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April 18, 2013

Honorable Judge Buddie Hahn
801 W. Division Avenue
Orange, Texas 77630-6364

Via facsimile (409) 882-7083

Re: Cause No. D-130,018-C; *Hollie Toups, et al v. GoDaddy.com, Texxxan.com, et al*; In the 260th Judicial District Court of Orange County, Texas

Dear Juge Hahn:

I am providing directly to you a copy of Plaintiffs' live Petition, which was on file prior to the hearings in Your Honor's Court. I shall briefly respond to three (3) issues.

I. Plaintiffs' Petitions all sought Temporary Injunction.

Plaintiffs' Original Petition, in its heading, included a request for a "Temporary Injunction and a Permanent Injunction." Also in this Original Petition, paragraph 14 specifically seeks the entry of a Temporary Injunction, and the Prayer for Relief also specifically asks for a "Temporary and Permanent Injunctive Relief."

The First Amended Petition also includes in its heading a request for a "Temporary Injunction and a Permanent Injunction." This request for both a Temporary and Permanent Injunction is repeated in paragraph 20 of the First Amended Original Petition, and also with the exact same language in the Prayer for Relief.

The Second Amended Petition which is attached for Your Honor's review, also includes a request for a "Temporary Injunction and a Permanent Injunction" in the heading.

as well as in paragraph 20, and in the Prayer for Relief.

Respectfully, Mr. James Harris was inaccurate in his representation to the Court about this request in Plaintiffs' live pleadings.

2. The proposed Temporary Injunction Order did include the required bond, and the required trial date.

The Temporary Injunction Order which Your Honor signed (after Your Honor modified it), did in fact include a bond of \$100.00 (which has now been paid), as well as the required space for Your Honor to set a trial date, which Your Honor did. Plaintiffs were prepared to present sworn testimony, but no defense counsel required Plaintiffs to provide sworn testimony.

Respectfully, Mr. Harris' comments were inaccurate in this regard.

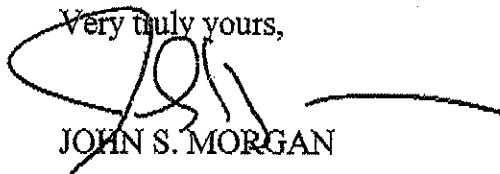
3. Plaintiffs' live Petition alleges a multitude of intentional tort claims against GoDaddy.com.

During the argument with GoDaddy's able counsel, I respectfully submit that Mr. Aaron McKown downplayed the claims at issue against GoDaddy.com. I am directing Your Honor to paragraph 13 of Plaintiffs' Second Amended Petition (attached hereto). This petition makes it clear that Plaintiffs are not suing GoDaddy.com under federal law, but instead are suing under Texas state law, for the following legal theories: (1) intentional infliction of emotional distress; (2) gross negligence in violation of Texas Penal Code 43.21; (3) gross negligence in violation of Texas Penal Code 43.22; (4) gross negligence in violation of Texas Penal Code 43.23; (5) intentional invasion of privacy; (6) intentional intrusion on Plaintiffs' right to seclusion; (7) intentional public disclosure of Plaintiffs' private facts; (8) the wrongful appropriation of Plaintiffs' names or likenesses; (9) false light invasion of Plaintiffs' privacy; and (10) a civil conspiracy through a meeting of the minds to perpetrate these intentional state law torts.

Under Tex. R. Civ. P. 91a, the inquiry before this Court on GoDaddy.com's motion is very narrow. Specifically, this Court must consider only whether Plaintiffs' cause of action potentially states a viable claim or claims against GoDaddy.com. This is not a summary judgment proceeding. Under the decisions in *In Re: Milo*, 311 S.W.3d 210 (Tex. App. - - Beaumont 2010, no pet.); *Cisneros v. Sanchez*, 403 F. Supp. 2d 588 (S. D. Tex. 2005), it is clear that the Federal Communications Decency Act does not preempt or prevent Plaintiffs from asserting state law tort claims and intentional tort claims, against a website hosting company such as GoDaddy.com.

I appreciate the opportunity to provide this information to the Court for its review.

Very truly yours,



JOHN S. MORGAN

JSM/ag
Enclosure

cc: Hunter Taylor
8325 Bridgefield
Orange, Texas 77630

Via CM/RRR-#7011 3500 0001 0664 5229
& Regular U. S. First Class Mail

Jim Sharon Bearden, Jr.
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Orange, Texas 77630

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ANDREA GUIDRY
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April 8, 2013

Ms. Vickie Edgerly
Orange County District Clerk
801 W. Division Avenue
Orange, Texas 77630

DISTRICT CLERK
ORANGE COUNTY, TEXAS
Vickie Edgerly

13 APR -9 P 1:04

FILED
VICKIE EDGERLY

Re: Cause No. D-130,018-C; *Hollie Toups, et al v. GoDaddy.com, Texxxan.com, et al*; In the 260th Judicial District Court of Orange County, Texas

Dear Ms. Edgerly:

Enclosed please find the following for filing in the above-referenced matter:

1. Plaintiffs' Second Amended Petition for Damages and Class Action Certification, a Temporary Injunction and a Permanent Injunction.

Please file this document among the papers of the Court and return a file-stamped copy of this correspondence to my office in the self-addressed, stamped envelope enclosed. I appreciate your attention to this.

Very truly yours,



JOHN S. MORGAN

JSM/ag
Enclosures

cc: Hunter Taylor
8325 Bridgefield
Orange, Texas 77630

Via CM/RRR-#7010 2780 0002 9384 9460
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Mark Simon
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No. D-130,018-C

HOLLIE TOUPS, MARISSA DEITZ,
MARISSA JEFFCOTT, MARIANNA
TASCHINGER, CAITLYN LAGRONE,
MEEGHAN FALLS, CORINA LUMMUS,
KELSI COOK, KINSEY STAUDT,
JESSICA DUPUY, JILLIAN HOWARD,
MALLORY PETRY, LARAMIE GILBERT
PATRICIA HINSON, MARGARET NOBLE
AND OTHER SIMILARLY SITUATED
SIMILAR PERSONS

IN THE DISTRICT COURT OF

ORANGE COUNTY, TEXAS

VS.

GODADDY.COM, TEXXXAN.COM,
UNIDENTIFIED DEFENDANTS THAT
INCLUDE, (1) THE PERSONS AND/OR
ENTITIES HOSTING TEXXXAN.COM,
AND (2) ALL SUBSCRIBING MEMBERS

260TH JUDICIAL DISTRICT

PLAINTIFFS' SECOND AMENDED PETITION FOR DAMAGES AND CLASS ACTION
CERTIFICATION, A TEMPORARY INJUNCTION AND A PERMANENT INJUNCTION

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, HOLLIE TOUPS, MARISSA DEITZ, MARISSA JEFFCOTT, MARIANNA
TASCHINGER, CAITLYN LAGRONE, MEEGHAN FALLS, CORINA LUMMUS, KELSI COOK, KINSEY
STAUDT, JESSICA DUPUY, JILLIAN HOWARD, MALLORY PETRY, LARAMIE GILBERT, PATRICIA
HINSON, MARGARET NOBLE AND OTHER SIMILARLY SITUATED PERSONS, Plaintiffs in the
above-entitled and numbered cause, and file Plaintiffs' Second Amended Petition for
Damages and Class Action Certification, and for a Temporary Injunction and a Permanent
Injunction, complaining of Defendants, GODADDY.COM, TEXXXAN.COM, UNIDENTIFIED

DEFENDANTS THAT INCLUDE: (1) THE PERSONS AND/OR ENTITIES HOSTING TExXXAN.COM; (2) ALL SUBSCRIBING MEMBERS OF TExXXAN.COM, and HUNTER TAYLOR, KENNETH TAYLOR, SANDRA TAYLOR, and AUSTIN PONTHEIU, and for a cause of action would show the following:

PARTIES

1. Plaintiffs are appearing in court through their attorneys of record.
2. Defendant, GODADDY.COM, is a website appearing in Court through its attorney of record, Mr. Aaron M. McKown, Paula L. Zecchini, Wren Bender LLLP, 2 Park Plaza, Suite 550, Irvine, CA 92614 and Mr. Mark Simon, Scheef & Stone, LLP, 500 N. Akard, Suite 2700, Dallas, Texas 75201.
3. Defendant, TExXXAN.COM, is a website and can be served through its administrator and webmaster, Hunter Thomas Taylor, 8325 Bridgefield Drive, Orange, Texas 77630.
4. Unidentified Defendants that include: (1) the persons and/or entities hosting TExxxan.com; and (2) all subscribing members of TExxxan.com. These Defendants will be identified by name and served with citation later as the proceedings develop.
5. Defendant, Hunter Thomas Taylor, is an individual who can be served with process at his residence, located at 8325 Bridgefield Drive, Orange, Texas 77630.
6. Defendant, Kenneth Lee Taylor, is an individual appearing in Court through his attorney of record, Mr. Steve Carlton, Carlton Law Practice, 805 Henderson Avenue, Orange, Texas 77630.

7. Defendant, Sandra Lenz Taylor, is an individual appearing in Court through her attorney of record, Mr. Steve Carlton, Carlton Law Practice, 805 Henderson Avenue, Orange, Texas 77630.

8. Defendant, Austin Ray Ponthieu, is an individual appearing in Court through his attorney of record, Mr. Jim Sharon Bearden, Jr., The Bearden Law Firm, 116 Border, Orange, Texas 77630.

DISCOVERY PLAN

9. Discovery should be conducted under Level 3 and Plaintiffs requests the entry of a scheduling order appropriate for a class action lawsuit.

JURISDICTION AND VENUE

10. The amount in controversy is within the jurisdictional limits of this Court. Venue is proper in this Court, since a substantial portion of the acts or omissions occurred in Orange County, Texas. Further, the website at issue, www.Texxxan.com, and its companion website, www.Texxxans.com, market themselves throughout all counties in Texas. A class action can be properly brought in this venue.

FACTUAL BACKGROUND

11. Godaddy.com hosts the website www.Texxxan.com (and its companion website www.Texxxans.com) which are "revenge porn" websites. These explicit websites are dedicated to publishing intimate photos of young women, underage photos, and also publishing private facts about women, all of which are done without obtaining permission

or authorization from the women who are the victims of these websites. These websites are specifically designed to cause severe embarrassment, humiliation, and emotional distress to all of the women Plaintiffs, and to all the women victims that are sought to be named as Plaintiffs through class-action certification (discussed *infra*). These websites constitute unlawful obscenity, and they publish unlawful child pornography. The Defendants who own these websites, or who contribute to their contents, or who administer, host or subscribe to these websites, are fully aware that they do not have permission from any of the women victims to publish their photographs or their other personal information. Likewise, these Defendants are actively engaging in illegal obscenity and child pornography, in violation of Texas Penal Codes. As such, the Defendants that are currently named, the individual Defendants joined herein, and the Defendants who shall be identified and joined later are all acting in a reprehensible manner to participate in activity that they know to be illegal, malicious, hurtful and harmful.

12. The individual Defendants are either the web masters of the sites at issue, owners of the sites' domain, and/or directly involved in the hosting, publication, and continuing torts being perpetrated by and through the websites. Plaintiffs are suing these individual Defendants, jointly and severally, for all their activities related to or pertaining to these websites, as set forth above, and also to be shown in other particulars after full discovery and at the time of trial.

DEFENDANT GODADDY.COM

13. The Plaintiffs are not suing the Defendant GoDaddy.com for any cause of action arising under federal law. Instead, Plaintiffs are suing GoDaddy.com for its misconduct, and its torts and intentional torts arising under Texas state law. Discovery has demonstrated the severity of the underlying facts, and the extreme nature of GoDaddy's misconduct at issue in this lawsuit. The websites, www.Texxxan.com, and www.Texxxans.com, engage in the publication of obscenity and child pornography, all in violation of Texas Penal Code Statutes 43.21, 43.22, and 43.23. Despite having knowledge and notice that these websites engage in these illegal activities, and despite having knowledge and notice that these websites do not participate in any constitutionally protected activity under the First Amendment to the United States Constitution, the Defendant GoDaddy knowingly and willingly hosted and re-hosted these websites for the purposes of obtaining profit, while at the same time claiming immunity from any criminal conduct or participation in criminal activities. To make matters worse, when GoDaddy received additional notice of potential crimes (cited above) perpetrated by these websites, GoDaddy hosted the companion site www.Texxxans.com, to be published with the same illegal and illicit information and content, by the very same individuals. By so doing, GoDaddy has demeaned itself to the point of intentionally becoming a purveyor of obscenity and child pornography. Plaintiffs, therefore, sue Defendant GoDaddy.com for intentional infliction of emotional distress, for its severe, extreme, intentional, and unlawful misconduct in violation of the Texas Penal Codes, and for its gross negligence in violation

of Texas Penal Code Statutes Sections 43.21 (Obscenity definitions), 43.22 (Obscene Display or Distribution), and 43.23 (Obscenity). By its knowing participation in these unlawful activities, GoDaddy has also committed the intentional Texas tort of invasion of privacy upon these Plaintiffs, as well as the intentional Texas torts of intrusion on Plaintiffs' right to seclusion, the public disclosure of their private facts, the wrongful appropriation of their names or likenesses, false light invasion of Plaintiffs' privacy, and a civil conspiracy through a meeting of the minds with the individual Defendants in this case to perpetrate these intentional state law torts. The intentional and grossly negligent misconduct of GoDaddy.com, much of which are in violation of Texas Penal Codes, have proximately caused actual harm or damages to the Plaintiffs, consisting of personal injuries and bodily injuries, for which they sue. Plaintiffs also seek punitive or exemplary damages against GoDaddy.com in order to punish its intentional torts, grossly negligent and unlawful misconduct, and to deter GoDaddy.com from any further misconduct.

TEXAS STATE LAW CAUSES OF ACTION AGAINST THE OTHER DEFENDANTS

14. Plaintiffs sue the individual Defendants, Hunter Taylor, Kenneth Lee Taylor, Sandra Taylor and Austin Rae Ponthieu, for the state law torts set forth below, in Paragraph 15 of this Amended Petition. Additionally, all Plaintiffs sue each of these individual Defendants for negligence and gross negligence, for activities in violation of Texas Penal Code Sections 43.21 (Obscenity definition), 43.22 (Obscene Display or Distribution), and 43.23 (Obscenity), because the negligence and gross negligence of these individual Defendants

have proximately caused personal injuries and bodily injuries to all of the Plaintiffs herein. These individual Defendants are acting in concert, and with direct knowledge that their acts and omissions are causing extreme harm to each of the Plaintiffs in this case, and to the potential class of Plaintiffs as a whole. Accordingly, Plaintiffs seek joint and several liability against each of these individual Defendants, as well as the imposition of punitive or exemplary damages against each and all of these individual Defendants jointly and severally, in order to punish them to deter any future misconduct.

15. The Plaintiffs in this case sue all the Defendants, jointly and severally, for negligent, intentional and/or grossly negligent invasions of privacy as that term is defined under Texas law. Every Plaintiff, and all potential Plaintiff class members, seek to recover actual damages for the invasions of privacy proximately caused by the acts and omissions of the Defendants, within the jurisdictional limits of this Court. Additionally, all of these Plaintiffs sue all the Defendants for their intentional, negligent and/or grossly negligent commission of Texas state law torts of intrusion on their right to seclusion, the public disclosure of their private facts, the wrongful appropriation of their names or likenesses, false light invasion of privacy, gross negligence, intentional infliction of emotional distress, and a civil conspiracy through a meeting of the minds to perpetrate all these state law torts. These Plaintiffs would show that the acts and omissions of all the Defendants in this case, acting in concert and therefore jointly and severally, satisfy all the legal elements of these specific torts, as they are defined under Texas law. All these Plaintiffs seek to recover actual damages for these torts

proximately caused by the acts and omissions of these Defendants, jointly and severally. These Plaintiffs seek to recover their actual damages in the past, present and future. The damages include their severe mental anguish and emotional distress with physical manifestations that effect their daily lives and routines, humiliation, fear, and other non-economic damages, and also their economic damages. These Plaintiffs also seek to recover punitive or exemplary damages for the extreme and malicious conduct of all the Defendants, in order to punish them for their misconduct and to deter any such future misconduct, based upon the Defendants' intentional, malicious and cowardly conduct that is intended to cause harm and severe distress to these Plaintiffs.

REQUEST FOR CLASS-ACTION STATUS CERTIFICATION

16. Pursuant to Tex.R.Civ.P. 42, Plaintiffs requests that the trial court certify this lawsuit as a Texas class-action. In this regard, the Plaintiffs would show that the class is so numerous that the joinder of all potential Plaintiffs is impractical or impossible. These websites are published internationally through the internet; and the amount of Texas women who could become targeted by these websites or victims of these websites could potentially become so numerous that joinder of all of them is impossible. Additionally, the very purpose of these websites is to target Texas women for malicious "revenge pornography," which is actually just unlawful obscenity. It is impractical, if not impossible, in these circumstances, to join all of the women victims as individual Plaintiffs in this matter.

17. Furthermore, this lawsuit contains questions of law and/or fact that are common to all

the current Plaintiffs and also are common to all the potential class of Plaintiffs as a whole. The causes of action arising under Texas law are all common to the Plaintiffs and also to potential members of the class. Additionally, the basic facts are common to the Plaintiffs and also to possible members of the class -- namely, that the Defendants have never sought or obtained the permission from any of these women victims for the publication of their photographs or for the publication of any of their private information in www.Texxxan.com or its companion website.

18. Plaintiffs also submit that the defenses of the Defendants (including GoDaddy.com) are going to be typical or common for all the Defendants, and thus the anticipated defenses are ripe for class-action status. It is anticipated that all of the Defendants will argue theories of law in their defense that Plaintiffs contend are not meritorious; but yet these legal theories will be common to all of the Defendants. As such, the anticipated defenses are suitable for a class-action lawsuit. 19. Furthermore, the Plaintiffs submit that as the representative parties of the class, they will fairly and adequately protect the interests of the class. Plaintiffs would further show that the prosecution of separate actions either by or against the individual members of this potential class could create the risk of either inconsistent or varying adjudications or could cause adjudications with respect to individual members of the class which as a practical matter could be dispositive of the interests of the other members who are not parties to the adjudications. Further, common questions of law and/or fact shall predominate in this lawsuit for both the Plaintiffs and the Defendants. That is, common

factual and legal questions shall predominate over any questions affecting only individual class members. As such, a class action is superior to other available methods for the fair and efficient adjudication of this controversy. The attorneys of record for the Plaintiffs seek an Order from this Court appointing them as Class Counsel, upon a proper Motion with the required showings in accordance with Tex.R.Civ.P. 42(g). Plaintiffs seek to recover all of their reasonable and necessary attorneys' fees and expenses in this class action by and through Class Counsel.

REQUEST FOR A TEMPORARY AND A PERMANENT INJUNCTION

20. Pursuant to Tex.R.Civ.P. 681, Plaintiffs request after service of citation and joinder of all the necessary Defendants, and after a full hearing, that this Court issue a temporary injunction shutting down www.Texxxan.com and all companion websites in their entirety, or granting such temporary injunctive relief in the discretion of the trial court, which is appropriate under the facts and circumstances of this case (including but not limited to preventing the re-publication of any images or information on these websites to any other websites). Plaintiffs would show that these websites serve no useful, social or economic purpose, and instead these websites are merely a blight upon society and a sick, cowardly, criminal enterprise for the specific purpose of inflicting emotional distress and harm upon each and every Plaintiff. As such, Plaintiffs request this Court order no bond for the issuance of this temporary injunction. Further, Plaintiffs request that this Court order a permanent injunction after a full trial on the merits, to permanently shut down www.Texxxan.com and

its companion website, and to enjoin permanently any of Defendants from operating any similar websites or from using any of the photographs or information of the Plaintiffs at issue.

PRAYER

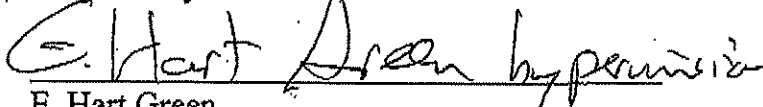
WHEREFORE, PREMISES CONSIDERED, Plaintiffs, HOLLIE TOUPS, MARISSA DEITZ, MARISSA JEFFCOTT, MARIANNA TASCHINGER, CAITLYN LAGRONE, MEEGHAN FALLS, CORINA LUMMUS, KELSI COOK, KINSEY STAUDT, JESSICA DUPUY, JILLIAN HOWARD, MALLORY PETRY, LARAMIE GILBERT, PATRICIA HINSON, MARGARET NOBLE AND OTHER SIMILARLY SITUATED PERSONS, pray that this Court certify this matter as a class-action, and grant all relief sought by the Plaintiffs herein against all Defendants jointly and severally, including all claims for the recovery of actual and punitive damages, award Plaintiffs all reasonable and necessary attorneys' fees, costs and expenses, grant temporary and permanent injunctive relief, and grant such other and further relief, at law or in equity, to which either the individual Plaintiffs or the class as a whole of Plaintiffs would be justly entitled.

Respectfully submitted

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(409) 239-5984
(409) 835-2757 facsimile
jmorgan@ismorganlaw.com

ATTORNEY FOR PLAINTIFFS AND THE POTENTIAL
CLASS OF PLAINTIFFS

Respectfully submitted,

Handwritten signature of E. Hart Green in cursive script.

E. Hart Green

Texas Bar No. 08349290

Weller, Green, Toups & Terrell

2615 Calder Avenue, Suite 400

Beaumont, Texas 77702

(409) 838-0101

(409) 832-7823 facsimile

ATTORNEY FOR PLAINTIFFS AND THE POTENTIAL
CLASS OF PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been properly transmitted to all appropriate parties via facsimile and/or email on this 8th day of April, 2013.

Hunter Taylor
8325 Bridgefield
Orange, Texas 77630

Via CM/RRR-#7010 2780 0002 9384 9460
& Regular U. S. First Class Mail

Jim Sharon Bearden, Jr.
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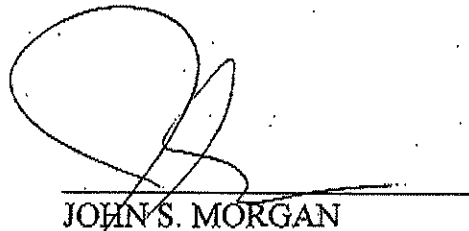
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ANDREA GUIDRY
OFFICE MANAGER/LEGAL ASSISTANT

April 18, 2013

TELECOPY COVER SHEET

TO: Honorable Judge Buddie Hahn
Fax No.: (409) 882-7083

TO: Jim Sharon Bearden, Jr.
Fax No.: (409) 883-0259

TO: Steve Carlton
Fax No.: (409) 886-5926

TO: Aaron M. McKown
Fax No.: (949) 679-7939

TO: Mark Simon
Fax No.: (214) 706-4242

TO: Jim Harris
Fax No.: (409) 833-4240

From: John S. Morgan

Re: Hollie Toups, et al v. GoDaddy.com, et al

INSTRUCTIONS: **PLEASE SEE ATTACHED.**

SHOULD YOU HAVE ANY PROBLEMS RECEIVING THIS TELECOPY, PLEASE CALL (409) 239-5984.

Total number of pages (including this page): **19**

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