

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

STEPHEN YANG,

Plaintiff,

v.

JOSHUA D. ZUCKERMAN, MD,
FACS, P.C. d/b/a ZUCKERMAN
PLASTIC SURGERY

Defendants.

Case No. 1:22-cv-1604

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff, Stephen Yang alleges as follows:

JURISDICTION AND VENUE

1. This is a civil action seeking damages and injunction relief for copyright infringement and the unauthorized removal of copyright management information under the Copyright Act of the United States, 17 U.S.C. § 101 *et seq* and 17 U.S.C. § 1202.

2. This Court has personal jurisdiction over Defendant because Defendant conducts business and/or resides within the State of New York, Defendant's acts of infringement complained of herein occurred in the State of New York, and Defendant caused injury to Plaintiff within the State of New York.

3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c)-(d) and/or § 1400(a) because this is the judicial district in which a substantial

part of the acts and omissions giving rise to the claims occurred; this is the district in which Defendant or its agent resides or may be found; Defendant conducts regular and substantial business in this district, and has regularly provided services to residents throughout New York including this district; and Defendant is a corporate defendant whose contacts with this district are sufficient to subject it to the personal jurisdiction of this Court.

PARTIES

4. Plaintiff Stephen Yang (“Yang”) is an individual residing in the State of New York and this judicial district.

5. Defendant Joshua D. Zuckerman, MD, FACS, P.C (“Zuckerman”) is a Domestic Professional Service Corporation, doing business as Zuckerman Plastic Surgery, organized under the laws of New York. Zuckerman has one or more offices in New York.

FACTUAL ALLEGATIONS

6. Plaintiff Stephen Yang is a professional photographer who has licensed or sold his photographs to dozens of major media outlets such as *The New York Post*, *The New York Times*, *Slate*, *The Wall Street Journal*, *Google*, *Bloomberg News*, *Getty*, and *Reuters*

7. Yang’s livelihood depends on receiving compensation for the photographs he produces, and the copyright protection afforded to Yang’s

work deters would be-infringers from copyright and profiting from his work without permission.

8. Yang is the sole author and exclusive rights holder to an original photograph of mother and daughter pair, Eva Slikas and Helen Economou (the “Mother-Daughter Photograph”).

9. A true and correct copy of Yang’s Mother-Daughter Photograph is attached hereto as Exhibit A.

10. Yang registered the Mother-Daughter Photograph with the United States Copyright Office under registration number VA 2-055-141 (dated June 22, 2017).

11. The Mother-Daughter Photograph was first published on the New York Post (“Post Article”) website on May 6, 2017 in an article titled “Forget mani-pedis – now moms and daughters bond over Botox”.

12. Yang’s Photograph as featured in the Post Article included a credit below the bottom left corner crediting the Mother-Daughter Photograph to Yang. A true and correct copy of the Post Article and close-up of the Mother-Daughter with the photo credit are attached hereto as Exhibit B.

13. Defendant Zuckerman is the owner and operator of the website www.zuckermanplasticsurgery.com (“Zuckerman’s Website”).

14. According to Zuckerman’s Website, Zuckerman “is ranked #3 of 531

in the New York area of cosmetic / plastic surgeons” and “has garnered numerous professional accolades including being named a SuperDoctors Rising Star or SuperDoctor with features in the The New York Times Magazine four years running (2014-2017).”.

15. Zuckerman generates content on Zuckerman’s Website to attract user traffic, promote Zuckerman’s services, and generate business and revenue for the company.

16. At all relevant times, Zuckerman’s Website was readily accessible to the general public throughout New York, the United States, and the world.

17. On or about December 9, 2020, Yang discovered that Zuckerman had used the Mother-Daughter Photograph at numerous locations on Zuckerman’s Website with the photo credit removed and the New York Post banner emblazoned over the Mother-Daughter Photograph (“Infringing Posts”). A true and correct copy of the Infringing Posts featuring Yang’s Photograph is attached hereto as Exhibit C.

18. Yang has never at any point given Zuckerman a license or other permission to display, distribute or otherwise use the Mother-Daughter Photograph on Zuckerman’s Website or any other website or platform.

19. Zuckerman (including his employees, agents, contractors, or others over whom it has responsibility and control) copied and uploaded the

Mother-Daughter Photograph to the Zuckerman Website without Yang's consent or authorization.

20. Zuckerman (including his employees, agents, contractors, or others over whom it has responsibility and control) knowingly omitted Yang's photo credit when he uploaded the Mother-Daughter Photograph onto Zuckerman's Website because Zuckerman knew he did not have permission to use the Mother-Daughter Photograph.

21. On or about December 29, 2020, Yang, through counsel mailed a letter to Zuckerman's principal place of business demanding that Zuckerman immediately cease and desist use of the Mother-Daughter Photograph and make reasonable compensation to Yang for Zuckerman's past and ongoing violations of his copyright.

22. Yang, through his counsel, subsequently made no less than 7 additional attempts to contact and resolve the dispute with Zuckerman by email, phone, and traditional mail but Zuckerman never responded.

FIRST CAUSE OF ACTION
COPYRIGHT INFRINGEMENT
17 U.S.C. § 101 *et seq.*

23. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

24. Plaintiff did not consent to, authorize, permit, or allow in any manner

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