

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STEINBUCH)
)
Plaintiff,)
) CASE No. 01:05-CV-00970 (PLF)
v.)
CUTLER)
)
Defendant.)
)

MOTION FOR PROTECTIVE ORDER

Plaintiff requests that this Court issue a protective order restricting all parties, and their attorneys, from speaking publicly regarding this matter while the case is pending. The purpose of this request is to prevent further injury to the plaintiff.

On April 5, this Court held a hearing and issued its ruling orally, denying the defendant's motion to dismiss. After the hearing, John Umana, lawyer for the defendant, immediately spoke to the press and mischaracterized the ruling of this Court in a manner that is intentionally prejudicial. As such, the defendant's counsel's actions constitute an ethical violation. DC Rules of Professional Conduct 4.1, 3.6.

Immediately after the issuance of this Court's opinion, John Umana was quoted by the press as follows: "Umana said, the judge noted that 'he's the one who identified himself by name in the complaint.'" *For Washingtonienne, A Rendezvous at the Bar*, Washingtonpost.com (April 6, 2006). As this Court is well aware, the Court raised this question, and it was answered in the negative. Even during the hearing, Umana was corrected several times about his repeated attempts to raise this false claim. Umana knows the falsity of his claims that the plaintiff identified himself by

filings this action, when he was actually identified in the defendant's x-rated blog and in many other blogs and mainstream news sources – all well before the filing of this action.

See, e.g., <http://www.calicocat.com/2004/05/jessica-cutler-and-identity-of-her-sex.html>.

The Calicocat entry is dated May 2004 -- when Cutler published her blog. The entry says:

The picture to the left is Robert Steinbuch, who was one of Jessica Cutler's six sex partners. Below is the write-up about him this is the same Robert Steinbuch as the one who now works as a lawyer for the Senate Judiciary Committee ([link](#)) and for Senator Mike DeWine, R-Ohio (who is a member of the Judiciary Committee). Yes, it's the same person. Robert Steinbuch is a pretty unusual name, what's the chance that there are two Robert Steinbuchs, both with the middle initial E, both working in Washington, both from New York, and both living in the same house in Bethesda Maryland (purchased in 1998 for \$283,500)? Not very likely. . . . If Jessica were truly trying to hide the identities of her sex partners, she sure didn't do a very good job of it.

Similarly, one month after Cutler's blog appeared, the Scotsman newspaper printed:

Another of her liaisons, "RS", turned out to be Robert Steinbuch, a lawyer who works for Senator DeWine and is also a part-time ethics instructor. Thanks to Ms Cutler, all of Washington now knows that "he likes spanking". "He's very up-front about sex, he likes talking dirty and stuff," Ms Cutler confided on her website. "He told me that he likes submissive women. Good, now I can take it easy in bed." Ms Cutler got the sack after fellow "blogger" Ana Marie Cox - who maintains a political gossip site under the name of Wonkette - outed her as the woman behind Washingtonienne. The two were later spotted partying together, leading to speculation that the whole thing was a publicity-seeking set-up. If it was, her Hyperion deal is proof that it paid off.

<http://news.scotsman.com/topics.cfm?tid=956&id=795922004>.

In fact, well prior to the filing of this action, performing a Google search for "Robert Steinbuch," produced numerous Internet websites with plaintiff's full name, plaintiff's photograph, and plaintiff's professional biography. And, one can still perform the same search and see the very same results that predate the initiation of this action.

Umana is blaming the victim. A plaintiff filing an action for invasion of privacy is faced with an inherent paradox in trying to enforce his rights, that is, in order to make his claim, he is required to come forward with the very facts that cause him harm. The victim in these types of cases should not be blamed by being forced to come forward with salacious, injuries details that cause him harm.

Umana's purposeful untrue statements to the press did not end there. He also made false claims about this Court's ruling: "After the hearing, Cutler's lawyer, John Umana, said the judge had 'eviscerated' the suit by setting the one-year deadline, which Umana said would put most of the Internet material outside the scope of the case." *Judge Allows Sex Blog Suit to Proceed*, Associated Press (April 6, 2006). However, this Court, *inter alia*, recognized that the "discovery rule" applies in Washington DC and that the defendant could have changed the text of the x-rated blog at any time. Indeed, Umana even tried to challenge this latter conclusion after the court's ruling, and was again rebuffed. This, coupled with the defendant's repeated admissions that the x-rated blog must be read "as a whole in and in context" and the denial of plaintiff's motion, demonstrates that the full contents of the single x-rated blog remain the subject of this action.

The defendant and her attorney use the media to misstate and mischaracterize facts due to the weakness of their own case and continue the harm done to the plaintiff. The press is being used as a weapon to compound the injury to the plaintiff and to try this case in the media instead of in the appropriate forum, this Court. The plaintiff makes this request of the Court in order to assure that this case is tried in the only appropriate forum — the courtroom.

The plaintiff has never sought any media attention regarding this case. As this Court held, the Plaintiff is an ordinary citizen, not a public official. He entered into what he thought was an ordinary relationship. Instead, his private life was given publicity by the defendant's tortuous actions.

The defendant, by contrast, has since the beginning sought the maximum amount of media exposure in order to continue her lucrative deals for books, x-rated magazine pictorials, and television shows. For example, in addition to posing for Playboy, signing a book deal, hiring a media publicist, giving countless interviews, and selling the rights to HBO, the defendant mockingly read the complaint out loud on the radio, not to further any legitimate public purpose but merely to bring scorn upon the plaintiff and media attention upon herself, which the defendant has from the very outset pursued for commercial purposes.

The plaintiff makes this request in order to minimize defendant's counsel's distortion of the truth, the resulting prejudice, and the circus atmosphere that has surrounded this case, given that this Court has found that the intimate sexual detail of the defendant and plaintiff's relationship, as disseminated by the defendant's x-rated blog, serves no legitimate public interest and is not newsworthy. The requested relief is

appropriate here. *See Gentile v. State Bar of Nevada*, 501 U.S. 1030 (1991); *United States v. Cutler*, 58 F.3d 825, 830 (2d Cir. 1995); *United States v. Brown*, 218 F.3d 415 (5th Cir. 2000).

Dated: April 8, 2006

Respectfully Submitted,

/Jonathan Rosen/
Jonathan Rosen (NY0046)
1200 Gulf Blvd., #1506
Clearwater, FL 33767
(908) 759-1116
Attorney for Plaintiff