UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
- -x
JUSTIN GOLDMAN,

                         Plaintiff,

         - against -

GATEHOUSE MEDIA, LLC,

                         Defendant.

- -x

                           COMPLAINT FOR
                    COPYRIGHT INFRINGEMENT

                           JURY DEMANDED

INTRODUCTION

1. This is an action for copyright infringement pursuant to 17 U.S.C. 106(5) based on the unauthorized for-profit full display by one or more websites owned by defendant of a photograph created by plaintiff that is protected by a federal copyright duly registered with the United States Copyright Office (Certificate No. Vau 1-250-526.).

POSSIBLY RELEVANT DISCLOSURE

2. There is currently pending in this Court a separate action for, in part, copyright infringement pursuant to 17 U.S.C. 106(5) commenced by plaintiff here against other defendants based on their unauthorized for-profit full display of the photograph at issue in this action. That action is Goldman v. Breitbart News Network, LLC, et al., 17 Civ. 3144 (AJN)(SN). In that action, the Honorable Katherine B. Forrest, U.S.D.J., who presided over the case before her retirement from the Court in 2018, granted summary judgment to plaintiff on a specific legal issue, namely whether the process of "embedding" provides a defense to the defendants' alleged copy-

right infringements. The Court's judgment held that embedding provided no such defense. 302 F.Supp.3d 585 (S.D.N.Y. 2018).

THE PARTIES

3. Plaintiff Justin Goldman is a resident of the City and State of New York.

4. Defendant is a business entity based in New York State that owns and is legally responsible for one or more websites that committed the copyright infringements that are the subject of this action.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this case pursuant to 28 U.S.C. §1338. Venue in this district is proper pursuant to 28 U.S.C. §1400(a).

UNDERLYING FACTS

6. On July 2, 2016, plaintiff created a photograph of (now more than ever) NFL superstar Tom Brady (and others) ("the Photo"). A copy of the Photo is annexed hereto as Exhibit "A."

7. Without plaintiff's knowledge or consent, the Photo was uploaded to the Internet.

8. On information and belief, one or more websites owned by defendant and for which defendant is legally responsible, without any legal authority to do so, prominently displayed, in full and in full color, for for-profit purposes, a copy of the Photo. On information and belief, those websites include mypalmbeachpost.com and palmbeachpost.com ("defendant's websites").

CAUSE OF ACTION FOR
COPYRIGHT INFRINGEMENT AGAINST DEFENDANT

9. Plaintiff incorporates here the contents of Paragraphs 1 through 8 above.

10. The United States Copyright Act grants to all copyright owners the "exclusive right" to "display" their copyrighted works "publicly," 17 U.S.C. 106(5), and the Act defines "display" as "to show a copy of it, either directly or by means of a film, slide, television image, or any other device or process or, in the case of a motion picture or other audiovisual work, to show individual images nonsequentially." 17 U.S.C. 101. Defendant's websites violated plaintiff's "exclusive right" to "display" the Photo by their separate public display of it without plaintiff's knowledge or consent. Accordingly, defendant is liable to plaintiff for each separate infringement by those websites of the registered copyright in the Photo.

WHEREFORE, with respect to each act of copyright infringement by defendant's websites, plaintiff demands judgment a) issuing a permanent injunction preventing defendant's websites from making any further unauthorized use or display of the Photo; b) awarding to plaintiff all appropriate damages, including statutory damages, as determined by the Court or jury; c) awarding to plaintiff profits attributable to each infringement; d) awarding to plaintiff costs and attorneys' fees; and e) awarding such other relief as the Court deems just.

Dated: April 3, 2019

s/ Kenneth P. Norwick (KN4622)
NORWICK & SCHAD
110 East 59th Street
New York, New York 10022
(212) 751-4440
ken@norwickschad.com
Attorney for Plaintiff

EXHIBIT "A"

Celtics and Tom Brady roll thru to get Durant #Hamptons