

**IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY, FLORIDA**

JOHN DOE,
Plaintiff,
VS.

CASE NO.: **2021CA000960**

GAINESVILLE CONSOLE DOCTOR LLC,
TRAVIS PAUL GRANT, KYLE DAVID
GRANT, JOHN and JANE DOES I-X; and
XYZ COMPANIES I-X,
Defendants

COMPLAINT

INTRODUCTION

1. Defendants are First Amendment opportunists that exploit arrest information and misappropriate images in booking photos to create misleading advertisements designed to generate substantial advertising revenue from the victims whose images have been misappropriated.

2. Defendants do not inform the public; instead, Defendants exploit booking photos and arrest information for purely commercial purposes. As the Sixth Circuit recently observed, these “[b]ooking photos—snapped in the vulnerable and embarrassing moments immediately after an individual is accused, taken into custody, and deprived of most liberties—fit squarely within this realm of embarrassing and humiliating information. More than just vivid symbols of criminal accusation, booking photos convey guilt to the viewer.” *Detroit Free Press Inc. v. United States Dep’t of Justice*, 829 F.3d 478, 482 (6th Cir. 2016) (citations and quotations omitted). Defendants’ business model is to exploit this embarrassing and humiliating information that falsely conveys guilt for their own commercial gain. Once these images are online,

they live on in perpetuity. They serve as the digital scarlet letter of our times, permanently affecting the reputation of those who have paid their debt to society.

3. The online dissemination of arrest information and images in booking photos creates substantial barriers for those attempting to reintegrate into society from finding employment, housing, and starting a new life. "[N]early one out of every three American adults"—77.7 million people—has been arrested and, thus, could be impacted. See Gary Fields & John R. Emshwiller, *America Busted: As Arrest Records Mount, Consequences Last a Lifetime*, WALL ST. J., Aug. 19, 2014, at A1. Abuse of these records by profiteers such as Defendants cuts against efforts for criminal justice reform and rehabilitation of those who have made mistakes in their pasts. Moreover, in many cases arrestees are never charged, are adjudicated not guilty, or their charges are dismissed for various reasons, including through diversion programs. Mugshot companies have wide-sweeping negative effects on not only those directly impacted but on the community as a whole.

4. In response to the proliferation of mugshot website operators, such as Defendants, numerous states have passed statutes relating to the exploitation of mugshots, most importantly Florida. "The person whose arrest booking photograph was published or otherwise disseminated in the publication or electronic medium may bring a civil action to enjoin the continued publication or dissemination of the photograph if the photograph is not removed within 10 calendar days after receipt of the written request for removal," provided in § 901.43, Fla. Stat. The law is clear about removal and refusal is prohibited. "Refusal to remove an arrest booking photograph after written request has been made constitutes an unfair or deceptive trade practice in accordance with part II of chapter 501," provided in § 901.43, Fla. Stat. (hereafter "Florida Removal Statute").

5. Defendants' conduct that is the subject of this civil action involves ongoing online activity directed against Plaintiff. Defendants own and operate mugshot websites including www.bailbondshq.com (the "Website"), on which they use the arrest

information and booking photos of millions of arrestees throughout the United States for their own purely commercial purposes. Defendants use software to “scrape” arrest information, including booking photos, from the Orange County Sheriff’s Office’s website, and the websites of other law enforcement agencies in Florida as well as throughout the United States who post booking photos online, for all, or substantially all, arrestees, albeit for a limited duration of time, typically for only a few days. Defendants then use the arrest information from the victims whose identities and likenesses have been misappropriated to create original content in the form of advertisements that serve two purposes: 1) to attract third party advertisers to the Website; and 2) generate pay-per-click advertising revenue.

6. This is an action seeking damages, declaratory, and injunctive relief for the violation of the Florida Removal Statute as well as §540.08, Fla. Stat., misappropriation of name and likeness, and false light under applicable decisional law in Florida. Plaintiff seeks redress for injuries caused by, and an injunction enjoining, the unlawful conduct of Defendants, GAINSVILLE CONSOLE DOCTOR, LLC, TRAVIS PAUL GRANT, and KYLE DAVID GRANT, all doing business in conjunction with the Website.

7. “A disclosed booking photo casts a long, damaging shadow over the depicted individual.” *Detroit Free Press Inc. v. United States Dep’t of Justice*, 829 F.3d 478, 482 (6th Cir. 2016). For this reason, law enforcement agencies and the State of Florida do not intend for booking photos and arrest information to be used in this way or to be available online to the public indefinitely. The Orange County Corrections Department, for example, only posts arrest photos of “people currently in jail,” after which they are taken down. The Florida Removal Statute makes it clear that the public policy of Florida is that arrest information and photos published for a limited time by Florida law enforcement agencies are not to be “scraped” and then disseminated indefinitely for Defendants’ purely commercial purposes. Yet, that is precisely how Defendants’ illegal scheme operates.

8. To further their illegal scheme and maximize its commercial effect, Defendants use analytics and search optimization tools to ensure that each booking photo is among the first search results found when an arrestee's name is entered into a search engine such as Google, Bing or Yahoo. Such conduct contributes substantially to the illegality of Defendants' use of the arrest information and booking photos.

9. Contrary to Defendants' false representations, the Website is not a public safety service or media outlet. If it was, Defendants would not select what information and which booking photos remain on the Website based on extorted payments, which occurred prior to the enactment of the relevant Florida Statute on July 18, 2018 (§ 901.43, Fla. Stat.). Defendants hide behind the false pretense that they are a media organization, post these mugshots and create advertisements out of them solely in order to profit by generating advertising revenue through Google Ads and, at least up until July 18, 2018, extorted payments. Companies pay for Google Ads so that people will notice their business whenever they are searching Google. These companies only have to pay a website owner whenever someone clicks on the ad. This is known as cost-per-click (CPC) or pay-per-click (PPC) advertising. Defendants generate substantial revenue through the misleading manner in which they use these booking photos as advertisements to induce users of their Website to click on the banner ads.

10. Also contrary to Defendants' false representations, Defendants refuse to remove someone's mugshot from the Website even if the arrestee has been found innocent of any crime, or has otherwise had their charges dropped, not filed, expunged, or dismissed as part of a diversion program. Prospective employers (or anyone else) conducting a web search find, in many cases, misinformation indicating that people are still charged, incarcerated, or on parole years after release or an adjudication of not guilty. Defendants intentionally and maliciously set up the Website to give the false impression people are incarcerated or have been adjudged guilty of a crime. The end

result for many arrestees is continuous emotional distress, job loss, broken families, and homelessness. The end result for Defendants is substantial profits.

11. Defendants are notorious operators of mugshot websites, on which millions of arrestees appear. Several online sites have been established by aggrieved parties to expose the nefarious and illegal activities of Defendants, including <https://rapsheetsorgkyledavidgrant.wordpress.com>.

12. This action seeks to put an end to Defendants' harassment of Plaintiff. Defendants will continue to cause Plaintiff harm until Defendants are enjoined from intentionally and maliciously violating Plaintiff's rights.

JURISDICTION AND PARTIES

13. This is an action for damages in excess of \$30,000.00, exclusive of interest, attorney's fees and costs.

14. Plaintiff is an individual residing in Scott County, Iowa. Pursuant to Article I, Section 23 of the Florida Constitution, Florida law recognizes the right of privacy. The identity of the Plaintiff is confidential and as such is identified as John Doe. At the appropriate time, the Plaintiff's identity will be released to attorney(s) representing the Defendants.

15. Defendants are mugshot website operators who reside in, and operate businesses in, Florida. Defendants own and operate the mugshot Website, www.bailbondshq.com, as defined in § 901.43, Fla. Stat.

16. Defendant, GAINESVILLE CONSOLE DOCTOR LLC, is a limited liability company and a mugshot website operator that has its principal business address in Duval County, Florida, but which also conducts business via its Website operations throughout the State of Florida, including Seminole County, Florida. GAINESVILLE CONSOLE DOCTOR operates the following website: www.bailbondshq.com.

17. Defendants, TRAVIS PAUL GRANT and KYLE DAVID GRANT, are individuals residing in Seminole County, Florida. The individual Defendants operate the Website: www.bailbondshq.com.

18. Plaintiff, upon information and belief, alleges, that at all times mentioned in this complaint, Defendants, TRAVIS PAUL GRANT and KYLE DAVID GRANT, were the owners, agents and employees of the co-defendant, GAINESVILLE CONSOLE DOCTOR LLC, and in so doing the things alleged in this complaint were acting within the course and scope of such agency and employment.

19. Defendants, JOHN and JANE DOES I-X and XYZ COMPANIES I-X, are persons, partnerships, owners, corporations or unincorporated associates subject to suit in a common name whose names are unknown to Plaintiff and who are wholly or partially responsible for the acts complained of, including those who have participated in managing, organizing, marketing, facilitating, and profiting from the operations of the Website.

20. Venue is proper before this Court under Chapter 47 of the Florida Statutes because, among other things, Defendants are conducting business in and/or are residents of Seminole County, Florida and Plaintiff's action accrued in Orange County, Florida.

GENERAL ALLEGATIONS

21. In or around the first quarter of 2020, a Law Enforcement Agency operating within the State of Iowa (hereafter "Law Enforcement Agency") arrested Plaintiff.

22. Following the arrest, the Law Enforcement Agency photographed Plaintiff. The Law Enforcement Agency made the photograph (the "Mugshot") publicly available on a government website.

23. Defendants' Website is a privately-owned, publicly-available website that post mugshots and other criminal justice information about various people without their

consent, who have been arrested. The Website generates income and Defendants utilize the Website for commercial purposes and pecuniary gain.

24. Since in or around the first quarter of 2020, Defendants, without Plaintiff's permission, consent or authorization, published Plaintiff's criminal justice records (the "Records") and Mugshot on the Website for purely commercial purposes. As a result, Plaintiff's image has been commercially misappropriated by Defendants, causing damage, and Plaintiff has incurred damages under Florida Statutes, including Ch. 501 and Ch. 901, Fla. Stat., and as further described herein. Plaintiff did not provide the Defendants with prior consent for the posting of any information about him, including, but not limited to, his arrest information and arrest photo.

25. Despite Plaintiff's demand that Defendants remove this information, Defendants refuse to do so.

26. The public nature of the Website and public availability of Plaintiff's Mugshot and Records has and continues to cause both emotional and financial harm to Plaintiff, including, but not limited to, unwanted publicity and ramifications for Plaintiff's employment.

27. Defendants generate substantial revenue from the misleading use of the original content Defendants create from the booking photos.

28. Defendants gather and collect arrest photos and create original content out of that material in the form of advertisements ("arrest photo advertisements").

29. The arrest photo advertisements are strategically placed on the Website for maximum commercial exploitation. Specifically, Defendants place the arrest photo advertisements directly above, and/or directly alongside banner ads that advertise services for, *inter alia*, public records information, thus making it appear (falsely) that by clicking on the banner ad the user would be directed to "Arrest Details" located in the Website's database.

30. The misleading manner in which Defendants use the arrest photo advertisements to entice the public into clicking on third party banner ads generates substantial pay-per-click advertising for Defendants.

31. Because the third party banner ads are typically for services such as public arrest records databases and because the third-party banner ads are located directly beneath, alongside, and embedded within the arrest photo advertisements, the user mistakenly clicks on the banner ad falsely believing that by doing so they will be directed to the “arrest details” in the Website’s database, but are instead directed to the third party database. Defendants purposefully and intentionally create the arrest photo advertisements in this manner to increase user clicks on third party ads, thus earning substantial pay-per-click advertising revenue.

32. Thus, the arrest photo advertisements serve at least two commercial purposes: 1) to attract third party advertisers to the Website; and 2) entice any user of the Website to mistakenly click the third party banner ad so as to generate pay-per-click advertising revenue for Defendants.

33. The arrest information and booking photos that Defendants use to create the arrest photo advertisements was never intended by law enforcement to be used in this manner or posted by Defendants. The booking photos Defendants use to create the arrest photo advertisements are not tendered by law enforcement agencies to Defendants. It is the public policy of the State of Florida, as made crystal clear by the Florida Removal Statute, that the arrest information and arrest photos briefly disseminated by law enforcement and other agencies is not to be used in the manner that Defendants use them.

34. Plaintiff had an arrest photo taken.

35. Defendants, without permission, consent or knowledge of Plaintiff, reproduced, publicly displayed, distributed, and created original advertising content out of the arrest photo. Defendants also, without Plaintiff’s permission, consent or

knowledge, reproduced, publicly displayed, and distributed Plaintiff's arrest information.

36. Defendants' respective Website, along with Plaintiff's image, were indexed by Yahoo.com and Google.com, and the images appear under Google Images when an internet search for Plaintiff's name is conducted.

37. Defendants' use of Plaintiff's image and arrest information is for a purely commercial purpose.

38. Defendants operate one or more websites that are used to display Plaintiff's image as part of a commercial enterprise.

39. The displays by Defendants of Plaintiff's image on their Website, are intended, among other things, to subject Plaintiff to hatred, contempt, or ridicule, and to damage his personal and business reputation, or to impair his credit.

40. Each Defendant, acting on their own or in conjunction with one or more of the other Defendants, derives revenue from the Website through Google Ads and other means.

41. Unless Defendants are enjoined from further commercial use and publication of Plaintiff's image and names and other arrest information, Plaintiff will suffer further irreparable injury.

COUNT I
VIOLATION §540.08, FLA. STAT.-
INJUNCTIVE RELIEF

42. Plaintiff realleges Paragraphs 1 through 41, above.

43. This is a cause of action for violation of § 540.08, Fla. Stat., by Plaintiff, individually, against Defendants.

44. Defendants published and continue to publish Plaintiff's name and likeness on the Website for a commercial or advertising purpose without Plaintiff's consent.

45. Publishing Plaintiff's name and likeness is not newsworthy and does not involve any current or legitimate public interest.

46. By publishing Plaintiff's name and likeness, Defendants are directly promoting their products in addition to promoting additional products and services separate and apart from Defendants' websites.

47. § 540.08(2), Fla. Stat., provides that the person whose name or likeness has been misappropriated "may bring an action to enjoin such unauthorized publication ... and to recover damages for any loss or injury sustained by reason thereof, including an amount which would have been a reasonable royalty, and punitive or exemplary damages."

48. Plaintiff seeks an injunction to enjoin future misappropriation under § 540.08, Fla. Stat. and damages.

COUNT II
VIOLATION §540.08, FLA. STAT.-
DAMAGES

49. Plaintiff realleges Paragraphs 1 through 41, above.

50. This is a cause of action for violation of § 540.08, Fla. Stat., by Plaintiff, individually, against Defendants.

51. Defendants published and continue to publish Plaintiff's name and likeness on the Website for a commercial or advertising purpose without Plaintiff's consent.

52. Publishing Plaintiff's name and likeness is not newsworthy and does not involve any current or legitimate public interest.

53. By publishing Plaintiff's name and likeness, Defendants are directly promoting their products in addition to promoting additional products and services separate and apart from Defendants' Website.

54. § 540.08(2), Fla. Stat., provides that the person whose name or likeness has been misappropriated "may bring an action to enjoin such unauthorized publication ... and to recover damages for any loss or injury sustained by reason thereof, including an amount which would have been a reasonable royalty, and punitive or exemplary damages."

55. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered and will continue to suffer damages.

COUNT III
COMMON LAW INVASION OF PRIVACY – MISAPPROPRIATION

56. Plaintiff realleges Paragraphs 1 through 41, above.

57. This is a cause of action for common law misappropriation by Plaintiff, individually, against Defendants.

58. Defendants published and continue to publish Plaintiff's name and likeness for a commercial or advertising purpose without Plaintiff's consent.

59. Publishing Plaintiff's name and likeness is not newsworthy and does not involve any current or legitimate public interest.

60. By publishing Plaintiff's name and likeness, Defendants are directly promoting their products in addition to promoting additional products and services separate and apart from Defendants' Website.

61. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered and will continue to suffer damages.

COUNT IV
VIOLATION §501.204, FLA. STAT. -
INJUNCTIVE RELIEF

62. Plaintiff realleges Paragraphs 1 through 41, above.

63. This is a cause of action by Plaintiff, individually, for injunctive relief under the Florida Deceptive and Unfair Trade Practices Act, §§ 501.201 *et seq.*, Fla. Stat., (hereafter "FDUTPA"), against Defendants.

64. Under FDUTPA, unconscionable, unfair, and deceptive acts or practices in the conduct of trade or commerce are unlawful. § 501.204(1), Fla. Stat.

65. Anyone aggrieved by a violation of FDUTPA may bring an action for injunctive relief against the entity that has violated the act. § 501.211(1), Fla. Stat.

66. By publishing Plaintiff's name and likeness for a commercial or advertising purpose without Plaintiff's consent, Defendants are engaging in business practices that are unconscionable, unfair, and deceptive because they offend established public policy and are immoral, unethical, oppressive, unscrupulous, and substantially injurious to consumers. Plaintiff experienced Defendants' unconscionable, unfair, and deceptive business practices, which were committed in the conduct of commerce or trade.

67. Plaintiff seeks an injunction to enjoin future violations of FDUTPA under § 501.211(1), Fla. Stat.

COUNT V
VIOLATION §501.204, FLA. STAT. – DAMAGES

68. Plaintiff realleges Paragraphs 1 through 41, above.

69. This is a cause of action by Plaintiff for damages under the Florida Deceptive and Unfair Trade Practices Act, §§ 501.201 *et seq.*, Fla. Stat., ("FDUTPA"), against Defendants.

70. The refusal to remove an arrest booking photograph after written request constitutes an unfair or deceptive practice in accordance with Ch. 501, Fla. Stat.

71. Under FDUTPA, unconscionable, unfair, and deceptive acts or practices in the conduct of trade or commerce are unlawful. § 501.204(1), Fla. Stat.

72. In any action by a party that has suffered a loss as a result of a violation of FDUTPA, such person may recover actual damages, attorneys' fees, and court costs. § 501.211(2), Fla. Stat.

73. By publishing Plaintiff's name and likeness for a commercial or advertising purpose without Plaintiff's consent, Defendants are engaging in business practices that are unconscionable, unfair, and deceptive because they offend established public policy and are immoral, unethical, oppressive, unscrupulous, and substantially injurious to consumers. Plaintiff experienced Defendants' unconscionable, unfair, and deceptive business practices, which were committed in the conduct of commerce or trade.

74. As a direct and proximate result of the unfair and deceptive representations and business practices employed by Defendants, Plaintiff has suffered actual damages.

COUNT VI
UNJUST ENRICHMENT

75. Plaintiff realleges Paragraphs 1 through 41, above.

76. This is a cause of action for unjust enrichment by Plaintiff.

77. By publishing Plaintiff's name and likeness without consent with a commercial or advertising purpose, Defendants committed misappropriation.

78. Defendants have profited from their misappropriation at Plaintiff's expense.

79. Defendants have knowledge of the benefits that Plaintiff has conferred on them, which they have accepted.

80. Under these circumstances, *i.e.*, (a) Defendants publishing the name and likeness of Plaintiff, (b) without his consent, (c) for a commercial or advertising purpose, and (d) receiving profits therefrom, it would be inequitable for Defendants to enjoy the benefits of their misappropriation without compensating Plaintiff, whose rights they have violated.

81. As a direct and proximate result of Defendants' misappropriation, Plaintiff has suffered and will continue to suffer damages.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff requests that the Court award the following relief against Defendants:

- (a) a judgment under Count I against Defendants and in favor of Plaintiff, for injunctive relief, and costs due under Florida law;
- (b) a judgment under Count II against Defendants and in favor of Plaintiff, for damages, together with prejudgment interest thereon, and costs due under Florida law;
- (c) a judgment under Count III against Defendants and in favor of Plaintiff for damages, together with prejudgment interest thereon, and costs due under Florida law;
- (d) a judgment under Count IV against Defendants and in favor of Plaintiff for injunctive relief, costs, and attorney's fees pursuant to § 501.211, Fla. Stat.;
- (e) a judgment under Count V against Defendants and in favor of Plaintiff for damages, costs, and attorney's fees pursuant to § 501.211, Fla. Stat.;
- (f) a judgment under Count VI against Defendants and in favor of Plaintiff for damages; and
- (g) such other relief as the Court deems fair and reasonable.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues so triable.

Dated: April 8, 2021

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