

SUPREME COURT OF NEW YORK
COUNTY OF NEW YORK

----- X

MADONNA CICCONE, <i>in both her individual capacity and as Trustee of the CICCONE 1989 TRUST,</i>	:	Index. No:
	:	
	:	AFFIRMATION OF MADONNA CICCONE
	:	
Plaintiff,	:	
	:	
-against-	:	
	:	
GOTTA HAVE IT! COLLECTIBLES, INC. d/b/a	:	
GOTTA HAVE ROCK AND ROLL LLC, PETE	:	
SIEGEL, DARLENE LUTZ, JOHN DOES #1-200	:	
(a fictitious name),	:	
	:	
	:	
Defendants.	:	

----- X

MADONNA CICCONE, being physically located in London, England at the time of execution, hereby affirms the following to be true under penalty of perjury:

1. I am the Plaintiff in the above action. I am the songwriter, recording and performing artist, actress and philanthropist known professionally as “Madonna.”

2. I am also the trustee of the Ciccone 1989 Trust, to which I transferred all right, title and interest to all of my personal belongings, which includes the items further defined at paragraph 4 below as the “Madonna Memorabilia.”

3. I submit this Affirmation in support of my motion for provisional relief to enjoin, prohibit and restrain Defendants Gotta Have It! Collectibles, Inc. *d/b/a* Gotta Have Rock and Roll LLC, Pete Siegel (collectively, “GHRR”) and Darlene Lutz from (a) auctioning, selling, gifting, transferring or otherwise disposing of, damaging or destroying any of the Madonna memorabilia currently identified as Lots #9, 10, 13, 14, 33, 37, 62, 65, 66, 78, 109-119, and 128 in the auction titled “The Rock & Roll Pop Culture Auction July 2017” (the “Auction”), previewing online at <http://www.gottahaverockandroll.com/catalog.aspx> (the “Auction Website”) and as more specifically set forth in Exhibits 3 through 14 to this affirmation; and (b) participating, facilitating, or otherwise engaging in the public or private display of the Madonna

memorabilia currently identified as Lots #9, 10, 13, 14, 33, 65, 66, 78, and 128 in the Auction (see Exhibits 3-7, 10-12 and 14 hereto).

4. Although I would be well within my rights to do so, I am not at this time seeking to enjoin the sale or display of all of the 128 items of Madonna memorabilia currently previewing for Auction on the Auction Website (collectively and individually, the “Madonna Memorabilia”). Attached as Exhibit 1 hereto is a true and correct printout from the Auction Website reflecting the Madonna Memorabilia. However, if the Auction of those items proceeds, I intend to pursue claims for an accounting and to recover against Defendants the proceeds from the sale of the Madonna Memorabilia.

THE MADONNA MEMORABILIA WAS NEVER SOLD, GIFTED OR TRANSFERRED TO DEFENDANT LUTZ BY ME OR BY ANYONE WITH AUTHORITY TO TRANSFER OWNERSHIP, POSSESSION OR CONTROL TO ANYONE ELSE

5. On or about July 8, 2017, I became aware through media reports that there was a planned auction of extremely personal, private correspondence I received from a former boyfriend, the late recording artist and actor Tupac Shakur (the “Shakur Letter”).

6. I was shocked to learn of the planned auctioning of the Shakur Letter, as I had no idea that the Shakur Letter was no longer in my possession. I have never sold, gifted, transferred or otherwise disposed of the Shakur Letter, or granted anyone else the authority to do so.

7. Shortly thereafter, I became aware that a number of my belongings, some of which are intensely personal, were slated to be auctioned for sale and that all or nearly all of those items had been consigned to the auctioneer by Defendant Darlene Lutz.

8. Of the 128 lots previewing for the Auction, 118 lots explicitly state in the lot descriptions that the items were consigned for auction by Defendant Lutz. Attached as Exhibit 2 hereto is a true and correct printout from the Auction Website of a search of Lot descriptions for “Lutz.”

9. Defendant Lutz is a former friend, who also provided services to me as an art consultant. She is someone who I have welcomed into my homes, including as a frequent

overnight guest (including when I was not in residence), and she even assisted me with the packing up of my former home in Miami (as well as packing up some of the rooms in my former apartment in New York). I believe that the Madonna Memorabilia consigned for Auction include a number of items of my personal property that I possessed at the time I owned my home in Miami, and Defendant Lutz would have had unrestricted access to these items on numerous occasions.

10. However, I have never sold, gifted, or transferred title to or a possessory interest in, or the authority to transfer ownership, possession or control of any of the Madonna Memorabilia to Defendant Lutz or to anyone else. Although I do not know specifically how Defendant Lutz came to hold the Madonna Memorabilia, it seems obvious that Defendant Lutz betrayed my trust in an outrageous effort to obtain my possessions without my knowledge or consent and now attempts to profit by auctioning off my personal belongings and private communications to the general public in complete disregard of my rights, especially my right to privacy.

MANY OF THE CONSIGNED ITEMS CONTAIN EXTREMELY PRIVATE AND PERSONALLY SENSITIVE INFORMATION

11. The Madonna Memorabilia previewing for Auction contains a number of extremely private and personally sensitive belongings.

12. The fact that I may have attained celebrity status as a result of success in my career does not obviate my right to maintain my privacy, including with regard to highly personal items. It is beyond the bounds of decency for third parties to take my belongings without my knowledge or consent and purport to transfer them at a high price to members of the general public.

13. In particular, I request that the Court stop the auctioning of twenty-two specific items of Madonna Memorabilia, in particular Lots #9, 10, 13, 14, 33, 37, 62, 65, 66, 78, 109-119, and 128, which include private communications, my underwear, an old checkbook, a hairbrush with my hair in it, personal photographs, and cassette tapes of unreleased sound recordings.

Attached as Exhibits 3 through 14 hereto are true and correct printouts from the Auction Website reflecting the descriptions of these Lots.

14. These items include at least three intimate love letters with former boyfriends, the previously referenced Shakur Letter, a letter to John Enos and a letter to Peter Shue. *See* Exhibits 3, 4 and 14 hereto. The Shakur Letter is previewing for a minimum bid of \$100,000 and the auctioneer expects its sale to fetch a price of \$300,000 to \$400,000. *See* Exhibit 14.

15. Lot #10, the intimate note addressed to Peter Shue, also contains a pair of my previously worn underwear. *See* Exhibit 4 hereto. This lot is previewing for a minimum bid of \$5,000 and the auctioneer expects its sale to fetch a price of \$10,000 to \$20,000. *Id.*

16. The memorabilia also includes personal communications with my brother and other acquaintances, including television personality Rosie O'Donnell. *See* Exhibits 5-7 and 12.

17. I believe that the letters authored by me were drafts of letters, not ultimately sent to the addressed recipients, and that Defendant Lutz would have been able to take possession of these letters because of her access to my residences and their contents.

18. Although I believe the subject account is now closed, I also would ask that the Court enjoin the sale of my personal checkbook. *See* Exhibit 8. Use of checks with my personal name on them could be used by someone to create mischief or commit forgery or identity theft.

19. Also among the items for sale is a hairbrush with my hair in it. *See* Exhibit 9 hereto. I understand that my DNA could be extracted from a piece of my hair. It is outrageous and grossly offensive that my DNA could be auctioned for sale to the general public.

20. GHRR and Defendant Lutz are also seeking to sell private photographs of my Miami home and taken at a bachelorette party. *See* Exhibits 10-11. None of these photographs were meant for public display or consumption. These are my personal mementos, and I am entitled to them.

21. I would also ask that the Court enjoin the sale of the cassette tapes of unreleased recordings. *See* Exhibit 13 hereto. Although I personally own the cassette tapes, Warner Bros. Records would likely own the copyright in the recordings embodied on the cassette tapes.

Allowing the tapes to be sold could result in their unauthorized exploitation which would not only irreparably damage me, but also violate the exclusive copyrights owned by Warner Bros. Records and my publisher, Warner/Chappell Music, in and to the sound recordings and musical compositions embodied on those tapes.

22. In addition to stopping the sale of these specific items of Madonna Memorabilia, I also request that the Court require GHRR to remove nine items from their website pending resolution of this case. Mere display of several of these items invades my privacy and offends common decency. Specifically, I request that the Court stop the display of my private communications (including love letters), my underwear, and my personal photographs, in particular Lots #9, 10, 13, 14, 33, 65, 66, 78 and 128. *See* Exhibits 3-7, 10-12 and 14 hereto.

THE REQUESTED RELIEF SHOULD BE GRANTED

23. There is no legal or equitable basis upon which Defendant Lutz, GHRR or anyone else could legitimately make a claim of ownership or any rights to any of the Madonna Memorabilia or the contents thereof.

24. Through my attorneys, I have demanded that GHRR and Defendant Lutz return the Madonna Memorabilia to me immediately. They have declined to do so. Alternatively, through my attorneys, I have demanded that GHRR and Defendant Lutz agree to suspend the auction of the Madonna Memorabilia until the final determination of this lawsuit. They have not agreed. Accordingly, it is necessary for me to burden the Court with this motion for expedited relief.

25. It is outrageous that GHRR and Defendant Lutz would not at least temporarily suspend the auction to provide an opportunity for this Court to determine the parties' rights which are obviously in dispute. One would have expected that any legitimate seller or auction house would, under the circumstances, want to ensure that title or other rights in or to the Madonna Memorabilia were vested in Defendant Lutz before selling them to a buyer at auction or otherwise.

26. Permitting the Auction or any of the acts which I seek to enjoin before the final disposition of this matter would cause me irreparable harm for which monetary damages would clearly not be adequate to redress the harm caused to me.

27. On the other hand, it is inconceivable that the Defendants would or could suffer any damage from the temporary suspension of the Auction while this court determines the parties' rights.

28. Furthermore, I will work to make myself available to participate in expedited pre-trial discovery in this case so that the court can adjudicate this dispute expeditiously.

29. Because any asserted harm to me would far outweigh the irreparable harm that GHRR and Defendant Lutz would suffer if the relief requested here were to be denied, and in light of my willingness to proceed with pre-trial discovery on an expedited basis, I respectfully request that the court grant my motion in all respects.

I affirm this 18th day of July, 2017, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that I am physically located outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.


MADONNA CICCONE