

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

**MEYER, SUOZZI, ENGLISH & KLEIN, P.C.,**

**Plaintiff,**

**-against-**

**MATHEW K. HIGBEE, Esq.,  
NICK YOUNGSON,  
RM MEDIA, LTD.,  
and HIGBEE & ASSOCIATES,**

**Defendants.**

**Docket No.: 18-cv-3353 (ADS) (ARC)**

**PROPOSED FORM  
OF DEFAULT JUDGMENT**

WHEREAS Plaintiff Meyer, Suozzi, English & Klein, P.C. (“Plaintiff”) commenced the above-captioned action with the filing of its Complaint on or about June 7, 2018; and

WHEREAS the Complaint seeks a declaratory judgment and money damages under New York General Business Law § 349 in connection with Plaintiff’s use of a photo that Defendants Nick Youngson and RM Media, Ltd. (together, the “RM Defendants”) freely made available to users under a “license” (the “Image”); and

WHEREAS the RM Defendants failed to answer or otherwise move with respect to the Complaint; and

WHEREAS the Clerk of Court noted the RM Defendants’ default by Certificate of Default dated February 20, 2019; and

WHEREAS Plaintiff moved the Court for a default judgment against the RM Defendants; and

WHEREAS, by order dated \_\_\_\_\_, 2019, the Court granted Plaintiff’s motion for a default judgment against the RM Defendants.

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED, AND DECREED that:

1. Plaintiff's use of the Image under license does not constitute copyright infringement as a matter of law;

2. The RM Defendants are entitled to no damages in connection with Plaintiff's use of the Image;

3. The RM Defendants are jointly and severally liable to Plaintiff under New York General Business Law § 349; and

4. The determination of Plaintiff's damages, including Plaintiff's full costs of this action, including Plaintiff's reasonable attorneys' fees, as provided for in 17 U.S.C. § 505 and New York General Business Law § 349(h), shall be deferred until such time as the damages associated with Plaintiff's claims against the non-defaulting parties, Defendants Mathew K. Higbee, Esq. and Higbee & Associates, are to be determined.

Dated: Central Islip, New York  
\_\_\_\_\_, 2019

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Hon. Arthur D. Spatt, U.S.D.J.