

FILED
5 February 2010 at 5:45 p.m.


ABRAHAM PENT JONES
Superior Court Judge

STATE OF NORTH CAROLINA
COUNTY OF ORANGE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NUMBER: 10 CVS 149

RIELLE HUNTER,
Plaintiff,

v.

CONSENT PRELIMINARY INJUNCTION

ANDREW YOUNG and,
CHERI YOUNG,
Defendants.

THIS MATTER is before the Court pursuant to the Temporary Restraining Order, entered 28 January 2010, and the Court's Second Notice of Hearing and Order to Appear and Show Cause, entered 1 February 2010. The parties have discussed issues related to Defendants' compliance with the Temporary Restraining Order and the entry of a consent preliminary injunction that will be in effect pending final determination of this lawsuit, unless otherwise modified by the Court. As reflected by the signatures below of counsel of record, Plaintiff Rielle Hunter ("Hunter") and Defendants Andrew Young and Cheri Young (collectively the "Youngs") consent to entry of this Consent Preliminary Injunction. Accordingly, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1. Defendants Andrew Young and Cheri Young shall comply in full with the Contempt Order entered by the Court on 5 February 2010, including with respect to turning over to the Court certain documents and items identified therein, to remain in the Court's possession pending final determination of this lawsuit, as set forth more fully in

that Contempt Order. A copy of the Contempt Order is attached as Exhibit A, and the provisions of the Contempt Order are incorporated by reference as if fully set forth herein.

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 Consent Preliminary Injunction 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, except as may be necessary to comply with the Contempt Order:

- a. The three video recordings that the Defendants described in their Affidavits as having once been in the possession of Hunter, and any portions or copies of those recordings, that the Youngs, or either of them, obtained;
- b. The eight photographs that were authored by Hunter on March 19-21, 2008 and identified in Paragraph 4 of the findings of fact in the TRO, and that include 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, photographs, or documents that depict matters of a private and personal nature with respect to Hunter.

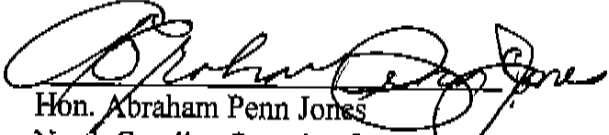
3. Defendants Andrew Young and Cheri Young and their agents, attorneys, and those persons who are in active concert or participation with them, who receive actual notice in any manner of this Consent Preliminary Injunction by personal service or otherwise are ORDERED to alert the Court and all counsel of record, in writing in a manner that will ensure that actual notice of the same is received within twenty-four (24) hours, upon discovery or reasonable suspicion that additional copies of the items described in the Contempt Order may remain outside of the Court's possession.

4. Plaintiff posted an undertaking in the amount of \$250.00 as a condition precedent to the issuance of the Temporary Restraining Order, and the Court finds that the amount of that undertaking remains sufficient. Accordingly, Plaintiff is directed to maintain that undertaking in its current amount until final disposition of this action, or until further order of the Court.

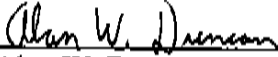
5. This Consent Preliminary Injunction shall remain in full force and effect until final disposition of this action, or until further order of the Court.

6. Other than as set forth herein, Defendants waive no rights in consenting to this injunction.

SO ORDERED, this the 5th day of February 2010



Hon. Abraham Penn Jones
North Carolina Superior Court Judge

WE CONSENT:



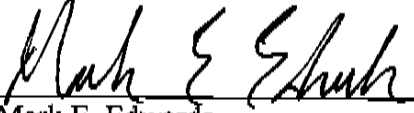
Alan W. Duncan
Allison O. Van Laningham
Smith Moore Leatherwood LLP
Counsel for Plaintiff

5 February 2010
Date



Wade Barber, Jr.
Wade Barber, PLLC
Counsel for Plaintiff

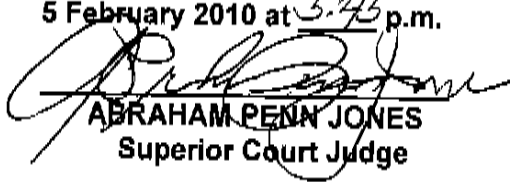
5 February 2010
Date



Mark E. Edwards
Robert C. Trenkle
Edwards & Trenkle, PLLC
Counsel for Defendants

2/5/10
Date

EXHIBIT A

FILED
 5 February 2010 at 5:45 p.m.

ABRAHAM PENN JONES
 Superior Court Judge

NORTH CAROLINA
 ORANGE COUNTY

IN THE GENERAL COURT OF JUSTICE
 SUPERIOR COURT DIVISION
 10 CVS 000149

RIELLE HUNTER,)
)
 Plaintiff,)
)
 v.)
)
 ANDREW YOUNG and)
 CHERI YOUNG,)
)
 Defendants.)

CONTEMPT ORDER

THIS MATTER is before the Court on the Court's Second Notice of Hearing and Order to Appear and Show Cause and Order to Produce Certain Items and Documents, entered 1 February 2010, directing Defendants to appear and show cause why they should not be held in contempt for failing to comply with the Temporary Restraining Order ("TRO") issued by the Court on 28 January 2010, and to produce certain items and documents. On 4 February 2010, Defendant Andrew Young and Defendant Cheri Young filed a Response of Andrew Young and Cheri Young to the Temporary Restraining Order (the "Response"). On 5 February 2010, at the show cause hearing, Andrew Young and Cheri Young appeared with their attorneys, Mark E. Edwards and Robert C. Trenkle.

AND IT APPEARING TO THE COURT after having reviewed the matters of record, hearing the arguments of counsel, and considering the affidavits (including the two affidavits of Defendants Andrew Young and two affidavits of Cheri Young regarding

the number and location of the items), and the statements of counsel; and the agreement of the Defendants that they consent to the entry of this order under the terms set forth below, and other matters of record, that the Court should hold Defendants in contempt of Court pursuant to N.C. Gen. Stat. § 5A-21, the Court makes the following FINDINGS OF FACT and CONCLUSIONS OF LAW, and enters its CONTEMPT ORDER as follows:

1. On 28 January 2010, Plaintiff filed a Complaint against Defendants alleging conversion, invasion of privacy, and unfair and deceptive trade practices, with respect to Defendants' possession and threatened or actual use of certain video recording and photographs that Plaintiff alleges belong to her. Plaintiff also moved for issuance of a temporary restraining order.

2. On 28 January 2010, the Court entered the TRO prohibiting the Youngs and those acting in concert with them from taking any action to publish, disseminate, sell, copy, or otherwise distribute certain video recordings and photographs. The Court also ordered the Youngs and those acting in concert with them to turn over any such material in their possession, custody, or control to Hunter's counsel, and directed the Sheriff of Orange County to execute the Order for return and relinquishment of the video recordings and photographs.

3. Also on 28 January 2010, the Sheriff of Orange County served the Summonses, Complaint, and TRO on Andrew Young in person, and Cheri Young by leaving her documents with Mr. Young at their residence. As set forth in the Return of Execution that has now been sworn to by Major Charles Blackwood of the Orange County Sheriff's Office, Andrew Young spoke with counsel, both privately and in Major Blackwood's presence. Thereafter, Mr. Young asked Major Blackwood to speak on the telephone with an attorney representing Defendants. Major Blackwood summarized the

provisions of the TRO to Andrew Young and the person on the telephone, by “summarizing the Order portion of the document that directed Mr. Young to deliver those certain items listed in the Order to the Sheriff.” Major Blackwood then reports that Andrew Young and the purported attorney “asked me to allow [them] to speak in private and then a decision would be made whether to deliver those items to me or not” (emphasis added).

4. Thereafter, a different person purporting to be an attorney representing Defendants told Major Blackwood, by telephone, that “[Defendants] would not be able to immediately comply with the Order on such short notice and they would address the matter in Court before Judge Jones as soon as possible.” The attorney also stated “that they had serious concerns about the methods by which [Plaintiff’s counsel] had attempted to seize the items in question.” Defendants did not provide any of the materials identified in the Temporary Restraining Order to Major Blackwood.

5. On 29 January 2010, on its own motion, the Court issued a Notice of Hearing and Show Cause Order, in which the Court found probable cause that the Youngs were in civil contempt of the Court for failing to comply with the Temporary Restraining Order. The Court directed the Sheriff of Orange County to serve the Show Cause Order forthwith. The Sheriff was unable to achieve service of the Show Cause Order upon the Youngs.

6. On 1 February 2010, the Court, again on its own motion, issued the Second Notice of Hearing and Show Cause Order, including similar findings and directives as were made in the first Show Cause Order. Additionally, the Second Notice of Hearing and Show Cause Order directed Defendants to bring certain documents and other items identified therein to the show cause hearing. It is clear from the record that Defendants received notice of the Second Notice of Hearing and Show Cause Order.

Also, Defendants have now filed a response on 4 February 2010, and appeared before the Court on 5 February 2010.

7. In the Second Notice of Hearing and Show Cause Order, the Court, on its own motion, found probable cause to believe that Defendants were in contempt.

8. Until 4 February 2010 when Defendants filed the Response, they did not produce any items or file anything in response to the TRO.

9. In the interim, Andrew Young has appeared in multiple nationally-broadcast interviews, sometimes also with his wife Cheri Young, promoting Andrew Young's book *The Politician*. In some of these interviews, Defendants have been asked about and have discussed the instant lawsuit and the TRO.

10. Defendants did not bring with them to Court the items referenced in the TRO and/or the Second Notice of Hearing and Show Cause Order, nor have Defendants delivered these items to the Orange County Sheriff or to Plaintiff's counsel.

11. By their statements to the media and other evidence presented to the Court, the Court finds that Defendants are aware of the terms of the TRO, specifically with respect to the items that Defendants were ordered to deliver to Plaintiff's counsel.

12. In their affidavits, Andrew Young and Cheri Young admit that they have possession, custody, or control of property subject to the TRO including the three video recordings and the photographs, although they dispute Plaintiff's claims of ownership.

13. Defendants have the means and ability to comply with the TRO.

14. Prior to agreeing to the entry of this order, the Defendants have failed to submit to the authority of the Court, and have violated the terms of the TRO, by refusing to turn over the items referenced in the TRO, and by not delivering items in their possession or under their control during the subsequent seven days.

15. Each of the Defendants now represent to the Court the following:

- a. The original "video of a personal and private nature" is located in a bank lockbox in Atlanta, Georgia, accessible only by the Defendant Andrew Young together with Glen Sturm, an attorney in Atlanta, and there may also be a copy of that Video in the lockbox. Mr. Sturm is receiving medical treatment in New York which limits his ability to travel;
- b. Two videos the Defendants refer to as "campaign videos" are in the same lockbox;
- c. The Defendants provided a copy of the personal video to David Geneson, Defendants' attorney in Washington D.C., which was provided by Mr. Geneson to the Federal Bureau of Investigation. Mr. Geneson did not make or keep any copies of the personal video.
- d. The Defendants have copies of photos taken by Ms. Hunter that include her daughter in the photograph which are located on Mr. Young's laptop computer now located in Raleigh and in his control;
- e. The Defendants will search for and produce to the Court any other videos authored by Hunter that are in their custody and control.

CONCLUSIONS OF LAW

1. Defendants had no legal justification for violating the TRO.
2. Defendants had the present ability to comply with the TRO.
3. The TRO is still in full force and effect and the purpose of that Order may still be served by compliance with this Order, the essential terms of which will be extended by an order of preliminary injunction.
4. Defendants failed to meet their burden of show cause why they should not be held in contempt of the Court.

5. Defendants' conduct as set forth above, with respect to Defendants' failure to comply with the TRO, was willful.

6. Defendants should be held in civil contempt of the Court and its lawful Order of 28 January 2010.

7. Whether or not the Plaintiff abandoned the items referenced in the TRO is of no consequence for the purposes of the TRO and such an assertion does not excuse Defendants from complying with the Order.

8. Defendants are in civil contempt of this Court and the TRO, pursuant to N.C. Gen. Stat. § 5A-21.

9. Defendants shall be allowed to purge themselves of this contempt by doing the following:

a. Turning over all of the following to the Clerk of Court of Orange County, to be held by the Clerk under seal and securely maintained, with access to the same allowed only pursuant to further Court order:

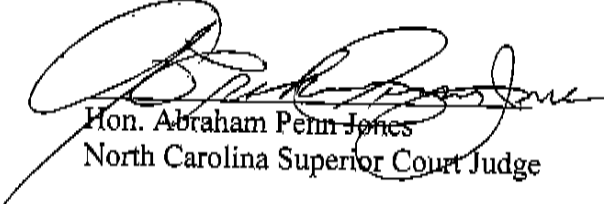
- i. The original "video of a personal and private nature" which is located in a bank lockbox in Atlanta, Georgia, and any copy of that Video in the lockbox;
- ii. Two videos the Defendants refer to as "campaign videos" from the same lockbox, and any copy thereof;
- iii. Deliver an electronic copies of the eight photos taken by Ms. Hunter that include her daughter in the photograph which are located on Mr. Young's laptop computer now located in Raleigh and in his control, together with an affidavit from an independent computer forensic examiner that the photographs have been permanently deleted from the computer on which they were stored;

- iv. Deliver an affidavit from their attorney David Geneson that he gave the tape to the FBI, and did not make any copies, did not allow anyone else to copy, and does have any copy.
- b. Certify under oath to the Court that they do not have in their possession, custody or control any other photographs, video recordings, and documents which once belonged to Ms. Hunter and obtained by you without her consent; and that they have no knowledge of anyone else having a copy thereof.

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

1. Defendants are hereby in civil contempt of this Court and its lawful TRO dated 28 January 2010, pursuant to N.C. Gen. Stat. § 5A-21;
2. Defendants shall be allowed to purge themselves of this contempt by fully complying with the provisions of paragraph 9 under CONCLUSIONS OF LAW above and appear in the Superior Court of Orange County in Hillsborough at 2:00 p.m., on Wednesday, 10 February 2010 and prove to the Court that they have so complied in full; and
3. Defendants are to be taken into the custody of the Sheriff of Orange County for seventy-five (75) days or until such time as the Court adjudges them to have purged themselves of contempt, the first to occur; EXCEPT THAT the execution of this order is deferred until the conclusion of the Court hearing scheduled for 2:00 p.m. on Wednesday, 10 February 2010.

This the 5th day of February, 2010.


Hon. Abraham Perm Jones
North Carolina Superior Court Judge