

FILED
LOS ANGELES SUPERIOR COURT

SEP 24 2008

JOHN A. GLANKE, CLERK
BY D.M. SWAIN, DEPUTY

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
CENTRAL DISTRICT BC398715

STEVEN V. TALLARICO, pka STEVEN TYLER, an individual,

Plaintiff,

vs.

DOES 1 through 20, inclusive,

Defendants.

CASE NO.

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF FOR:

- (1) PUBLIC DISCLOSURE OF PRIVATE FACTS;
- (2) FALSE LIGHT; AND
- (3) COMMON LAW MISAPPROPRIATION OF LIKENESS

Plaintiff Steven V. Tallarico, pka Steven Tyler, ("Plaintiff") through counsel, alleges as follows:

SUMMARY OF ALLEGATIONS

Plaintiff seeks damages and an injunction to stop Defendants DOES 1 through 20 (collectively, "Defendants") from impersonating Plaintiff and Plaintiff's girlfriend in a public diary or blog. Specifically, Defendants have engaged in a pattern of pretending to be Plaintiff and posting online diary entries that not only disclose private thoughts and details about Plaintiff and his private life, but fraudulently represent to the public that the statements in the blog are in fact being made by Plaintiff himself.

COMPLAINT

Case assigned to Judge

John Johnson

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1 Defendants' disturbing and offensive conduct has caused, and unless enjoined by the Court
2 will continue to cause, damages to Plaintiff not only in the form of a loss of control over the public
3 disclosure and use of his name, likeness and identity, but also in the virtual theft of Plaintiff's
4 significant, well established and highly valuable public image and identity. To prevent further
5 irreparable damage, Plaintiff requires an immediate preliminary and permanent injunction
6 restraining Defendants from further fraudulent conduct and invasion of Plaintiff's right to privacy.

7 **PARTIES, JURISDICTION AND VENUE**

8 1. Plaintiff Steven V. Tallarico, pka Steven Tyler, is now, and at all relevant times
9 hereto has been, a citizen of the Commonwealth of Massachusetts. He is the lead singer in the world
10 famous rock n' roll band Aerosmith.

11 2. Plaintiff is ignorant of the true names and capacities, whether individual, corporate or
12 otherwise, of Defendants sued herein as DOES 1 through 20, inclusive, and therefore sues said
13 Defendants by such fictitious names (collectively, "Defendants"). Plaintiff is also currently unaware
14 of the residence of Defendants. Plaintiff will seek leave to amend this complaint to allege the true
15 names and capacities of the fictitiously named DOE Defendants when their identities have been
16 ascertained.

17 3. Plaintiff is informed and believes, and on that basis alleges, that each of the
18 fictitiously named Defendants is liable to Plaintiff in some manner for the acts alleged herein.
19 Plaintiff is further informed and believe, and on that basis alleges, that said DOE Defendants are
20 liable to Plaintiff as the agents, employees, representatives, affiliates, partners, principals or co-
21 conspirators of the other DOE Defendants, and were and now are acting within the course and scope
22 of such relationships at the time of the acts described below.

23 4. Venue is proper in this Court pursuant to Section 395(a) of the California Code of
24 Civil Procedure.

25 **GENERAL ALLEGATIONS**

26 5. Plaintiff has been a professional musician and songwriter for over thirty years, and
27 through many years of work enjoys the status of being the lead singer of one of the most famous and
28 successful bands in rock n' roll history. As a natural result, Steven Tyler's name, likeness, identity

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1 and image have extraordinary value around the globe, and the ability to control and shape the use of
2 his name, likeness, identity and image are critical to his continued worldwide appeal.

3 6. Without Plaintiff's authorization or consent, Defendants have been impersonating
4 Plaintiff and Plaintiff's girlfriend in two online blogs in a manner that represents to the public that
5 the statements contained therein are being made by Plaintiff when in fact they are not. Through
6 these blogs, Defendants published and continue to publish intimate details about Plaintiff's private
7 life on the internet website www.blogspot.com.

8 7. Defendants pretend to be Plaintiff in journal entries posted on the blog located at the
9 web address <http://tylers849021.blogspot.com>. This blog contains thirty-one journal entries posted
10 by "STEVEN" in 2008, and one entry posted by "STEVEN" in December 2007. Defendants' last
11 entry in the blog is dated September 4, 2008. Each journal entry made by Defendants is signed "ST"
12 (Plaintiff's initials) and the entries contain pictures of Plaintiff, intimate details about Plaintiff's
13 private life, including Plaintiff's relationship with his girlfriend, his children and his mother. The
14 impersonated statements relating to Plaintiff's mother are perhaps most hurtful given that she
15 recently passed away. Defendants package and publish this personal information about Plaintiff in a
16 way that expressly and fraudulently represents to the public that the statements in the blog are being
17 made by Plaintiff.

18 8. Defendants impersonate Plaintiff's girlfriend, Erin Brady, in diary-type entries posted
19 on the blog located at the web address <http://shelikespurple.blogspot.com>. This blog contains seven
20 journal entries posted by "STEVEN" from June to August 2008; the last entry is dated August 27,
21 2008. Each journal entry made by Defendants is signed "EB" (Plaintiff's girlfriend's initials) and
22 the entries contain pictures of Plaintiff, private information about Plaintiff's life, and fabricated
23 thoughts and commentary that purport to come from Plaintiff's girlfriend's perspective. In fact, they
24 do not. Defendants package and publish these intimate details about Plaintiff's life in a manner that
25 falsely represents to the public that the statements in the blog were made by or endorsed by Plaintiff
26 and/or Plaintiff's girlfriend.

27 9. Both of Defendants' blogs appear to be written by the same "blogspot" account/user,
28 under the name "STEVEN."

1 10. Plaintiff discovered Defendants' blogs located at <http://tylers849021.blogspot.com>
2 and <http://shelikespurple.blogspot.com> on or about September 5, 2008.

3 11. Plaintiff is informed and believes, and on that basis alleges, that Defendants are also
4 responsible for impersonating Plaintiff and Plaintiff's girlfriend in previous blogs that Plaintiff
5 discovered in or about November 2007. After the discovery, Plaintiff's counsel promptly notified
6 Google that these blog sites were operated by an imposter who was posing as Plaintiff and Plaintiff's
7 girlfriend, and requested that Google take down the offensive and misleading blog sites. Shortly
8 thereafter, in or about December 2007, Google removed the blog sites effectively kicking
9 Defendants off of the sites. Apparently defiant and intent on infringing upon Plaintiff's rights, they
10 have now reappeared.

11 **FIRST CAUSE OF ACTION**

12 **(Public Disclosure of Private Facts)**

13 12. Plaintiff incorporates by reference paragraphs 1-11 as if fully restated herein.
14 13. Defendants made public disclosure of private facts about Plaintiff's life through
15 impersonating Plaintiff and Plaintiff's girlfriend in an online diary or blog which can be accessed by
16 the public.

17 14. Defendants pretend to be Plaintiff and Plaintiff's girlfriend and post blog entries that
18 disclose intimate details of Plaintiff's private life, such as personal details about Plaintiff's
19 relationship with his girlfriend, his children and his reaction to the death of his mother.

20 15. This fraudulent disclosure of private facts about Plaintiff's life in this manner would
21 be highly offensive to a reasonable person.

22 16. Defendants' disclosure of intimate details about Plaintiff's life in this deceitful
23 manner serves no legitimate public interest and is not newsworthy.

24 17. As a direct and proximate result of Defendants' conduct, Plaintiff has sustained and
25 will continue to sustain general and special damages, including damages to his reputation, personal
26 feelings and loss of publicity value.

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1 18. Defendants' actions were malicious and fraudulent, and undertaken in conscious
2 disregard of Plaintiff's rights. Plaintiff is therefore entitled to an award of punitive and exemplary
3 damages in an amount sufficient to punish Defendants and deter them from similar future conduct.

4 **SECOND CAUSE OF ACTION**

5 **(False Light)**

6 19. Plaintiff incorporates by reference paragraphs 1-18 as if fully restated herein.

7 20. Defendants are engaged in a pattern of impersonating Plaintiff and Plaintiff's
8 girlfriend in an online blog which can be accessed by the public.

9 21. Defendants posted blog entries that include intimate details about Plaintiff's private
10 life and appear to be, but are not, posted by Plaintiff himself. Defendants' representation to the
11 public that the statements in the blog were made by or endorsed by Plaintiff is untrue and places
12 Plaintiff in a false light.

13 22. The false light in which Plaintiff was placed would be highly offensive to a
14 reasonable person.

15 23. Defendants knew of the falsity of the representations to the public that their
16 statements were supposedly statements of the Plaintiff, and acted in reckless disregard of the false
17 light in which Plaintiff would be placed.

18 24. As a direct and proximate result of Defendants' conduct, Plaintiff has sustained and
19 will continue to sustain general and special damages, including damages to his reputation, personal
20 feelings and loss of publicity value.

21 25. Defendants' actions were malicious and fraudulent, and undertaken in conscious
22 disregard of Plaintiff's rights. Plaintiff is therefore entitled to an award of punitive and exemplary
23 damages in an amount sufficient to punish Defendants and deter them from similar future conduct.

24 **THIRD CAUSE OF ACTION**

25 **(Common Law Misappropriation of Likeness)**

26 26. Plaintiff incorporates by reference paragraphs 1-25 as if fully restated herein.

27 27. Defendants knowingly used Plaintiff's name, likeness, public image and identity
28 without his authorization or consent.

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28. Plaintiff is informed and believes, and on that basis alleges, that Defendants obtained a personal and/or commercial benefit by using Plaintiff's name, likeness and identity, to draw attention to and promote Defendants' blogs, as well as to cause injury to Plaintiff and to mislead the public.

29. As a direct and proximate result of Defendants' conduct, Plaintiff has sustained and will continue to sustain general and special damages, including damages to his reputation, personal feelings and loss of publicity value.

30. Defendants' actions were malicious and fraudulent, and undertaken in conscious disregard of Plaintiff's rights. Plaintiff is therefore entitled to an award of punitive and exemplary damages in an amount sufficient to punish Defendants and deter them from similar future conduct.

31. Plaintiff has been and, unless enjoined by this Court, will continue to be, damaged and irreparably harmed by Defendants' acts of misappropriation of likeness. Such irreparable harm constitutes an injury for which Plaintiff has no adequate remedy at law. Accordingly, Plaintiff is entitled to injunctive relief.

WHEREFORE, Plaintiff prays for relief as follows:

ON THE FIRST CAUSE OF ACTION

(Public Disclosure of Private Facts)

- 1. For damages according to proof;
- 2. For punitive damages according to proof;

ON THE SECOND CAUSE OF ACTION

(False Light)

- 1. For damages according to proof;
- 2. For punitive damages according to proof;

ON THE THIRD CAUSE OF ACTION

(Common Law Misappropriation of Likeness)

- 1. For damages according to proof;
- 2. For punitive damages according to proof;

