, say my image took first place in the competition (Tier 3 I dream) and then I did the following:

- (1) Printed the image 13" x 19", had it framed and entered it in the upcoming Artists League Exhibit with a sales price of \$500
- (2) Put it on the internet for sale as a "stock" image at a price of \$25
- (3) Created a series of greeting cards with the image prominently displayed with a sales price of \$10 per card

Is my conduct now protected by the "fair use" exception to copyright infringement?

I would not make that argument in any tribunal. The bottom line is that any use that will result in income to someone other than the artist is considered a commercial use and may requires written permission. Using a copyrighted image for commercial purposes without permission is likely infringement, and the artist can sue the infringer.

In conclusion simply entering an image containing artwork in a non-profit organization's educational photo competitions by contrast I believe is "fair use."

SEPTEMBER SPEAKER, KATE SILVIA

Kate Silvia is a professional landscape photographer based in Charleston, South Carolina. Her intense passion for the natural world is matched only by the desire to share that passion with her students. Kate is a natural teacher and is often requested to speak at camera clubs and photo organizations in the Southeastern U.S. Her images and articles can be seen in numerous publications including Landscape



Photographer, Nature Photographers Network, Aquarium Fish, Nature Photographer, Camera In The Wild, and NANPA's Expressions. She maintains an educational blog with tips for aspiring photographers as well as a YouTube Channel with photo editing tutorials. She is the author of the E-Books, "Composition For The Landscape Photographer" and "The Nature Photographer's Guide to Greater Charleston". Kate has created downloadable video workshops for NIK Software. She leads field and classroom workshops throughout the year and is also available for individual tutoring in the Charleston area. Kate is a regular contributor to Visual Wilderness, an on-line landscape photography resource. She writes for their blog and produces full length educational videos for all aspects of landscape photography. It's all about helping others become better photographers.

Kate will be discussing: **Get Creative with Photographic Textures**

Kate's Links: www.katesilviaphotography.com
katesilviaphoto@gmail.com
[Facebook](#)
[Instagram](#)
[YouTube](#)

**BONNY HENDERSON**

COMPETITION COMMITTEE

Bonny Henderson and Jerry Kozel

**JERRY KOZEL**

We had another successful “virtual competition” at our August meeting. Felicia Trujillo of Food Seen was our guest judge of the “What’s in the Kitchen” competition. Felicia’s comments about lighting were helpful and informative. You can tell that she has thought about to all the winners! If you missed the meeting, look for the winning images on the

website or on the Facebook page. Also, you should have received her comments in an email from Alison.

Jacques Wood won first and second place in the Kitchen competition and now moves up to Tier 2.
Congratulations, Jacques!

Jacques has also been very instrumental in helping us understand the copyright laws. Questions about copyright came up during the “25 Miles” competition. He has researched the laws and interpreted his findings in an article published in this newsletter.

Our October competition will be “**Spontaneous Public Scenes**” in which you are free to focus on any subject matter. Let yourself be surprised and inspired by the nature of public life. Unlike documentary and journalistic photography, your images do not need to promote social change. Capture spontaneous depictions of scenes as they unfold in public places. Some examples include: people riding bicycles, people sitting on a park bench, walking the dog, enjoying an ice cream cone, etc. Be open to the small social stories that occur right in front of your eyes.

Bonny & Jerry



Our Bonny in the park, handing out ribbons

Winning
Tier 1, 2, 3
Images next
pages

Tier 1 Winners

1st Place

Jacques Wood

Best Cheesecake Ever



2nd Place

Jacques Wood

Three Pans and
a Flame

3rd Place
Shari Dutton
Crème Brulee



Tier 2 Winners

1st Place
Dale Jennings
Farm to Table



2nd Place
Diane McKay
A Pioneer's Meal



3rd Place
Darryll Benecke
Williamsburg Castle Kitchen



1st HM

Bonny Henderson

Life is Just a Bowl



2nd HM Place

Mary New

Gonna Bake Me an Apple Pie

Tier 3 Winners



1st Place

Donna Ford

Spices



2nd Place

John German

Cook



3rd Place

Donna Ford

Onions



SANDHILLS PHOTOGRAPHY CLUB'S WEBSITE

WWW.SANDHILLSPHOTOCLUB.ORG



Website

Rename Files in Android Phones: Two links for this below.

<https://mobileinternist.com/rename-google-photos#:~:text=Open%20your%20File%20manager%20app,dot%20menu%2C%20and%20choose%20Rename.>

<https://support.google.com/files/answer/9746888?hl=en>

Download the "Files by Google App" from play store or use your file manager app. You can't rename the photos in the gallery app on your phone.

Notes

This month's featured member's gallery on the club website is for **Nancy Brown**. Click her name to view her gallery.

You may view the club directory at: **Club Directory**. If you would like to have your photo added to the directory, or change the one in the gallery, just send a favorite to me at **John German**. I will add it to the gallery.

Member Galleries

Members who would like a personal gallery should let me know at **website@sandhillsphtoclub.org**, and I will send an upload link for their use. See the website "Member Galleries" page for instructions on sizing, etc. **This link will continue to work but if you wish to change images, I must delete the old ones. You can upload at will. If you have lost your link, just let me know and I will resend it to you.**

If you have a personal website, please let me know and I can provide a link on the "Member's Galleries" page for you. Please view the member's websites & galleries on this tab on the club website.

Thank you,
John German

PS: Please email any errors that you may notice on the website. I will correct them as soon as possible. **website@sandhillsphtoclub.org**

JOHN GERMAN – LINKS TO SPC WEBSITE:

- **Street Photography Workshop**

<https://www.sandhillsphtoclub.org/street-photography-workshop>

- **Street Photography PDF**

https://12ff0670-f671-14dc-e43e-619d621b1aa1.filesusr.com/ugd/b93987_e0f1220b5b03481db14da9afc91d3bb9.pdf

- **Is taking photos of artwork a copyright infringement?**

https://12ff0670-f671-14dc-e43e-619d621b1aa1.filesusr.com/ugd/b93987_d0f3f3900bcf4459908251ca40840f4c.pdf

- **Twenty Ways to Make Better Photographs**

https://12ff0670-f671-14dc-e43e-619d621b1aa1.filesusr.com/ugd/b93987_62366a78239542d3a608d699c4c0ab0f.pdf

- **Fine Art Digital Printing**

https://12ff0670-f671-14dc-e43e-619d621b1aa1.filesusr.com/ugd/b93987_bc8d60b32b7a4093b49a0a833e2465ee.pdf



2020 OUTINGS – SUSAN BAILEY



This past month we added photos to our website and Facebook group page on **ANYTHING WATER** followed by a challenge online. Voting will take place the first week of September on those entries. You will receive an email when voting is open.



Susan Bailey

September's topic will be **ARCHITECTURE**. The images can be full buildings or the smallest details. We hope you will get out and take some new photos for this topic and have fun looking for opportunities.

We will have another challenge with voting in early October. Once again, this will not win any points as it is just for fun.

Shari Dutton



Water Images



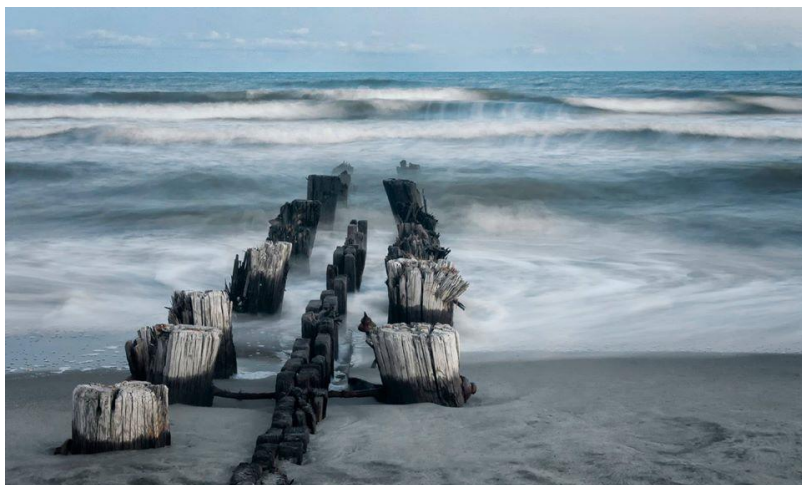
Diane McCall

Neva Scheve

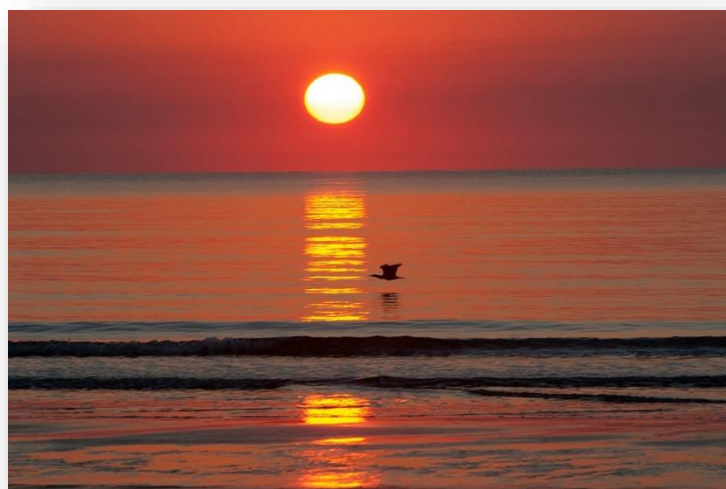


Cathy Locklear

Mary New



Joseph Hill



Susan Bailey

WORKSHOPS, *Jacques Wood*

Street Photography Workshop



JACQUES WOOD

A Street Photography Webinar Program was conducted on Wednesday, August 26, by Susan Bailey and Jacques Wood. The program had 34 registrants, including our member in South Africa, Darryll Beneke. Some of the comments on the program were: "Lots of great information," "Great info and presentation," and "Great job; very helpful." This program was recorded through our Zoom software; a link is posted on our website for all members to use in preparation for the October photo competition, " Spontaneous Public Scenes."

Next Workshop: Black & White & Sepia

Our Club's next workshop will be a two session B & W workshop on Zoom led by Brian Osborn. The first session will be on Tuesday, November 3, starting at 9 am. The second session will be on Tuesday, November 17, also starting at 9 am. More details about this workshop next month.

Jacques Wood

Chair of SPC Workshops Committee

MEMBERSHIP NEWS, *Dennis Snipes for Jo Ann Sluder*

Greetings to all as we continue to welcome our Members to participate in our Zoom meetings and activities.

Remember if you want to invite a guest to join us, send an email with the guest's name and email address needs to Dennis Snipes (dsnipes109@gmail.com) so he will know they are planning to visit and can send them an email with the link to the meeting.



JO ANN SLUDER

Our membership count is at 103. At our August meeting, there were 44 attendees enjoying the Competition Critiques and Awards program.

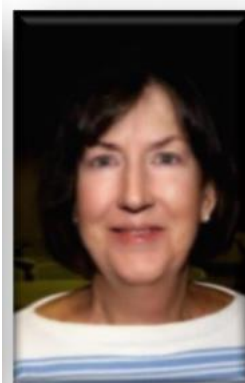
Please continue to encourage your friends to seek out our www.sandhillsphtoclub.com website and see how they can join in on all the benefits and activities our club offers.

We look forward to seeing you all at the September 14th Zoom meeting!

HOSPITALITY, *Marti Derleth*

Obviously, we need a MEETING for these treats, but we'll be back, hopefully soon.

April	Marilyn and Joe Owen
May	Potluck for those whose last names start with A – L
June	Frank Lipski
July	Hank H
August	Jill Margeson and Gisela Danielson
September	Ann Brown
October	Frank Dalmau
November	Potluck for those whose last names start with M – Z
December	Holiday Dinner



MARTI DERLETH

2020 SPC BOARD

TITLE	NAME
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Vice President	John Patota
Secretary	Lana Rebert
Treasurer	Judy Nappi
Past President	Jim Brown/Marilyn Owen
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Exhibitions	Pat Anderson Drew Steidinger
Field Trips	
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PSA Rep	Dave Powers
Outings	Susan Bailey
Publicity	BJ Fulcher
Technical Advisor & ZoomMaster	Dennis Snipes
Web Administrator	John German
Workshops	Jacques Wood

KNOW YOUR BOARD OF DIRECTORS



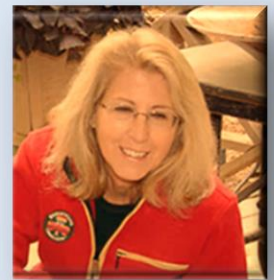
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CONTACT "IN FOCUS"

EDITOR Alison Earl with
any questions, concerns,
ideas, submissions
(including images), etc. @
alisonspcnewsletter@gmail.com

*Alison
Earl*