

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JUSTIN GOLDMAN,

Plaintiff,

- against -

COMPLAINT FOR
COPYRIGHT INFRINGEMENT

BREITBART NEWS NETWORK, LLC;
HEAVY, INC.; TIME, INC.; YAHOO, INC.;
VOX MEDIA, INC.; GANNETT COMPANY, INC.;
HERALD MEDIA, INC.; BOSTON GLOBE
MEDIA PARTNERS, LLC; NEW ENGLAND
SPORTS NETWORK, INC.,

Defendants.
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INTRODUCTION

1. This is an action for copyright infringement pursuant to 17 U.S.C. 106(5) based on the unauthorized for-profit display by separate websites owned and operated by each of the defendants of a photograph created by plaintiff that is protected by a federal copyright duly registered with the United States Copyright Office.

POSSIBLY RELEVANT DISCLOSURE

2. There is currently pending in this Court an action for, in part, copyright infringement pursuant to 17 U.S.C. 106(5) that was commenced by plaintiff against other defendants based on their unauthorized for-profit display of the same photograph at issue in this action. In that action, a specific legal issue -- which may or not be presented in this action -- is the subject of a motion to dismiss that is currently being briefed (Goldman v. Advance Publications, Inc., et al, S.D.N.Y.,

16 Civ. 9031 (ALC).) In commencing this action, plaintiff does not believe the pendency of that action presents any impediment to or reason to delay the progress of this action.

THE PARTIES

3. Plaintiff Justin Goldman is a resident of the City and State of New York.
4. Each of the defendants owns and operates one or more for-profit websites and each is amenable to suit in this district.

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. §§1391(a) and 1400(a).

UNDERLYING FACTS

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

7. Each of the defendants in this action, without any legal authority to do so, prominently displayed, for each's own for-profit purposes, a copy of the Photo. The original source of each defendant's unauthorized display of the Photo was a single unauthorized tweet that contained the Photo, which tweet spawned numerous other unauthorized tweets and other reproductions of the Photo.

CAUSE OF ACTION FOR COPYRIGHT INFRINGEMENT AGAINST EACH DEFENDANT

8. Plaintiff incorporates here the contents of Paragraphs 1 through 7 above.
9. 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. Each defendant separately violated plaintiff's "exclusive right" to "display" the Photo by its separate public display of it without plaintiff's knowledge or consent. Accordingly, each defendant is separately liable to plaintiff for its separate infringement(s) of the registered copyright in the Photo.

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

Dated: April 27, 2017

A handwritten signature in blue ink, appearing to read 'Ken Norwick', is written over a horizontal line.

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EXHIBIT “A”

