

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

KRISTEN CREIGHTON,

Plaintiff,

v.

**HOOMAN KARAMIAN a/k/a
NIK RICHIE,
ARI GOLDEN and
DIRTY WORLD, LLC d/b/a
THEDIRTY.COM,**

Defendants.

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CIVIL ACTION NO.

JURY

**PLAINTIFF'S ORIGINAL COMPLAINT
& APPLICATION FOR INJUNCTIVE RELIEF**

TO THE HONORABLE JUDGE OF SAID COURT:

Kristen Creighton (hereinafter "Plaintiff" or "Creighton") files this Original Complaint & Application for Injunctive Relief against Defendants **Hooman Karamian a/k/a Nik Richie** (hereinafter "Richie"), **Ari Golden** (hereinafter "Golden") and **Dirty World, LLC d/b/a thedirty.com** (hereinafter "Dirty World") to recover legal and equitable relief for Defendants' violation of Plaintiff's right of privacy and Defendants' intentional infliction of emotional distress upon Plaintiff.

**A.
PARTIES**

1. Plaintiff, Kristen Creighton, an individual, is a resident of La Porte, Texas.
2. Defendant, Dirty World, LLC ("Dirty World"), is a corporation that is incorporated under

the laws of the State of Delaware. Dirty World has its principal place of business in Arizona. Dirty World may be served with process by serving its registered agent, Corporate Creations Network, Inc., 3411 Silverside Road, Rodney Building #104, Wilmington , Delaware 19810.

3. Defendant, Nik Richie, an individual and a citizen of the State of Arizona, may be served wherever he can be found.

4. Defendant, Ari Golden, an individual and a citizen of the State of Arizona, may be served wherever he can be found.

B.
JURISDICTION & VENUE

5. The Court has subject matter jurisdiction over the claims brought herein under 28 U.S.C. § 1332 because the parties are residents of different states, and Plaintiff seeks damages of more than \$75,000.

6. The Court has personal jurisdiction over Defendants because they have maintained minimum contacts with the State of Texas sufficient to subject them to personal jurisdiction consistent with due process under the Fourteenth Amendment to the United States Constitution. Defendants have purposefully availed themselves of the benefits and protections of Texas by establishing minimum contacts with Texas and the exercise of jurisdiction over Defendants does not offend traditional notions of fair play and substantial justice. Furthermore, as detailed more fully below, Plaintiff's causes of action for invasion of privacy and intentional infliction of emotional distress arise out of, and are directly related to, Defendants' contacts with Texas via their Internet website, thedirty.com, rendering specific jurisdiction appropriate. Dirty World is the proprietor of thedirty.com and Richie and Golden are responsible for the content which appears on thedirty.com.

Merchandise is routinely sold via thedirty.com in Texas, and Houston and Dallas are listed as two of the “top cities” for thedirty.com. Giving rise to this complaint, Defendants specifically targeted Plaintiff, who was well known to Defendants as a citizen of the State of Texas, so as to expose her private information to as large an audience as possible both in Texas and beyond and to inflict as much emotional distress as possible.

7. Venue is proper in the Houston Division of the Southern District of Texas under 28 U.S.C. § 1391(a)(2) because all or a part of the events giving rise to the cause of action asserted herein took place in the Houston Division of the Southern District of Texas, because the claims asserted herein arise through Defendants’ unlawful invasion of Plaintiff’s privacy and infliction of emotional distress upon Plaintiff while Plaintiff was residing in the Houston Division of the Southern District of Texas.

C.
BACKGROUND FACTS

8. Dirty World, Richie and Golden own and operate a website, thedirty.com. It was originated by Richie in 2007, who bills himself on the website as “the world’s first ever reality blogger.” Those visiting thedirty.com website are presented with several options: they can purchase tee-shirts and other merchandise, read numerous advertisements or look at hundreds of different pictures and comments about people from different parts of the country.

9. There are hundreds of different pictures and comments, also referred to as “posts” or “dirt,” on thedirty.com because that is the main attraction the website has to offer. Everyone visiting thedirty.com is invited to “submit dirt” merely by clicking on the “submit dirt” link and filling out a brief online form. One can also submit pictures and provide comments about those pictures.

10. The online form provided by thedirty.com has several boxes that must be filled in by the person submitting the “dirt” such as “Your Post Title,” “Your Name,” “Phone Number,” and “email address.” There are categories created by thedirty.com that the individual submitting the dirt can select for his or her post such as “Freddy Fags,” “Greeks,” and “Horses.” An individual submitting “dirt” can also select one of the cities or colleges listed by thedirty.com and there is a “Hot Tip” box that provides space to “tell us what’s happening.”

11. Based on information and belief, thedirty.com has become a very popular website over the years and attracts thousands of visitors. It has even developed its own long list of frequently used terms. Visitors are provided the meanings of those terms so they can understand “the dirt.” The definitions of hundreds of terms can be found under the “WTF Dictionary.” For example, these are a few of the terms and their definitions as they appear on thedirty.com:

“Egg Roll(s): fat Asians

Afro-Brow: hairy eyebrows

Bissues: b*tch with issues

Dirty Army: the group of people who are fans of thedirty.com

Aquafags: underwater fags

Douchetard: douche + retard

Would You?: means “would you screw this chick?”

12. In 2007, Plaintiff was diagnosed with genital herpes, a sexually transmitted disease caused by herpes simplex virus type 2, characterized primarily by transient blisters on and around the genitals. She went to great lengths to protect her privacy, disclosing her medical condition only to members of her immediate family and to the individual from whom she contracted the disease.

13. On May 10, 2010, Defendants posted the following in bright, larger than usual letters on thedirty.com: **“KRISTEN CREIGHTON HAS HERPES.”** That was accompanied by images of court documents and photographs of Plaintiff. Underneath, Richie wrote the following:

“Rarely do I get an opportunity in my life to prove myself and show that I am as great as you think I am. There is a girl by the name of Kristen Creighton from Houston Texas who has chosen to extort me. I am proud to say that she is my Mona Lisa. I put up a post of her in Houston in which one of her friends outed Kristen Creighton for having HERPES. Kristen Creighton asked me to remove the post and like a true gentleman I did out of the kindness of my heart. Kristen Creighton decided to get a STD test and found out that the post about her was true. Kristen Creighton has HERPES. Now devastated Kristen Creighton decided to blame Nik Richie and sued me for her unprotected sex life. The funny thing is there was a court date in Texas which I was never told about. Not knowing about the case I didn’t show up and she won because the case was uncontested. My lawyers inform me that if we showed up we would have won like we have every other time. Kristen Creighton you are about to become very famous and in a weird kinda way. I am going to make you the face of HERPES in America. DIRTY ARMY, do what you feel is right in your heart... I don’t know? Maybe dirt on every friend, family member or Herpes infested lover Kristen Creighton has ever had? This is going to be fun... Congratulations Kristen Creighton, you are about to become the most famous person with HERPES who ever lived!”

A copy of the entire post is attached as Exhibit A.

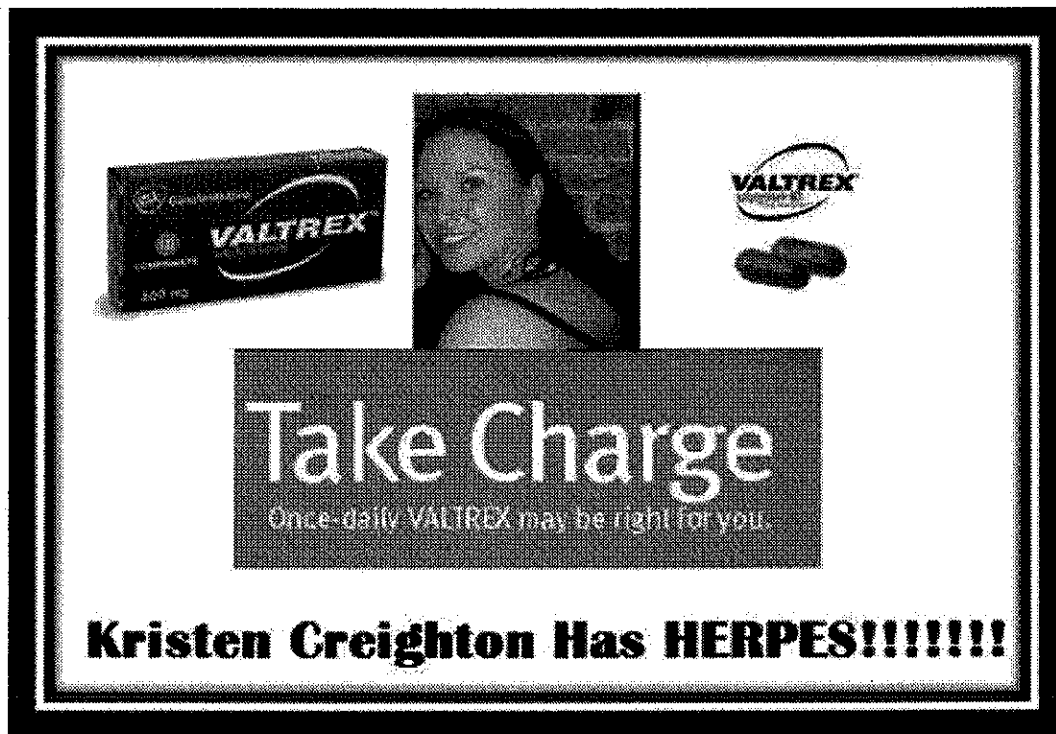
14. The truth is that Defendants Richie and Dirty World did know about the lawsuit that was filed in the 334th State District Court of Harris County, Texas in 2009. Both Defendants were properly served and chose not to file an answer. A default judgment was entered against Defendants Richie and Dirty World on October 19, 2009 by The Honorable Sharon McCally. A copy of the judgment is attached as Exhibit B. The judgment was domesticated in Arizona and a judgment debtor exam was scheduled for May 14, 2010 in Arizona.

15. Shocked and deeply anguished after seeing the posting about her on May 10, 2010, Plaintiff contacted her attorney, Chris Bell. Bell emailed an attorney for Defendants, David Gingras, informed him that posting such material was not an intelligent way for his clients to proceed and that

if it continued, further legal action would be taken. Gingras responded that his clients intended to keep postings about Plaintiff on page one of the website permanently. A copy of the e-mail exchange is attached as Exhibit C.

16. Later on May 10, 2010, Defendants posted the following:

“I have my agent Ari Golden calling Valtrex as we speak to see if we can get Kristen Creighton a commercial. The only problem is that we don’t think she can fit in one of those kayaks they always show on TV.- nik”



****This advert was created by one of our fine members in the DIRTY ARMY.**

A copy of this entire post is attached as Exhibit D. Valtrex is the drug commonly prescribed for those inflicted with herpes. On May 11, 2010 and May 12, 2010, there were additional postings on thedirty.com stating that Plaintiff has herpes and they likely (based on the representations of both Defendants and their counsel) continue to this day.

D.
CAUSES OF ACTION

COUNT 1

Invasion of Privacy/Public Disclosure of Private Facts

17. Plaintiff incorporates paragraphs 1 through 16 by reference as if fully set forth herein.

18. Defendants publicized information about Plaintiff's private life. As detailed above, Defendants disclosed Plaintiff's medical condition in a cruel attempt to make her the "face of herpes in America."

19. The publicity of Plaintiff's private information regarding herpes is highly offensive to a reasonable person.

20. The information publicized was not of legitimate public concern. In fact, there was absolutely no justification or excuse whatsoever for posting the information, much less a legitimate public concern. The only reason behind the posts was to harm Plaintiff and to encourage others to harm Plaintiff.

21. Plaintiff has suffered extreme mental anguish in the past and is likely to suffer extreme mental anguish in the future as a result of Defendants' wrongful acts, causing an inability to focus at work, loss of sleep, tearful emotional breakdowns, anxiety, depression, embarrassment, shame, humiliation and paranoia. She has received hundreds of harassing email messages and there have been hundreds of public comments posted about her on thedirty.com.

COUNT 2

Intentional Infliction of Emotional Distress

22. Plaintiff incorporates paragraphs 1 through 16 by reference as if fully set forth herein.

23. Defendants' conduct in posting the information detailed above was intentional. Defendants either knew or had reason to know that if they posted the information regarding Plaintiff, it was going to create a high degree of risk of harm to Plaintiff but deliberately proceeded to post the information in conscious disregard or with indifference to that risk. The primary risk created by Defendants' conduct was emotional distress and that is precisely what occurred.

24. Defendants' conduct was extreme and outrageous. Knowing that no individual would want such postings in a public forum and with full knowledge of the harm likely to occur, Defendants went forward with publication on thedirty.com and refused to remove the harmful information even after reasonable requests were made to do so. Defendants' conduct was absolutely atrocious and went far outside the bounds of decency. Based on their own writings, it is clearly Defendants' intent to do as much emotional damage to Plaintiff as is humanly possible.

25. Defendants' conduct proximately caused severe emotional distress to Plaintiff. Plaintiff has experienced painful emotional and mental reactions. She has experienced an inability to focus at work, loss of sleep, tearful emotional breakdowns, anxiety, depression, embarrassment, shame, humiliation and paranoia. This has led to a huge loss of self esteem and constant worry for Plaintiff. The distress is continual because Defendants have vowed to keep posting harmful information about Plaintiff permanently.

E.
RELIEF SOUGHT

Request for Preliminary Injunction

26. Plaintiff will suffer irreparable injury if Defendants are not enjoined while this suit is

pending from continuing to post damaging and humiliating information regarding Plaintiff and Plaintiff's diagnosed medical condition of herpes. While the severe damage that has already been done cannot be undone, it can be stopped at this point and Defendants can be prevented from carrying out their stated plan to make Plaintiff "the face of herpes in America" and from permanently displaying Plaintiff's medical condition and other damaging information on page one of their website. With every day that passes, more people visiting thedirty.com website learn about Plaintiff's medical condition and the damage is exacerbated.

27. There is no adequate remedy at law because the legal remedy is merely illusory; while Defendants will likely be forced to pay money damages in the future, no amount of money could ever undo the mental anguish being caused by Defendants' repeated abuse of her and constant efforts to expose her private medical information.

28. There is a substantial likelihood that Plaintiff will prevail on the merits because in order to prove public disclosure of private facts, Plaintiff must show that Defendants publicized information about Plaintiff's private life; the publicity would be highly offensive to a reasonable person; the matter publicized is not legitimate public concern; and Plaintiff suffered an injury as a result of the Defendants' disclosure. *Star-Telegram, Inc. v. Doe*, 915 S.W.2d 471, 473-74 (Tex. 1995), *K-Mart v. Trotti*, 677 S.W.2d 632, 638 (Tex. App. – Houston [1st Dist.] 1984, *writ ref'd n.r.e.*). In the present case, there is absolutely no doubt that Defendants have publicized and continue to publicize information about Plaintiff's private life. Since herpes is an extremely personal sexually transmitted disease that is likely to cause people to look down upon one who contracts it, there is likewise no doubt that this type of publicity would be found to be highly offensive to a reasonable person. There is no legitimate public concern involved in this matter; Plaintiff is not a public figure; she is a private

citizen who has done her best to mind her own business and there is no public interest whatsoever in publicizing her medical condition. Lastly, as detailed more fully above, Plaintiff has suffered severe mental anguish as a result of Defendants' actions. Since she can prove all of the elements required for public disclosure of private facts, there is a substantial likelihood that Plaintiff will prevail on Count 1.

29. If it is found that public disclosure of private facts does not provide an adequate remedy for the severe emotional distress caused Plaintiff by Defendants' conduct, there is certainly a substantial likelihood she would then prevail on Count 2, intentional infliction of emotional distress. Plaintiff would be required to prove that she is a person, which is not in question, and that Defendants acted intentionally, which is likewise not in question since Defendants have stated their intent to harm Plaintiff on their website. Plaintiff would also have to show that her emotional distress has been severe, as detailed above, and that Defendants' conduct has been extreme and outrageous. It is hard to imagine what could be more extreme and outrageous than using one's website to target a private citizen and publicize her private medical information over and over again in an effort to make her "the face of herpes in America." Plaintiff would also have to show that Defendants' conduct proximately caused her emotional distress and that should not be difficult since this is the only source of severe emotional distress in her life at this time. *Kroger Tex. L.P. v. Suberu*, 216 S.W.3d 788, 796 (Tex. 2006). Therefore, a substantial likelihood exists that Plaintiff will prevail on Count 2.

30. Based on statements by their counsel and statements which have appeared on their website, Defendants appear to be operating under the mistaken belief that because Plaintiff was courageous enough to stand up to their cyber-bullying before when Defendants publicized her private medical condition and filed an action in Texas State District Court, that now allows them to repeatedly

publish the same information without consequence. However, “the Uniform Single Publication Act provides that no person shall have more than one cause of action for damages for libel or slander or invasion of privacy or any other tort founded upon any single publication or exhibition or utterance, such as any one edition or issue of a newspaper or book or magazine. **It does not limit a Plaintiff to a single cause of action in the event the same information appears in separate printings of the same publication or in different publications.**” *Holloway v. Butler, et al.*, 662 S.W.2d 688 (Tex. App. – Houston [14th Dist.] 1983, *writ ref’d n.r.e.*), *emphasis added*. Therefore, any argument that the causes of action pleaded herein are somehow barred is likely to fail.

31. The harm faced by Plaintiff clearly outweighs the harm that would be sustained by Defendants if the preliminary injunction were granted and issuance of a preliminary injunction would not adversely affect the public interest. In fact, the only way that Defendants could possibly be harmed more than Plaintiff is if there were some public interest in what they are publishing regarding Plaintiff. However, as made clear above, Plaintiff is a private citizen, not a public official or public figure, and it is not Defendants’ intent to enlighten or inform but rather to embarrass and humiliate Plaintiff as much as possible and to completely abuse her right of privacy.

32. In 1973, the Supreme Court of Texas followed the practice of most other American jurisdictions and recognized a legally enforceable right of privacy. *Mabe v. Galveston*, 687 S.W.2d 769 (Tex. App. – Houston [1st Dist] 1985). In *Mabe*, the court was deciding whether to let an injunction stand against the plaintiff preventing him from distributing pamphlets which contained the home telephone numbers of members of the Galveston City Council. The court made clear that an individual’s right of privacy is not unlimited and must sometimes give way to other constitutional mandates such as freedom of speech. *Id.* But in weighing the balance, the court also made clear that

the subject matter of the speech plays a very large role: “This is particularly true where an individual is a public official, and the distributed information bears on some matter of public concern. In such an instance, the interest in privacy is outweighed by the larger, fundamental interest in free discussion and the dissemination of truth.” *Id.* In the present matter, no public officials are involved and the apparent goal of the Defendants is not “free discussion and the dissemination of truth” but extraordinarily hurtful discussion based upon the private and extremely personal information of Plaintiff. It is clear from *Mabe* that the motivation of the publisher can be considered since in deciding not to enjoin, the court states that “the evidence does not suggest that Mabe’s actions were taken solely to harass the public officials...” suggesting that if the actions were taken solely to harass, the decision would have been different. *Id.* In the present case, Defendants’ sole motivation is to harass and humiliate and there is absolutely no public interest served by allowing it to continue.

33. Plaintiff is well aware that prior restraints on freedom of speech have long been disfavored in American law. *Near v. Minnesota*, 283 U.S. 697 (1931). Plaintiff is also aware that because of the presumption against constitutionality, the party seeking to justify a prior restraint on speech carries a heavy burden of justification. *Organization for a Better Austin v. Keefe*, 402 U.S. 415, 419 (1971). Plaintiff can meet the burden.

34. For years now, primarily because the Communications Decency Act said that website operators would not be held liable for content created by third parties, the Internet has become a medium where anything goes. Operating far outside the boundaries of traditional media outlets and without any of the same self-policing standards, websites and blogs have become the outlet where one can say just about anything about anyone else. It wasn’t meant to be this way.

35. “The Communications Decency Act was not meant to create a lawless no-man’s-land on the Internet.” *Fair Housing Council v. Roommate.com, LLC*, 521 F.3d 1157 (9th Cir. 2008).

“The Internet is no longer a fragile new means of communication that could easily be smothered in the cradle by overzealous enforcement of laws and regulations applicable to brick-and-mortar businesses. Rather, it has become a dominant – perhaps the preeminent – means through which commerce is conducted. And its vast reach into the lives of millions is exactly why we must be careful not to exceed the scope of immunity provided by congress and thus give online businesses an unfair advantage over their real-world counterparts, which must comply with laws of general applicability.” *Id.* at 1166.

36. Realizing the vast reach of a website such as thedirty.com and, as the present case demonstrates, its complete unwillingness to police itself or operate within common standards of decency, courts are left with no choice but to fill the void. It must be remembered that protection as to prior restraint is not unlimited. *Near v. Minnesota* at 716. **A person may be prevented from speaking if what he or she will say or the time, place and manner in which he or she will say it will surely result in direct, immediate and irreparable damage.** *New York Times Co. v. United States*, 403 U.S. 713, 730 (1971) *emphasis added*. Plaintiff has demonstrated that the continued publication of her medical condition and Defendants’ unceasing efforts to embarrass and humiliate her in any way possible are causing severe mental damage, causing severe anxiety and leading her toward a complete nervous breakdown. Plaintiff has suffered from depression in the past and is experiencing an onslaught of the same symptoms that led her to seek professional help before. Should Plaintiff have to actually experience such a breakdown before the Defendants will be stopped? We think not. Many of the people commenting on Defendants’ website have stated how wrong they find Richie and have asked how he will feel if Plaintiff commits suicide. It does not appear to bother him or the other Defendants in the least.

37. “Discussing the validity of a judge’s order in a prior restraint case, the Supreme Court of the

United States said, ‘The gravity of the evil, discounted by its improbability, justifies such invasion of free speech as is necessary to avoid the danger.’” *In re I.G. Services Ltd*, 244 B.R. 377 (Bankr. W.D. Tex. 2000). The “gravity of the evil” in the present case cannot be overemphasized. The Defendants have demonstrated that they will stop at nothing; if it will humiliate and damage Plaintiff, they shall post it on their website. It is taking a serious toll on Plaintiff, as it would on any individual. Therefore, Defendants have forfeited their right of free speech and the Court is completely justified in granting injunctive relief.

38. Plaintiff is willing to post a bond in the amount the Court deems appropriate.

39. Plaintiff asks the Court to set her application for preliminary injunction for hearing at the earliest possible time and, after hearing the request, to issue a preliminary injunction against Defendants.

G.

Request for Permanent Injunction

40. Plaintiff asks the Court to set her application for injunctive relief for a full trial on the issues in this application and, after the trial, to issue a permanent injunction against Defendants.

H.

CONCLUSION AND PRAYER

41. Due to Defendants’ wrongful and unlawful acts described herein, Plaintiff seeks the following:

- (a) a temporary restraining order, temporary injunction and permanent injunction as set forth above;
- (b) its actual damages as proven during the trial of this case;
- (c) punitive damages;
- (d) Plaintiff’s necessary and reasonable attorneys’ fees and all costs of Court;

- (e) prejudgment and post-judgment interest as provided for by law; and
- (f) all other relief to which Plaintiff is entitled.

Respectfully submitted,

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