

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA  
CIVIL DIVISION**

**SHANNON L. BILOTTA,**  
**Plaintiff,**

vs.

**Case No.: 13-CA-011264  
Division: F**

**CITIZENS INFORMATION ASSOCIATES, LLC;  
ARTHUR D' ANTONIO III; MUGLY MEDIA, INC.;;  
KYLE PRALL; RYAN RUSSELL;  
STAR NINE VENTURES, INC.; MAURICIO VILLASUSO;  
VIRTUAL POST SOLUTIONS, INC.; WHOS ARRESTED LLC;  
CRAIG WIGGEN,**  
**Defendants.**

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**ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

**THIS CAUSE** came on for hearing on August 25 2015, upon the Motion for Summary Judgment filed by the Defendants, Citizens Information Associates, LLC ("CIA"), Kyle Prall, Justmugshots.com, Inc. and Arthur D'Antonio, Ill's, (collectively the "Defendants"). The court, having considered the motion, the response, the summary judgment evidence, including affidavits, exhibits, discovery responses, documentary evidence, pleadings, and the argument of counsel, finds and rules as follows.

**I. UNDISPUTED FACTS**

1.1 CIA is a Texas limited liability company and Justmugshots.com, Inc. is an unrelated company, both of which are in the business of placing crime and arrest data on internet websites.

1.2 CIA owns, operates, and controls all of the content that appears on two websites: bustedmugshots.com and mugshotsonline.com. Mr. Prall is a member and equity holder of CIA and runs its day-to-day operations.

1.3 Justmugshots.com owns, operates, and controls all of the content that appears on justmugshots.com. Mr. D'Antonio is the Owner and chief executive officer for Justmugshots.com.

1.4 Bustedmugshots.com, mugshotsonline.com, and justmugshots.com (collectively, the "Websites"), which are owned, operated, or controlled by Defendants, publish the names, photographs ("mug shots"), alleged violations, arrest location, and arrest date of individuals that have been arrested by law enforcement agencies in Florida.

1.5 Defendants obtain mug shots and other identifying information by downloading them from the websites of law enforcement agencies around Florida and then upload and post or "republish" the mug shots and arrest information on the Websites.

1.6 On June 3, 2013, the Pinellas County Sheriff's Office arrested Plaintiff. As part of her arrest, Plaintiff's booking photograph was taken. That photo and the details of her arrest were posted by the Pinellas County Sheriff's Office on its website. Thereafter, the Defendants posted Plaintiff's name, mug shot, and other personal information on the Websites without her consent.

1.7 Each website posting provides the same information about Plaintiff: her booking photograph, name, location, age, booking date and booking charges. Above each booking photograph is an advertisement from InstantCheckmate.com, a third-party vendor offering database services of its own for public records. On mugshotsonline.com's search page an advertisement appears with Plaintiff's name and photo. The advertisement is on the bottom and right of the page and offers to "save up to 25%" for a third-party vendor in what appears to be a Christmas promotion.

1.8 The option to remove the posted arrest record appears under the booking photograph on each page and permits a user to either submit documents to qualify for a free removal or to pay a fee to remove the record. CIA has since amended its policy, and no longer charges a fee for any removal, and only allows removal of records sealed, expunged or those of the deceased. Plaintiff never paid CIA to remove the posting.

1.9 The posting on the website of justmugshots.com is substantially similar. The Plaintiff is pictured along with the facts specific to her arrest as published by Pinellas County. Justmugshots.com also utilizes third-party advertising, allows free removals in the event the arrestee was exonerated and previously offered a fee-based removal service (now no longer available) for arrestees not exonerated.

1.10 Bustedmugshots.com, mugshotsonline.com, charged users a monthly access fee and had various banner advertising.

## II. ANALYSIS

2.1 The Defendants did not use Plaintiff's image to "directly promote" a product or service and therefore was not used for a "commercial purpose" as proscribed by Florida Statutes § 540.08 and its common law equivalent. *See Tyne v. Time Warner Entm't Co., L.P.*, 901 So.2d 802, 808 (Fla. 2005).

2.2 The Plaintiff's likeness and persona has no commercial value. Accordingly, Defendants' use cannot misappropriate any commercial value of Plaintiff's identity, because there is none.

2.3 Defendants' republishing the information about Plaintiff's arrest and having advertising on the website does not constitute the direct promotion needed to support Plaintiff's claim. Section 540.08 "is designed to prevent the unauthorized use of a name to directly promote the product or service of the publisher." *Tyne*, 901 So.2d at 806. Revenue generated due to third-party advertising is not a "commercial purpose."

2.4 Defendants' posting of mug shots and arrest records on their websites serves a "legitimate public interest" and is exempt from §540.08, Fla. Stat. §540.08(4)(a).

2.5 Each Defendant is a "media defendant" and entitled to the media notice protections of Florida Statutes § 770.01, because "arrest information is historically considered 'news' and is routinely published in newspapers and other periodicals." The publication of arrest records is a "legitimate public interest" and are of concern to the public. *Cox Broad. Corp. v. Cohn*, 420 US 469, 493 (1975).

2.6 Defendants' publications do not violate Florida's Deceptive and Unfair Trade Practices Act. Plaintiff's FDUTPA claim is merely a repackaged version of her right of publicity claim with §540.08 serving as the predicate violation. Since alleged violations of §540.08 form the basis for her FDUTPA claim, such claim fails for the reasons discussed in Part B, above.

2.7 FDUTPA broadly prohibits any unfair or deceptive acts or practices committed in the conduct of any trade or commerce. Fla. Stat. § 501.204(1). In order to state a claim for injunctive relief under the FDUTPA, a plaintiff must prove that (1) the defendant engaged in a deceptive act or practice in trade or commerce, and (2) the plaintiff was aggrieved by the deceptive act or practice. *Klinger v. Weekly World News, Inc.*, 747 F. Supp. 1477, 1480 (S.D. Fla. 1990); *see Collins v. DaimlerChrysler Corp.*, 894 So.2d 988, 989 (Fla. 5th DCA 2004).

2.8 The images and information posted on the Defendants' Websites were not "deceptive" or "unfair." The logos and other wording included on the Defendants' Websites would not deceive consumers about the information contained on the Websites

2.9 The Plaintiff is not "aggrieved" by the Defendants' Websites as that term is defined in Fla. Stat. § 501.204 and interpreted by the courts, as the Plaintiff has no "legitimate business enterprise" to protect. *See, e.g., Big Tomato v. Tasty Concepts, Inc.*, 972 F.Supp. 662, 664 (S.D. Fla. 1997); *Am. Pest Corps., Inc. v. Barco Chem. Div., Inc.*, 317 So.2d 789, 790 (Fla. 4th DCA 1975).

2.10 There has been no showing by the Plaintiff that Defendants' Websites lead to confusion among the consuming public.

### III. DECISION AND ORDER

Based on the foregoing, it is,

**ADJUDGED** that the Defendants' Motion for Summary Judgment is **GRANTED** against Plaintiff on all issues presented in the Motion.

**ORDERED** in Tampa, Hillsborough County, Florida this 2 day of February, 2016

Electronically Conformed 2/2/2016

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RICHARD A. NIELSEN  
Circuit Court Judge

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