

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT, IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 08-50443CA23

JANE DOE,

Plaintiff,

vs.

NOTICIAS DIGITALES, SL, a
Spanish corporation; SPLASH NEWS
PICTURE AND NEWS AGENCY;
EGOTASTIC.COM; and, JOHN DOES 1-20,

Defendants

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FILED
AUG 28 2008
CLERK, CIRCUIT & COUNTY COURTS

VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES

Plaintiff Jane Doe ("Plaintiff") sues Defendants Noticias Digitales, SL, Splash News Picture and News Agency, Egotastic.com and John Does 1-20 (collectively, "Defendants") for injunctive relief and money damages and states:

COMMON ALLEGATIONS

Jurisdiction and Venue

1. This is an action for emergency injunctive relief, invasion of privacy, aiding and abetting invasion of privacy, intentional infliction of emotional distress, negligent infliction of emotional distress, interference with advantageous business relationships and misappropriation of likeness.

2. Plaintiff seeks injunctive relief and damages in excess of \$15,000.00, exclusive of costs and interests, and Plaintiff reserves the right to seek punitive damages in accordance with applicable law.

3. Plaintiff is a Florida resident residing in Miami-Dade County, Florida. Plaintiff brings this matter under a fictitious name to protect against further embarrassment and humiliation that would occur if Plaintiff's legal name was used. Plaintiff's real name will be submitted to the Court under seal and in an affidavit filed herewith verifying the allegations hereof.

4. Defendant Noticias Digitales, SL ("Noticias") is, upon information and belief, the owner and operator of a web-site known as Noticiasdot.com. Noticias' address is Avenida Parallel 116, Barcelona, Spain 08015.

5. Noticias is subject to the jurisdiction of this Court under Florida Statutes §§ 48.193(2) and 48.193(1)(b) & (f) as it has engaged in substantial and not isolated activities in Florida, and has engaged in, and aided and abetted, the commission of tortious acts in the State of Florida, including the invasion of privacy set forth herein, causing injury to a Florida resident.

6. Defendant Splash News Picture and News Agency ("Splash") is an entity that promotes itself as the leading entertainment industry photo agency in the world. Splash's corporate address is 225 Santa Monica Boulevard, Suite 1009, Santa Monica, California 90401. Splash also maintains a Miami, Florida office which is located at 1221 Brickell Avenue, Suite 946, Miami, Florida 33131.

7. Splash is subject to the jurisdiction of this Court under Florida Statutes §§ 48.193(2) and 48.193(1)(b) & (f) as it has engaged in substantial and not isolated activities in Florida, and has engaged in, and aided and abetted, the commission of tortious acts in the State of Florida, including the invasion of privacy set forth herein, causing injury to a Florida resident.

8. Defendant Egotastic.com is an entity that promotes itself as displaying "the sexiest celebrity gossip, the hottest pictures, and the latest news and rumors from the world of

those crazy celebs.” On information and belief, Egotastic.com is owned, controlled or both by Mirrorball Media, Inc. (hereinafter, “Egotastic”), which is a company based in Québec Canada.

9. Egotastic is subject to the jurisdiction of this Court under Florida Statutes §§ 48.193(2) and 48.193(1)(b) & (f) as it has engaged in substantial, and not isolated, activities in Florida, and has engaged in, and aided and abetted, the commission of tortious acts in the State of Florida, including the invasion of privacy set forth herein, causing injury to a Florida resident.

10. Defendants John Does 1-4 are photographers and/or others assisting photographers whose identities are presently unknown.

11. Defendants John Does 5-20 are entities that own or host internet websites that are aiding, abetting and facilitating the invasion of privacy and other tortious conduct that is the subject of this Complaint.

12. This Court has jurisdiction over the John Doe Defendants because they reside or do business in Florida and because their commission of tortious acts within this state subject them to Florida’s long-arm jurisdiction pursuant to Florida Statutes §§ 48.193(1)(b) and (f).

13. Venue is proper in Miami-Dade County, Florida because the wrongful and tortious actions giving rise to the claims sought herein occurred in Miami-Dade County, Florida.

General Allegations

14. Plaintiff is a super model whose image has appeared on the cover of various magazines, including *Vogue ELLE*, *Glamour*, *Mademoiselle*, *Harper's Bazaar* and *Marie Claire*.

15. Plaintiff resides with her daughter in a gated and secured community in Miami-Dade County.

16. To ensure her privacy and her family's privacy, Plaintiff's yard is heavily landscaped and fenced, with a wooden fence approximately five feet tall. No one can gain visual access to her backyard without illegally trespassing onto her property.

17. During August 2008, while home alone, Plaintiff sunbathed in the nude, as is often done by professional models in order to avoid tan lines. At the time, she was in her private and secured back yard, and possessed a vital and well-founded expectation of privacy.

18. Upon information and belief, the John Doe Defendants, or certain of them, infiltrated and trespassed onto Plaintiff's property, whereupon such Defendants concealed and camouflaged themselves in order to go undetected in order to observe and photograph Plaintiff while Plaintiff was sunbathing in the nude within the confines and protection of Plaintiff's secluded and secured home patio.

19. Plaintiff did not approve or authorize this activity; to the contrary, she completely and totally condemns it.

20. During and throughout the John Doe Defendants' trespass onto Plaintiff's property, the John Doe Defendants engaged in voyeurism, and further unlawfully and illegally eavesdropped and photographed Plaintiff, using telescopic and other devices used in photography to obtain close-up photographs of Plaintiff in the nude.

21. Under Florida Statutes § 810.145, adopted by the Florida Legislature in 2004, video voyeurism includes using a still camera to record a person without their consent privately exposing their body at a time when the person had a reasonable expectation of privacy. Defendants conduct constitutes video voyeurism, or aided and abetted another in the commission of video voyeurism.

22. Upon information and belief, the John Doe Defendants took in excess of nine (9) photographs of Plaintiff in the nude.

23. The John Doe Defendants thereafter sold and/or caused the photographs of Plaintiff in the nude to be sold to Defendant Splash and Defendant Egotastic.com, which then posted and otherwise made the photographs accessible on the worldwide web and further identified Plaintiff by name in conjunction with the display of the photographs.

24. The photographs are watermarked with the name "Egotastic.com," and are credited to Defendant Splash.

25. The display and existence of the photographs of Plaintiff in the nude on the worldwide web is ongoing and causing enormous damage, humiliation, embarrassment, shame, anxiety, stress, pain and suffering to Plaintiff every minute of every hour of every day that the photographs remain posted, and deepens the harm to Plaintiff.

26. Plaintiff has already lost work as a consequence of the publication of these photographs, and further faces the realistic and imminent prospect that, at any moment, other companies or agencies will now drop her as a consequence of the continued publication and availability of these photographs on the internet. As a result, it is extremely urgent that these continuing violations stop immediately in order to mitigate continued personal and professional injury.

COUNT I
(Emergency Injunction)

27. Plaintiff realleges and incorporates herein all of the common allegations.

28. Plaintiff has been victimized, and continues to be victimized on an ongoing basis, by the unlawful trespass and invasion of privacy perpetrated by Defendants and which is causing Plaintiff irreparable harm for which Plaintiff does not have an adequate remedy at law.

WHEREFORE, Plaintiff respectfully and urgently requests the issuance of an injunction ordering Defendants to immediately cease and desist any and all display, duplication, dissemination or reference to the photographs unlawfully taken of Plaintiff, and ordering all Defendants to immediately take all steps and initiate all means available to remove from the worldwide web, and anywhere else that the illegally obtained photographs appear or are referred to. Plaintiff further asks that all original and duplicate photographs taken by or in possession of all Defendants be immediately delivered to undersigned counsel, to be held in escrow until further order from the Court. Plaintiff requests all other and further relief as is appropriate.

COUNT II
(Invasion of Privacy)

29. Plaintiff realleges and incorporates herein all of the common allegations.

30. Plaintiff has a reasonable and significant expectation of privacy while sunbathing within the confines and seclusion of her property.

31. The John Doe Defendants 1-4 illegally, unlawfully, maliciously, intentionally, and with reckless disregard for Plaintiff's rights, trespassed, intruded and infiltrated Plaintiff's privacy and rights of privacy in order to obtain the photographs complained of herein.

32. The John Doe Defendants 1-4 further illegally, unlawfully, intentionally and with reckless disregard invaded Plaintiff's rights of privacy by photographing Plaintiff in the nude and selling, distributing, disseminating, displaying, and aiding and abetting in the distribution and display of the photographs.

33. Plaintiff has been harmed by Defendants' invasion of Plaintiff's privacy.

WHEREFORE, Plaintiff demands judgment against Defendants for invasion of privacy, and for damages and all other and further relief as is available. Plaintiff reserves the right to seek punitive damages for the conduct set forth herein.

COUNT III
(Aiding and Abetting Invasion of Privacy)

34. Plaintiff realleges and incorporates herein all of the common allegations.

35. Defendants Noticias, Splash, Egotastic.com and John Doe Defendants 5-20, knowingly encouraged, assisted and motivated the John Doe Defendants 1-4 in the invasion of Plaintiff's privacy, and thereby aided and abetted the John Doe Defendants in their violation of Plaintiff's privacy rights.

36. Plaintiff has been damaged by the foregoing.

WHEREFORE, Plaintiff demands judgment against Defendants for aiding and abetting the invasion of Plaintiff's right of privacy, and all other and further relief as appropriate.

COUNT IV
(Intentional Infliction of Emotional Distress)

37. Plaintiff realleges and incorporates herein all of the common allegations.

38. Defendants' conduct transcends all bounds of decency, and is utterly intolerable in a civilized society.

39. Defendants' actions were intentional, malicious and have caused Plaintiff to suffer monetary damages, humiliation, disgrace, embarrassment, anxiety, shame, stress, and enormous pain, suffering and emotional distress.

WHEREFORE, Plaintiff demands judgment against Defendants for intentional infliction of emotional distress, together with all other and further relief as is appropriate.

COUNT V
(Negligent Infliction of Emotional Distress)

40. Plaintiff realleges and incorporates herein all of the common allegations.

41. Defendants' actions were undertaken with negligent and careless disregard for the harm their actions would cause to Plaintiff.

42. Defendants' actions transcend all bounds of decency and acceptable conduct in a civilized society, and are utterly intolerable.

43. Defendants' actions have caused Plaintiff to suffer monetary damages, humiliation, disgrace, embarrassment, anxiety, shame, stress, and enormous pain, suffering and emotional distress.

WHEREFORE, Plaintiff demands judgment against Defendants for negligent infliction of emotional distress, together with all other and further relief as is appropriate.

COUNT VI
(Tortious Interference)

44. Plaintiff realleges and incorporates herein all of the common allegations.

45. Plaintiff enjoyed advantageous business relationships with entities which compensated Plaintiff for promoting their brand and products through Plaintiff's appearance and endorsements.

46. Defendants' actions were intended to and have caused one or more of Plaintiff's valued, important and long-standing relationships to be terminated due to the appearance of the illegally-obtained photographs of Plaintiff being displayed on the worldwide web.

47. As the direct and proximate result of foregoing, Plaintiff has been damaged.

WHEREFORE, Plaintiff demands judgment against Defendants for tortious interference, together with all other and further relief as is appropriate.

COUNT VII
(Misappropriation of Image)

48. Plaintiff realleges and incorporates herein all of the common allegations.

49. This is an action for damages pursuant to Florida Statutes § 540.08.

50. Defendants have misappropriated and impermissibly used Plaintiff's image for commercial and other purposes, including the promotion of the website operated by certain of the Defendants.

51. Plaintiff has been damaged as a result of Defendants' misuse of Plaintiff's image.

WHEREFORE, Plaintiff demands judgment against Defendants for damages, together with all other and further relief as is appropriate.

DATED: August 28, 2008.

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