

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

MELISSA J. BERRY,)
)
 Plaintiff,)
)
 v.)
)
 MARK C. DAWSON,)
)
 Defendant.)
 _____)

CIVIL ACTION NO:

COMPLAINT

The Plaintiff, Melissa J. Berry, by and through her undersigned counsel, hereby sues the Defendant, Mark C. Dawson, and specifies as follows:

The Parties

1. This is an action for damages that exceeds Fifteen Thousand Dollars (\$15,000.00), exclusive of costs and interest.
2. Plaintiff is subject to the jurisdiction and venue of this court and resides in Tampa, Hillsborough County, Florida.
3. Defendant is subject to the jurisdiction and venue of this court, and resides in Tampa, Hillsborough County, Florida.
4. Venue is proper in Hillsborough County pursuant to Florida Statutes Section 78.032 in that this cause of action accrued in Hillsborough County and both Plaintiff and Defendant reside in Hillsborough County.
5. Plaintiff is a twenty-four (24) year old female and currently works as a Tampa, Florida area model and is a member of the Tampa Breeze, Lingerie Football League.
6. Defendant is a forty-five (45) year old male, and according to his web site, www.markdawson.com, is "an expert on leadership, communication, safe dating, healthy relationships, and sexual assault awareness, prevention, and education."

7. Defendant alleges through his web site to have shared the stage with Deepak Chopra, Marcus Buckingham and Dr. James Loehr and for the past six (6) years has been a contract speaker for the Rockhurst University Continuing Education Center. The Defendant claims to devote much of his time speaking to college and high school students about “issues of dating, relationships, consent and sexual assault awareness and education” and knows “what it takes to **go further** than ever before and how to make your positive mark in life.”

8. Defendant guarantees to “leave a lasting impression” and advertises his website as the official website of “healthy dating.”

9. The Defendant’s web site claims “[w]hether in succeeding as an award-winning sales and marketing professional, manager, business leader and entrepreneur (starting three (3) business[sic] of his own) or as an actor, model, TV host, triathlete, adventure racer or marathoner [sic] (completing over two dozen marathons including the prestigious Boston), Mark has sought to stretch himself, seek new challenges, and discovering the **secrets of success**, happiness and fulfillment – **simplify** them, and apply them to his life. [sic].”

10. The Defendant holds himself out as “a **proven leader and influencer**” with a “keen ability to relate to people at all organizational levels, all ages, and all walks of life”. He further claims to be the “**#1 choice** among top achievers, organizations and educators looking for the skills to **perform** more productively and efficiently, **communicate**, **influence** and build **better relationships**, get more **results**, become **leaders** and make **positive changes** in their lives.”

11. The Defendant holds himself out as a “**leading authority** on issues of **healthy dating**, **consent**, **communication** and **sexual assault** awareness, **prevention** and **education**.”

12. The Defendant claims to challenge individuals to “**take control** of, and **responsibility** for, their behaviors...”

The Facts

13. In the fall of 2008, Plaintiff and Defendant became involved in an intimate relationship.

14. During one specific intimate encounter at the Defendant’s residence in the Fall of 2008, the specific date unknown, the Defendant used the camera on his cellular telephone (without flash) to take several intimate, nude photographs of the Plaintiff and her genitalia. These

nude photographs are herein referred to as “the private cell phone photographs.” Specifically, one of the cell phone photographs in particular was taken by the Defendant, unbeknownst to the Plaintiff, while she was engaged in a particularly private, intimate sexual act. This cell phone photograph will herein be referred to as “the private act cell phone photograph.”

15. At no point did the Plaintiff ever agree that said photographs, as described in Paragraph 12 herein, be made public. In fact, Plaintiff was specifically and completely unaware of the existence of the private act cell phone photograph.

16. Not long after the specific intimate encounter described in Paragraph 10, the Plaintiff and Defendant ended their relationship.

17. Shortly after the ending of their relationship in the Fall of 2008, the specific date unknown, the Defendant was at the night club Dolce Vita Lounge, located in Channelside Bay Plaza, Tampa, Hillsborough County, Florida. In Dolce Vita Lounge, the Defendant approached two male individuals, herein Witness A and Witness B, who were friends with the Plaintiff, and without any solicitations or invitations on the part of Witness A or Witness B, the Defendant proceeded to show them the private cell phone photographs including the private act cell phone photograph.

18. The said photographs were stored in the Defendant’s cellular telephone.

19. Witness A and Witness B were shocked at the Defendant’s actions and immediately realized that the Plaintiff would be embarrassed and publicly humiliated to discover that these photographs were being made public by the Defendant.

20. Immediately after being shown the photographs, Witness A and Witness B called the Plaintiff to inform her of what the Defendant had shown them.

21. The Plaintiff was humiliated, horrified, embarrassed and emotionally distraught after hearing that the Defendant was showing the private cell phone photographs to the public and humiliated, horrified, embarrassed and emotionally distraught to learn the existence of and publication to the public of the private act cell phone photograph.

22. Immediately thereafter, the Plaintiff approached the Defendant to obtain possession of the Defendant’s cellular telephone to destroy the cell phone photographs. Her attempt to destroy the private cell phone photographs was an obvious demonstration and act that the private cell phone photographs were meant to remain private and not for public viewing.

23. Of course the Defendant, being a “teacher of consent” and an “expert in effective communication,” instantly recognized that the destroying of his cell phone was a clear, non verbal act of communication that the Plaintiff did not want or consent to the private cell phone photographs being made public.

24. Yet, on November 10, 2008, apparently in an attempt to promote “healthy dating” and demonstrate his expertise as a “builder of better relationships,” the Defendant attempted to extort the Plaintiff by sending an internet message to the Plaintiff’s mother via MySpace.com, specifically stating that if the Plaintiff did not pay him a monetary amount of \$500.00 to replace the Defendant’s cellular telephone, he would publicize the private cell phone photographs.

25. Apparently the Defendant, despite the loss of his cell phone, had fortuitously already downloaded the private act photographs from his cell phone.

26. Of course the Defendant knew that the private cell phone photographs were to remain private and that the Plaintiff would be horrified and humiliated to have them publicly published. Because if the Plaintiff always intended for the photographs to be made public, it would be illogical for the Plaintiff to destroy the cell phone or object to his publicizing what was from their inception intended to be publicized.

27. There is no doubt that the Defendant knew the private cell phone photographs were meant to remain private and that the release of these photographs to the public would humiliate, horrify, embarrass, emotionally destroy, and definitely “leave a lasting impression,” his guarantee, on the Plaintiff.

28. Because the Plaintiff refused to be extorted, on or around November 19, 2008, the Defendant, or his agent acting on his behalf, caused to be published to the public the private cell phone photographs via MySpace.com.

29. After November 19, 2008, because the Plaintiff still refused to be extorted and pay the \$500.00 the Defendant demanded, the Defendant, or his agent acting on his behalf, sent an email to the Plaintiff’s mother again demanding a monetary exchange threatening additional publishing of the private cell phone photographs at a later time.

30. Because the Plaintiff still refused to be extorted and pay the \$500.00 the Defendant demanded, the Defendant communicated via email with the Plaintiff’s mother and attached the private cell phone photographs including the private act cell phone photograph.

31. Later, because the Plaintiff again still refused to be extorted and pay the \$500.00 the Defendant demanded, the Defendant communicated with the Plaintiff's employer to attempt to gain access to the employer's MySpace.com page in attempt to publish the private cell phone photographs and further publicly humiliate, horrify, embarrass, emotionally destroy and/or get the Plaintiff fired from her employment.

32. Plaintiff has, because of the repeated actions of the Defendant, retained the services of the undersigned attorney and Defendant may be obligated to reimburse costs and fees to the extent permitted by law.

THE CLAIMS

COUNT I

Invasion of Privacy – Photograph A

33. Plaintiff re-alleges and incorporates herein by reference, as if fully set forth herein, the allegations contained in Paragraphs 1 through 32 above.

34. Photograph A is one of the private cell phone photographs described in Paragraph 12 and taken by the Defendant of the Plaintiff while the Plaintiff and Defendant were engaged in private sexual relations in the Defendant's home.

35. Photograph A is a photograph that the Defendant knew at the time of taking, and thereafter, was meant to be kept private between the Plaintiff and Defendant and never intended for the public eye, thus the Plaintiff had a right to Photograph A remaining private.

36. The public does not have a legitimate public interest in Photograph A and it is the type of photograph whose disclosure would be highly offensive to a reasonable person.

37. The Defendant, especially because of his occupation and background, knew that the publication or disclosure of Photograph A would cause a reasonable person to be highly offended and made or caused Photograph A to become public nonetheless by: (1) publishing Photograph A to Witness A and/or Witness B as alleged in Paragraph 15; (2) publishing or causing Photograph A, through himself or his agent, onto the World Wide Web via the website MySpace.com., thereby injuring the Plaintiff and proximately causing her to suffer humiliation, embarrassment, and emotional and mental distress.

WHEREFORE, Plaintiff demands a trial by jury and a judgment against the Defendant for an amount within the jurisdictional limits of this Court, to-wit: More than Fifteen Thousand

Dollars (\$15,000.00), plus costs and for such other relief to which the Plaintiff may be justly entitled by law or equity.

COUNT II

Invasion of Privacy – Photograph B

38. Plaintiff re-alleges and incorporates herein by reference, as if fully set forth herein, the allegations contained in Paragraphs 1 through 32 above.

39. Photograph B is one of the private cell phone photographs described in Paragraph 12 and taken by the Defendant of the Plaintiff while the Plaintiff and Defendant were engaged in private sexual relations in the Defendant's home.

40. Photograph B is a photograph that the Defendant knew at the time of taking, and thereafter, was meant to be kept private between the Plaintiff and Defendant and never intended for the public eye, thus the Plaintiff had a right to Photograph B remaining private.

41. The public does not have a legitimate public interest in Photograph B and is the type of photograph whose disclosure would be highly offensive to a reasonable person.

42. The Defendant, especially because of his occupation and background, knew that the publication or disclosure of Photograph B would cause a reasonable person to be highly offended and made or caused Photograph B to become public nonetheless by: (1) publishing Photograph B to Witness A and/or Witness B as alleged in Paragraph 15; (2) publishing or causing Photograph B, through himself or his agent, onto the World Wide Web via the website MySpace.com., thereby injuring the Plaintiff and proximately causing her to suffer humiliation, embarrassment, and emotional and mental distress.

WHEREFORE, Plaintiff demands a trial by jury and a judgment against the Defendant for an amount within the jurisdictional limits of this Court, to-wit: More than Fifteen Thousand Dollars (\$15,000.00), plus costs and for such other relief to which the Plaintiff may be justly entitled by law or equity.

COUNT III

Invasion of Privacy – Photograph C

43. Plaintiff re-alleges and incorporates herein by reference, as if fully set forth herein, the allegations contained in Paragraphs 1 through 32 above.

44. Photograph C is one of the private cell phone photographs described in Paragraph 12 and taken by the Defendant of the Plaintiff while the Plaintiff and Defendant were engaged in private sexual relations in the Defendant's home.

45. Photograph C is a photograph that the Defendant knew at the time of taking, and thereafter, was meant to be kept private between the Plaintiff and Defendant and never intended for the public eye, thus the Plaintiff had a right to Photograph C remaining private.

46. The public does not have a legitimate public interest in Photograph C and is the type of photograph whose disclosure would be highly offensive to a reasonable person.

47. The Defendant, especially because of his occupation and background, knew that the publication or disclosure of Photograph C would cause a reasonable person to be highly offended and made or caused Photograph C to become public nonetheless by: (1) publishing Photograph C to Witness A and/or Witness B as alleged in Paragraph 15; (2) publishing or causing Photograph C, through himself or his agent, onto the World Wide Web via the website MySpace.com., thereby injuring the Plaintiff and proximately causing her to suffer humiliation, embarrassment, and emotional and mental distress.

WHEREFORE, Plaintiff demands a trial by jury and a judgment against the Defendant for an amount within the jurisdictional limits of this Court, to-wit: More than Fifteen Thousand Dollars (\$15,000.00), plus costs and for such other relief to which the Plaintiff may be justly entitled by law or equity.

COUNT IV

Invasion of Privacy – Photograph D

48. Plaintiff re-alleges and incorporates herein by reference, as if fully set forth herein, the allegations contained in Paragraphs 1 through 32 above.

49. Photograph D is one of the private cell phone photographs described in Paragraph 12, specifically the photograph herein referred to as the private act cell phone photograph, and taken by the Defendant of the Plaintiff while the Plaintiff and Defendant were engaged in private sexual relations in the Defendant's home.

50. Photograph D is a photograph that the Plaintiff did not consent to being taken and was a photograph the Defendant knew at the time of taking, and thereafter the Plaintiff would

never consent to being made public and never intend to be published for the public eye, thus the Plaintiff had a right to Photograph D remaining private.

51. The public does not have a legitimate public interest in Photograph D and is the type of photograph whose disclosure would be highly offensive to a reasonable person.

52. The Defendant, especially because of his occupation and background, knew that the publication or disclosure of Photograph D would cause a reasonable person to be highly offended and made or caused Photograph D to become public nonetheless by: (1) publishing Photograph D to Witness A and/or Witness B as alleged in Paragraph 15; (2) publishing or causing Photograph D, through himself or his agent, onto the World Wide Web via the website MySpace.com., thereby injuring the Plaintiff and proximately causing her to suffer humiliation, embarrassment, and emotional and mental distress.

WHEREFORE, Plaintiff demands a trial by jury and a judgment against the Defendant for an amount within the jurisdictional limits of this Court, to-wit: More than Fifteen Thousand Dollars (\$15,000.00), plus costs and for such other relief to which the Plaintiff may be justly entitled by law or equity.

DATED: _____

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