

MEMORANDUM

Office of the City Attorney

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TO: Mayor and City Commissioners

DATE: October 24, 2005

FROM: City Attorney


CONSENT

SUBJECT: Florence Nguyen v. City of Gainesville and William M. Nettles, Jr.; Alachua County Circuit Court; Case No.: 01-05-CA-2776


Recommendation: The City Commission authorize the City Attorney to represent the City in the case styled Florence Nguyen v. City of Gainesville and William M. Nettles, Jr.; Alachua County Circuit Court; Case No.: 01-05-CA-2776.

On October 4, 2005, the City of Gainesville was served with a summons and complaint. Ms. Florence Nguyen asserts that the City supervised a GRU employee who used GRU equipment as part of a scheme to use misrepresentation to acquire and publish a photograph of Ms. Nguyen without her knowledge and consent. Ms. Nguyen seeks money damages. Mr. Nettles has retained private counsel to represent him in this action.

Prepared by:


Daniel M. Nee,
Assistant Litigation Attorney

Submitted by:


Marion J. Radson,
City Attorney

DMN/cgow

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT,
IN AND FOR ALACHUA COUNTY, FLORIDA

FLORENCE NGUYEN,
Plaintiff,

CASE NO.: 01-05-CA-2776

VS.

Division K

CITY OF GAINESVILLE,
and

WILLIAM M. NETTLES, Jr.,
An Individual,
Defendants.

COMPLAINT

COUNT ONE

Plaintiff, Florence Nguyen, sues defendants City of Gainesville and William M. Nettles,

Jr. and alleges:

1. This is an action for damages that exceed \$15,000.
2. At all times material to this action, Plaintiff lived a quiet and private life, never exhibiting or seeking to exploit her name, likeness or personality for money, profit or commercial gain.
3. Upon information and belief, at all times material to this action, the City of Gainesville employed defendant William M. Nettles, Jr.
4. At all times material to this action, defendant Nettles was at his place of employment and was under the direct supervision and direction of the City of Gainesville.
5. At all times relevant to this action, defendant Nettles used the office and equipment supplied to him in the course of his employment and in furtherance of

his illegal activities..

6. At all times material to this action, the City of Gainesville knew or should have known of defendant/employees' illegal acts.
7. On or about July 13, 2003, defendant Nettles sent an e-mail to the plaintiff from his place of employment with the City of Gainesville and, misrepresenting himself as a work acquaintance of the plaintiff, engaged the plaintiff in communications regarding her recent cosmetic surgery.
8. At the request of Mr. Nettles, the plaintiff e-mailed a photo of herself that was meant to be seen by the female co-worker (as mis-identified by Mr. Nettles).
9. Mr. Nettles, using his employer's computer, distributed the subject picture, via his company supplied computer to, among others, an acquaintance in Lake City, Florida.
10. Upon information and belief, defendant Nettles was constructing an "adult" website.
11. The publication was without the foreknowledge, consent or acquiescence of the plaintiff.
12. As a result, plaintiff has been injured because plaintiff's personality has been violated by being exposed and distributed to the public, plaintiff's name cheapened and made notorious, plaintiff has been subjected to contempt, ridicule and inquisitive notice by the general public to the injury of plaintiff's personality and self-respect, the disturbance of plaintiff's peace of mind and privacy and plaintiff has been made conspicuous and identified to the public and has suffered great mental pain.

WHEREFORE plaintiff demands judgment against the defendant for damages.

COUNT TWO

1. This is an action for damages that exceed \$15,000.
2. On or about July 13, 2003, defendant Nettles published a photo of the plaintiff without her knowledge, permission or consent.
3. The photo in question was sent to the defendant after he misrepresented himself as a female co-worker of the plaintiff.
4. The defendant, while in the employ of the City of Gainesville and under the direct supervision of his employer and using City of Gainesville equipment, published the subject photo via the employer- provided computer.
5. Upon information and belief, defendant Nettles was constructing an "adult" website.
6. By requesting, receiving and publishing the photo of the plaintiff, she (plaintiff) was injured in her good name, credit and reputation and has suffered mental anguish.
7. The act(s) of defendant Nettles were acts of malice prompted, at least in part, by the fact that defendant Nettles was "barred" from frequenting plaintiff's place of employment (also located in Gainesville, Florida) because of defendant's unacceptable behavior.
8. At all times relevant, the employer, City of Gainesville, knew or should have known of the defendant's illegal conduct.

WHEREFORE plaintiff demands judgment against the defendants.

JURY DEMAND

Plaintiff demands a trial by jury as to all issues presented in this matter.

Dated this 11th day of July, 2005.

JS

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