

NORTH CAROLINA

FILEDIN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

ORANGE COUNTY

10 CVS 149

2010 JAN 28 P 12: 23

RIELLE HUNTER,

ORANGE COUNTY, C.S.C.

Plaintiff,

v.

TEMPORARY RESTRAINING ORDERANDREW YOUNG and CHERI
YOUNG,

Defendants.

THIS MATTER is before the Court on Plaintiff Rielle Hunter's ("Hunter") Motion for Temporary Restraining Order and/or Preliminary Injunctive Relief, pursuant to Rule 65(b) of the North Carolina Rules of Civil Procedure. Plaintiff requests the Court enter an *ex parte* temporary restraining order to prohibit Defendants Andrew Young and Cheri Young (collectively the "Youngs") from taking certain actions with respect to three video recordings and a series of photographs, and directing Defendants to turn over all copies of the same.

AND IT APPEARING TO THE COURT after having reviewed the matters of record, hearing the arguments of counsel, and considering the various matters before it, that Plaintiff's motion is well founded and that the Court should grant the request for entry of a temporary restraining order as set forth below, the Court makes the following FINDINGS OF FACT and CONCLUSIONS OF LAW, and enters its TEMPORARY RESTRAINING ORDER as follows:

FINDINGS OF FACT

1. From July/August 2006 through December 2006, Hunter worked with a political action committee related to what became the presidential campaign of John Edwards ("Edwards") as a videographer.

2. In or about September 2006, Hunter authored a personal video recording that depicted matters of a very private and personal nature (the "Video"). Hunter had the only copy of the Video. In or about December 2006, Hunter opened up the plastic casing on the miniDV cassette containing the Video, and pulled out the tape contained therein. She did not take any action that would obliterate the contents of the tape itself. Hunter stored the remains of the miniDV cassette and tape in a box that was stored at her residence.

3. The box that was stored at Hunter's residence that contained the Video also contained her passport, photographs from her youth, and two other video recordings authored by Hunter. The two other videos contained footage of campaign activities and an interview conducted by Hunter, respectively. Each video was stored on a separate "miniDV" video cassette.

4. Hunter also maintained, on a laptop computer in her residence and on her digital camera, a series of photographs that included her daughter (the "Photographs"). The Photographs, eight in number, were made by Hunter on 19-21 March 2008. At the time the Photographs were made, Hunter's daughter was a young infant.

5. Edwards is the father of Hunter's daughter. However, prior to Edwards's acknowledgement of paternity of the child, Andrew Young had declared himself to be the father of Hunter's daughter.

6. For a period of time in 2007, Hunter physically lived in a house in the Governor's Club community in Chatham County, North Carolina. Her personal possessions, including the box containing the video, were stored in that residence. Andrew Young rented this residence for Hunter. The Youngs had the passcode to access the garage in the residence, the key to the house, or both, and were able to gain access to the residence by use of the passcode or a key.

7. In 2008, Hunter shared a residence with the Youngs and the Youngs' children in Santa Barbara, California. During the time that Hunter lived in Santa Barbara with the Youngs, many of her personal possessions, including the box, remained at the Governor's Club residence in North Carolina. At the Santa Barbara residence, the Youngs had access to Hunter's personal possessions that were at that house, including Hunter's laptop computer and digital camera.

8. The last date on which Hunter saw the three video recordings that were located in the box was December 2007, when Hunter moved from Governor's Club to Santa Barbara.

9. In August 2008, the Youngs were asked to go to Hunter's Governor's Club residence and retrieve her passport, and were made aware of the location of the box. Shortly thereafter, the passport was delivered to Hunter.

10. Hunter no longer has possession of the three video recordings, and learned that they were missing in September/October 2008 in conjunction with a move of her personal belongings.

11. The Youngs had access to the box containing the three video recordings during the time in which they went missing.

12. The Youngs, or either of them, have admitted possession of the Video.

13. Andrew Young has authored a book about himself, Edwards, and Hunter, among other things, titled "The Politician." The book is scheduled to be released on 30 January 2010.

14. Andrew Young has claimed publicly to have possession of Hunter's "mangled tape" and to have altered its condition. A news article dated 27 January 2010 and appearing on the website of the New York Daily News states that Young writes in his book about finding, repairing, and watching the "mangled tape."

15. Andrew Young is attempting to engage in activities to generate publicity in connection with publication of his book. An interview with him is scheduled to air on the ABC television program "20/20" on the evening of Friday, 29 January 2010. A news article appearing on the Politics Daily website states that a video containing personal and private content with respect to Hunter will be discussed during the "20/20" interview.

16. Andrew Young attached the Photographs, or some of them, to the book proposal that he distributed to various third parties. The Youngs, or either of them, downloaded or obtained copies of the Photographs between 23 March 2008 and 4 June 2008 from Hunter's laptop computer or digital camera.

17. Hunter asked, through counsel, for Andrew Young to return any and all photographs and video tape materials, but he has not done so.

18. Hunter never consented to Andrew Young and/or Cheri Young retaining or distribution the three video recordings that were stored in the box, any copies thereof, any depictions of Hunter's likeness, or the Photographs. Hunter never consented to Andrew Young and/or Cheri Young distributing any likeness of Hunter in connection with their commercial efforts, such as potentially selling the Video or promoting Andrew Young's book.

19. Hunter never provided the three video recordings or the Photographs, or copies thereof, to Andrew Hunter or Cheri Hunter.

20. The Youngs are attempting to sell or otherwise distribute the Video to one or more third parties, and/or Andrew Young is attempting to utilize the Video and the Photographs in connection with the publicity efforts for his book.

21. Any publication, dissemination, sale, copying, or other distribution of the Video or its contents would be a highly offensive intrusion into a private matter with respect to Hunter.

22. Any publication, dissemination, sale, copying, or other distribution of the Photographs or their contents would be a highly offensive intrusion into a private matter with respect to Hunter and her daughter.

CONCLUSIONS OF LAW

1. There is a substantial likelihood that Hunter will succeed on the merits on one or more of her claims against the Youngs for conversion, invasion of privacy, and unfair and deceptive trade practices.

2. There is a significant and imminent risk that Hunter will suffer immediate and irreparable harm unless the Youngs are enjoined from taking any action to publish, disseminate, sell, copy, or otherwise distribute the three video recordings and the photographs identified herein, or the contents of those items.

3. The harm that Hunter would suffer if the aforementioned actions were to come to fruition would be irreparable because it would represent a continuation of the conversion of Hunter's property, to the exclusion of her ownership rights, and would invade or further invade Hunter's privacy interests with respect to the three video recordings and the photographs identified herein.

4. Money damages would be inadequate to compensate Hunter for the harm she would suffer if the Youngs are permitted to continue to take action towards publishing, disseminating, selling, copying, or otherwise distributing the three video recordings and the photographs identified herein or their contents.

5. The balance of hardships favors Hunter and the public interest supports the issuance of a temporary restraining order.

6. It is appropriate to issue a temporary restraining order *ex parte*, and without notice to the Youngs until after issuance of the same, in light of the ease and rapidity with which the three video recordings and photographs identified herein could be published or otherwise disseminated via electronic or other means prior to the time that the Court could consider and rule upon the Motion presented. Such transfer would constitute irreparable harm and frustrate the purpose of the Motion prior to the Court's consideration and ruling.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

1. Defendants Andrew Young and Cheri Young and their agents, attorneys, and those persons who are in active concert or participation with them, who receive actual notice in any manner of this Temporary Restraining Order by personal service or otherwise are ENJOINED from taking any action to publish, disseminate, sell, copy, or otherwise distribute the following, until further order of the Court:

- a. The three video recordings belonging to Hunter, or the contents of those recordings, that the Youngs, or either of them, obtained;
- b. The photographs belonging to Hunter of Hunter's daughter, or the contents of those photographs, that the Youngs, or either of them, obtained;
- c. Any video recordings of Hunter or that contain Hunter's likeness that were made surreptitiously or otherwise without Hunter's knowledge and/or consent, or the contents of such recordings; and
- d. Any video recordings or photographs that depict matters of a private and personal nature with respect to Hunter.

2. Defendants Andrew Young and Cheri Young and their agents, attorneys, and those persons who are in active concert or participation with them, who receive actual notice in any manner of this Temporary Restraining Order by personal service or otherwise are ORDERED to turn over all copies of the following that are in their possession, custody, or control, including electronic copies, to Plaintiff Rielle Hunter, in the care of her attorney of

record Alan W. Duncan at Smith Moore Leatherwood LLP, 300 North Greene Street, Suite 1400, Greensboro, North Carolina, 27401, as an officer of the Court, and for those persons to whom this paragraph applies to retain no copies or versions of any such items, in whole or in part, and in any medium, including electronic storage, until further order of the Court:

- a. The three video recordings belonging to Hunter, or the contents of those recordings, that the Youngs, or either of them, obtained;
- b. The photographs belonging to Hunter of Hunter's daughter, or the contents of those photographs, that the Youngs, or either of them, obtained;
- c. Any video recordings of Hunter or that contain Hunter's likeness that were made surreptitiously or otherwise without Hunter's knowledge and/or consent, or the contents of such recordings; and
- d. Any video recordings or photographs that depict matters of a private and personal nature with respect to Hunter.

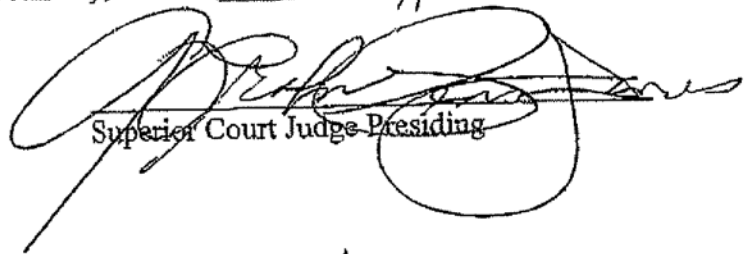
3. The Sheriff of Orange County is directed to execute the Court's Order for return and relinquishment of the video recordings and photographs identified in the preceding paragraph, in whatever form, located at the residence of Andrew Young and Cheri Young or otherwise in their possession, custody, or control and located elsewhere in Orange County; to provide such items to Hunter's attorneys as set forth in the preceding paragraph; and to confirm that all such items have been retrieved and that a copy has been made and retrieved of any electronically stored items; and that such material stored in electronic form on any medium in the possession, custody, or control of Defendants, or either of them, or their attorneys, agents, or others acting in concert with them or either of them no longer exists in such electronically stored format.

4. As a condition precedent to the issuance of this Temporary Restraining Order, the Clerk of Superior Court, Orange County, shall take from Plaintiff Rielle Hunter an undertaking in the sum of \$ 250.⁰⁰ to the effect that Plaintiff shall pay the parties enjoined such damage, not

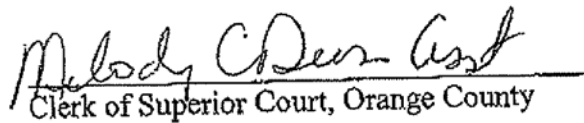
to exceed the amount of such undertaking, as Defendants may sustain and prove by reason of this Temporary Restraining Order should the Court finally decide that Plaintiff was not entitled thereto; and

5. Plaintiff's Motion for Preliminary Injunction shall be heard on Feb. 8, 2010 at 2:00 o'clock P.M., or as soon thereafter as the matter may be heard, before the undersigned Judge or another Judge of the Superior Court presiding in Orange County.

SO ORDERED, this the 28th day of January, 2010 at 11:38 o'clock A.M.


Superior Court Judge Presiding

Undertaking having been paid in the amount of \$ 250⁰⁰, the foregoing Temporary Restraining Order is issued this the 28th day of January, 2010 at 12:30 o'clock P.M.


Clerk of Superior Court, Orange County