

FILED

7th February 2010, at 10:35 p.m. a.m.
Abraham Penn Jones by Tammy K Keshler
Abraham Penn Jones, Superior Court Judge

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

ORANGE COUNTY

SUPERIOR COURT DIVISION

10 CVS 149

RIELLE HUNTER,)

Plaintiff,)

v.)

ANDREW YOUNG and CHERI)
YOUNG,)

Defendants.)

**FIRST SUPPLEMENTAL
CONTEMPT ORDER**

THIS MATTER is before the Court on the Court's own motion to modify the Contempt Order entered by the undersigned on Friday, 5 February 2010 and filed with the Court at 5:45 p.m. that same date.

Upon reviewing the Contempt Order, the undersigned became concerned that the Contempt Order drafted and presented to the Court by the parties and entered herein does not adequately safeguard the identification and production of the original videos, other items and evidence regarding such, that the Defendant Andrew Young has stored in a bank lock box in Atlanta, Georgia as described in Mr. Young's affidavits and in the Contempt Order, and the Court has an interest in knowing of access to the lock box in the adjudication of this matter. The Court is further concerned that all items to be delivered pursuant to the Contempt Order, be collected in place by the Sheriff, in order to fulfill the

purposed of the Court's Orders and maintain evidence and chain of evidence.

Whereupon the Court, communicating through Tammy Keshler, Judicial Assistant for the Superior Court Judges' Office in Judicial District 15B, contacted Wade Barber, counsel for the Plaintiff and Mark Edwards, Esq., counsel for the Defendant, advised them of the Court's concerns, directed that the Atlanta lock box not be opened except in accordance with this Supplemental Order and requested that Plaintiff's counsel draft a proposed order for review and comment of Defendants' counsel and consideration of the Court. Having reviewed the drafts and comments of all counsel, the Court makes the following findings:

1. The Court adopts and incorporates all findings made in previous orders entered in the matter.
2. Mr. Young, through his attorneys and his affidavits, was certain that three original video tapes were in the Atlanta lock box, but was unsure what other items (such as copies of the videos and a "List" taken by him from what he contends was Plaintiff's "trash") which are or may be subject to the contempt order. Also, it is apparent that the Lock Box was obtained by Mr. Young for the purpose of safe keeping items once owned by the Plaintiff (the Court is expressing no opinion as to current ownership);
3. Mr. Young, in his affidavit did not say whether or not anyone had accessed the Atlanta lock box since the entry of the Temporary Restraining Order;
4. Mr. and Mrs. Young may have some of the items at their home in Orange County and on a computer located there or elsewhere;
5. Evidence of the chain of possession and access to the Tapes and other items is

important to the resolution of issues in this case, the present location and condition of all items, as well as the bank's lock box access log may be significant evidence;

6. It is in the Court's interest to do all that can be done to secure the Tapes and other items subject to the Preliminary Injunction and to collect evidence pertaining thereto. Having the Items retrieved from the current locations and thereafter possessed by a party acting alone does not serve that interest; and
7. The Court is advised by counsel that Mr. Young is now in California or on a flight from California and may be intending to access the lock box on Monday, 8 February 2010; therefore, it is imperative to enter this Supplemental Order today, out of County and out of Session; and
8. The Sheriff has designated a professional security management firm, RMA Security, Mr. Wayne Truax is to be the contact person from RMA Security and he, or other person with RMA shall serve as the "Officer" to travel and to do the things set forth below. The Court Appoints Russell Gilmore, Computer Forensics Expert, RMA Security to transfer Photos and other Items from the Defendants' computer and he shall then "scrub" the images, dates, etc., from the "Raleigh laptop" or other computer.

CONCLUSSIONS

WHEREFORE, THE COURT CONCLUDES THAT:

1. The original Contempt Order does not sufficiently achieve the proper purposes of the Court and must be supplemented and modified;
2. It must be supplemented today, because tomorrow may be too late;

3. The Defendants shall not handle, move or alter the Items except in the presence of the Officer and in accordance with the procedures in the Contempt Order as supplemented and modified herein;
4. With regard to obtaining all items identified in the Contempt Order and since identified by the Defendants as coming within the purview of the Contempt Order or the Preliminary Injunction "Items," (Items shall include a "list" that was mentioned in Court) the Court should supplement the Contempt Order and order that:
 - a. Atlanta lock box:
 - i. The Officer shall accompany Mr. Young in accessing the lock box;
 - ii. The Defendant Andrew Young, through counsel, shall inform the Court (or Ms. Keshler or other designee), the Orange County Sheriff's office or Mr. Truax and Plaintiff's counsel as to his plans to access the Atlanta lock box, the name and location of the bank and arrange a time to meet there;
 - iii. The Orange County Sheriff shall arrange to have the Officer to meet Mr. Young at the Atlanta bank. The Sheriff, the Officer and Mr. Young shall work in good faith to accommodate each other;
 - iv. Mr. Young and Mr. Strum shall not obtain the box until the Officer is present;
 - b. Upon meeting at the bank:
 - i. Mr. Young shall take the Officer with him into the vault to obtain

the lock box;

- ii. Mr. Young shall request that the bank make a copy of the lock box access log and provide a copy to the Officer;
- iii. The Officer shall open the box and inventory it in Mr. Young's presence, with both keeping a copy of the inventory;
- iv. The Officer shall secure all items contained in the lock box in bags as is customary for evidence collection;
- v. The Officer shall receipt Mr. Young for each item.

c. Defendants' Orange County Residence, "Residence:"

- i. The Defendants shall arrange a time for the Officer to meet them at their Residence; meanwhile, they shall not handle or touch any Item in any way;
- ii. Mr. and Ms. Young shall escort the Officer to the location of each item in the Residence and identify same to him;
- iii. The Officer shall inventory, seize the Item and secure it; he shall also give the Defendants a receipt;

d. Items on Computers:

- i. The Defendants shall arrange a time with Russell Gilmore and the Officer, for Mr. Gilmore to examine and retrieve the photographs and other Items stored on the computer identified in their affidavits and any other computer or other storage medium, assist the technician in finding all Items, assist in a search for Items and allow the technician to fully delete all Items and "scrub" them from

the computer.

- e. Geneson Affidavit. The Officer shall collect Mr. Geneson's Affidavit and secure it. In the event that Mr. Geneson does have any Tape or other Item, the Officer shall collect that in a manner similar to that provided above;
5. The Defendants shall identify and turn over all Items, any copies of items whether on tape, disk, computer, electronic storage device, in "cloud" storage, paper or other medium. They shall then allow inspection of the place of storage to ensure that all traces are removed and cannot be retrieved in any manner. If there is any difficulty in doing this, the Defendant or Officer shall immediately notify the Court to resolve the issue.
6. The Officer shall keep all Items collected on his person and secure, and bring them to Major Charles Blackwood at the Sheriff's office as provided in the original Contempt Order.

WHEREFORE, IT IS ORDERED THAT:

1. The original Contempt Order entered herein is supplemented by this Order;
2. Counsel shall advise their clients of this Order immediately;
3. All of the of the CONCLUSIONS set forth above are incorporated here as an order and the Defendants compliance with those conditions is required for each of them to "purge" themselves of contempt, supplemental to the conditions set forth in the original Consent Order;
4. The Items are to be retrieved and evidence collected and preserved as set forth in the CONCLUSIONS above;
5. Wherever any provision in this order conflicts with a provision of the original

- Contempt Order, the provision of this Supplemental Order shall be followed;
6. The Defendants' counsel shall contact the Officer, Wayne Truax, RMA Security, 4000 WestChase Blvd. Suite 350, Raleigh, NC 27607, Phone: 919-834-8584, Toll Free: 800-775-8584 immediately and make arrangement for him to work with the Defendants;
 7. The Officer shall make a full report of all his activities to the Court at 2 p.m. on Wednesday, 10 February 2010 in Hillsborough;
 8. The Parties shall equally share the costs of the Officer including travel and incidentals, and the costs may be reallocated as "costs" upon the final judgment in this matter;
 9. In the event that the Defendants are fully cooperative, but the Officer cannot carry out his duties and return all items by Wednesday, 10 February 2010 at 2 p.m., the Court shall consider that matter, confer with the parties and may reschedule the time of the "purge" hearing.
 10. The Defendants shall fully comply in good faith, and counsel for the Defendant shall keep opposing counsel and the Court advised of the progress of complying with the implementation.

This the 7th day of February 2010.

Abraham Penn Jones by Tammy K. Keshler
Hon. Abraham Penn Jones
North Carolina Superior Court Judge