

IN THE SUPERIOR COURT FOR THE EASTERN JUDICIAL CIRCUIT
STATE OF GEORGIA

LISA T. JACKSON,)
)
 Plaintiff,) Civil Action No. CV12-0396-AB
)
 v.)
)
 PAULA DEEN, PAULA DEEN)
 ENTERPRISES, LLC, THE LADY & SONS,)
 LLC, THE LADY ENTERPRISES, INC.,)
 EARL W. "BUBBA" HIERS, and UNCLE)
 BUBBA'S SEAFOOD AND OYSTER)
 HOUSE, INC.,)

ANSWER OF DEFENDANTS PAULA DEEN, PAULA DEEN ENTERPRISES, LLC,
THE LADY & SONS, LLC, AND THE LADY ENTERPRISES, INC.

Come now Paula Deen, Paula Deen Enterprises, LLC, The Lady & Sons, LLC, and The Lady Enterprises, Inc. (hereafter the "Deen Defendants"), several of the Defendants herein, and file this Answer and show to the Court as follows:

FIRST DEFENSE

Plaintiff's Complaint fails to state a claim against these Defendants upon which relief may be granted and should be dismissed.

SECOND DEFENSE AND MOTION TO STRIKE

Plaintiff makes scurrilous and false claims against Paula Deen and the remaining Deen Defendants, including acts which are alleged to have occurred more than two years prior to the filing of this suit on March 5, 2012 and thus would be known to Plaintiff and to her counsel to be barred by the Georgia personal injury statutes of limitations. Prior to the filing of this suit

Plaintiff repeatedly threatened to assert the scurrilous claims publicly in the press unless huge sums of money were paid to Plaintiff and her counsel, which demand was refused. Plaintiff's suit should be dismissed, for among other reasons, on equitable grounds on the basis of unclean hands. Unless and until the Court strikes and dismisses the entire suit, the Deen Defendants move that the Court strike all claims against the Deen Defendants alleged to have occurred more than two years prior to March 5, 2012.

THIRD DEFENSE

Plaintiff did not file against Defendants The Lady & Sons, LLC or The Lady Enterprises, Inc. a Charge of Discrimination with the United States Equal Employment Opportunity Commission ("EEOC") alleging sexual harassment or gender discrimination under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-2 ("Title VII"). Count One of Plaintiff's Complaint, titled "Sexual Harassment," should be dismissed against those Defendants because of failure to comply with a condition precedent to suit, and failure to exhaust administrative remedies.

FOURTH DEFENSE

Plaintiff has not received a Notice of Right to Sue from the EEOC pertaining to any Charge of Discrimination which may be claimed against any of the Defendants, and Plaintiff's suit should be dismissed because of failure of a condition precedent to suit, failure to exhaust administrative remedies, and lack of subject matter jurisdiction.

FIFTH DEFENSE

To the extent the Complaint seeks relief for employment actions that occurred more than 180 days prior to the date on which Plaintiff filed an EEOC Charge, Plaintiff failed to exhaust

administrative remedies, and Plaintiff's claims asserted under Title VII, in whole or in part, are time barred.

SIXTH DEFENSE

To the extent that the Complain seeks relief under Title VII for employment actions that are beyond the scope of the subject matter of Plaintiff's EEOC charge, such claims asserted under Title VII are barred.

SEVENTH DEFENSE

Plaintiff's claims are barred, in whole or in part, by the applicable statutes of limitations.

EIGHTH DEFENSE

Assuming arguendo the filing of an EEOC Charge and the receipt of a Notice of Right to Sue, which is denied, and assuming arguendo that Plaintiff would be able to show sexual harassment or gender or other discrimination, which is denied, Defendants preserve the right to assert the affirmative defense developed in Faragher v. City of Boca Raton, 524 U.S. 775 (1998) and Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998): (1) That Defendant(s) exercised reasonable care to prevent and to promptly correct the behavior; and (2) That Plaintiff unreasonably failed to take advantage of any preventative or corrective opportunities provided by the Defendant(s), or to otherwise avoid harm.

NINTH DEFENSE

Plaintiff cannot present evidence to show, subjectively and objectively, that Plaintiff suffered severe and pervasive harassment constituting sexual or any other type of harassment, and Plaintiff's claims alleging hostile work environment, or failure to keep a workplace free of harassment, should be dismissed.

TENTH DEFENSE

The Deen Defendants other than Paula Deen Enterprises, LLC did not compensate Plaintiff; all claims against those Defendants based on their alleged status as an employer under Title VII should be dismissed.

ELEVENTH DEFENSE

Individual Defendants are not proper defendants to Title VII claims, and Plaintiff's sexual harassment claim against Defendant Paula Deen should be dismissed.

TWELFTH DEFENSE

Plaintiff's allegations do not support a claim for punitive damages, and Plaintiff's claim for punitive damages should be dismissed.

THIRTEENTH DEFENSE

The Deen Defendants answer the numbered allegations of Plaintiff's Complaint as follows:

1. The allegations contained in Paragraph 1 are denied.
2. The allegations contained in Paragraph 2 are denied.
3. The allegations contained in Paragraph 3 are denied.
4. To the extent that the Complaint asserts claims arising under Georgia law, jurisdiction is admitted. Any remaining allegations contained in Paragraph 4 are denied.
5. To the extent that the Complaint asserts claims arising under Georgia law, venue is proper in this Court. Any remaining allegations contained in Paragraph 5 are denied.
6. The Deen Defendants admit that Plaintiff Lisa Jackson is female. The Deen Defendants lack knowledge or information sufficient to form a belief as to the truth of the

remaining allegations contained in Paragraph 6, and the allegations are denied.

7. The allegations contained in Paragraph 7 are admitted.

8. The Deen Defendants admit that Paula Deen Enterprises, LLC is a Georgia limited liability company with a principal office in Chatham County, Georgia and that service may be had upon Corporation Service Company. Any remaining allegations contained in Paragraph 8 are denied.

9. The Deen Defendants admit that The Lady & Sons, LLC is a Georgia limited liability company with a principal office in Chatham County, Georgia and that service may be had upon Paula Deen. The remaining allegations contained in Paragraph 9 are denied.

10. The Deen Defendants admit that The Lady Enterprises, Inc. is a Georgia corporation with a principal office in Chatham County, Georgia, and that service can be had upon Paula Deen. The remaining allegations contained in Paragraph 10 are denied.

11. The allegations contained in Paragraph 11 are admitted.

12. The Deen Defendants admit that Uncle Bubba's Seafood and Oyster House, Inc. is a Georgia corporation with a principal office in Chatham County, Georgia, and that service can be had upon James P. Gerard. The remaining allegations contained in Paragraph 12 are denied.

13. Defendants are not a single corporate enterprise, and the allegations contained in Paragraph 13 are denied.

14. The allegations contained in Paragraph 14 are denied.

15. The allegations contained in Paragraph 15 are denied.

16. The Deen Defendants lack knowledge or information sufficient to form a belief as to the truth of the first sentence of Paragraph 16, and the allegations are therefore denied. The

remaining allegations contained in Paragraph 16 are denied.

17. The allegations contained in Paragraph 17 are denied.

18. The Deen Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18, and the allegations are therefore denied.

19. The allegations contained in Paragraph 19 are denied.

20. The Deen Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 as they relate to Mr. Earl "Bubba" Hiers, and the allegations are therefore denied. The remainder of Paragraph 20 is denied.

21. The allegations contained in Paragraph 21 are denied.

22. The Deen Defendants admit that Plaintiff received compensation from Paula Deen Enterprises, LLC. The remainder of the allegations contained in Paragraph 22 are denied.

23. The allegations contained in Paragraph 23 are denied.

24. The allegations contained in Paragraph 24 are denied.

25. The allegations contained in Paragraph 25 are denied.

26. The allegations contained in Paragraph 26 are denied.

27. The allegations contained in Paragraph 27 are denied.

28. The allegations contained in Paragraph 28 are denied.

29. The allegations contained in Paragraph 29 are denied.

30. The Deen Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 30, and the allegations are therefore denied.

31. The Deen Defendants admit that Plaintiff complained about her salary and complained that she was not paid a salary equal to the salary of the General Manager of Lady &

Sons Restaurant. The remaining allegations contained in Paragraph 31 are denied.

32. The allegations contained in Paragraph 32 are denied.

33. The allegations contained in Paragraph 33 are denied.

34. The Deen Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 34, and the allegations are therefore denied.

35. The allegations contained in Paragraph 35 are denied.

36. The allegations contained in Paragraph 36 are denied.

37. The allegations contained in Paragraph 37 are denied.

38. The allegations contained in Paragraph 38 are denied.

39. The allegations contained in Paragraph 39 are denied.

40. The allegations contained in Paragraph 40 are denied.

41. The Deen Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 41, and the allegations are therefore denied.

42. The Deen Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 42, and the allegations are therefore denied.

43. The Deen Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 43, and the allegations are therefore denied.

44. The Deen Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 44, and the allegations are therefore denied.

45. The Deen Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 45, and the allegations are therefore denied.

46. The Deen Defendants lack knowledge or information sufficient to form a belief as

to the truth of the allegations contained in Paragraph 46, and the allegations are therefore denied.

47. The Deen Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 47, and the allegations are therefore denied.

48. The allegations contained in Paragraph 48 are denied.

49. The allegations contained in Paragraph 49 are denied.

50. The allegations contained in Paragraph 50 are denied.

51. The allegations contained in Paragraph 51 are denied. The allegations are false, scandalous, and scurrilous, and strict proof is demanded hereof.

52. Answering Paragraph 52, there is a preferred employee entrance for employees of all races at Uncle Bubba's Restaurant and Oyster House. The remaining allegations contained in Paragraph 52 are denied.

53. Answering Paragraph 53, there is a staff restroom for staff of all races at Uncle Bubba's Restaurant and Oyster House. The remaining allegations contained in Paragraph 53 are denied.

54. The allegations contained in Paragraph 54 are denied.

55. The Deen Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 55, and the allegations are therefore denied.

56. The allegations contained in Paragraph 56 are denied.

57. The allegations contained in Paragraph 57 are denied.

58. The allegations contained in Paragraph 58 are denied.

59. The Deen Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 59, and the allegations are therefore denied.

60. The allegations contained in Paragraph 60 are denied.
61. The allegations contained in Paragraph 61 are denied.
62. The allegations contained in Paragraph 62 are denied.
63. The allegations contained in Paragraph 63 are denied.
64. The allegations contained in Paragraph 64 are denied.
65. The allegations contained in Paragraph 65 are denied.
66. The allegations contained in Paragraph 66 are denied.
67. The allegations contained in Paragraph 67 are denied.
68. The allegations contained in Paragraph 68 are denied.
69. The allegations contained in Paragraph 69 are denied.
70. The allegations contained in Paragraph 70 are denied.
71. The allegations contained in Paragraph 71 are denied.
72. The allegations contained in Paragraph 72 are denied.
73. The allegations contained in Paragraph 73 are denied.
74. The allegations contained in Paragraph 74 are denied.
75. The allegations contained in Paragraph 75 are denied.
76. The allegations contained in Paragraph 76 are denied.
77. The allegations contained in Paragraph 77 are denied.
78. The allegations contained in Paragraph 78 are denied.
79. The Deen Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 79, and the allegations are therefore denied.
80. The allegations contained in Paragraph 80 are denied.

81. The allegations contained in Paragraph 81 are denied.
82. The allegations contained in Paragraph 82 are denied.
83. The Deen Defendants deny that Plaintiff was employed by all of the Defendants, and Paragraph 83 is therefore denied.
84. The allegations contained in Paragraph 84 are denied.
85. The Deen Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 85, and the allegations are therefore denied.
86. The Deen Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 86, and the allegations are therefore denied.
87. The allegations contained in Paragraph 87 are denied.
88. The Deen Defendants incorporate verbatim by reference herein their responses to the paragraphs preceding and following Paragraph 88 as if expressly set forth.
89. The allegations contained in Paragraph 89 are denied.
90. The allegations contained in Paragraph 90 are denied.
91. The allegations contained in Paragraph 91 are denied.
92. The allegations contained in Paragraph 92 are denied.
93. The Deen Defendants incorporate verbatim by reference herein their responses to the paragraphs preceding and following Paragraph 93 as if expressly set forth.
94. The allegations contained in Paragraph 94 are denied.
95. The allegations contained in Paragraph 95 are denied.
96. The allegations contained in Paragraph 96 are denied.
97. The Deen Defendants incorporate verbatim by reference herein their responses to

the paragraphs preceding and following Paragraph 97 as if expressly set forth.

98. The allegations contained in Paragraph 98 are denied.

99. The allegations contained in Paragraph 99 are denied.

100. The allegations contained in Paragraph 100 are denied.

101. The Deen Defendants incorporate verbatim by reference herein their responses to the paragraphs preceding and following Paragraph 101 as if expressly set forth.

102. The Deen Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 102, and the allegations are therefore denied.

103. The allegations contained in Paragraph 103 are denied.

104. The allegations contained in Paragraph 104 are denied.

105. The Deen Defendants incorporate verbatim by reference herein their responses to the paragraphs preceding and following Paragraph 105 as if expressly set forth.

106. The allegations contained in Paragraph 106 are denied.

107. The allegations contained in Paragraph 107 are denied.

108. The allegations contained in Paragraph 108 are denied.

109. The Deen Defendants incorporate verbatim by reference herein their responses to the paragraphs preceding and following Paragraph 109 as if expressly set forth.

110. The allegations contained in Paragraph 110 are denied.

111. The allegations contained in Paragraph 111 are denied.

112. The allegations contained in Paragraph 112 are denied.

113. The Deen Defendants incorporate verbatim by reference herein their responses to

the paragraphs preceding and following Paragraph 113 as if expressly set forth.

114. The allegations contained in Paragraph 114 are denied.

115. The allegations contained in Paragraph 115 are denied.

116. The allegations contained in Paragraph 116 are denied.

117. The Deen Defendants incorporate verbatim by reference herein their responses to the paragraphs preceding and following Paragraph 117 as if expressly set forth.

118. The allegations contained in Paragraph 118 are denied.

119. The allegations contained in Paragraph 119 are denied.

120. The allegations contained in Paragraph 120 are denied.

121. The Deen Defendants incorporate verbatim by reference herein their responses to the paragraphs preceding and following Paragraph 121 as if expressly set forth.

122. The allegations contained in Paragraph 122 are denied.

123. The allegations contained in Paragraph 123 are denied.

124. Any remaining allegations or paragraphs of Plaintiff's Complaint not hereinabove specifically admitted are hereby denied.

WHEREFORE, Defendants Paula Deen, Paula Deen Enterprises, LLC, The Lady & Sons, LLC, and The Lady Enterprises, Inc. request trial by a jury of twelve (12) persons with judgment in their favor.

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This 6 day of March, 2012.

OLIVER MANER LLP



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Georgia State Bar No. 274000

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IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA

LISA T. JACKSON,)
)
Plaintiff,)
)
v.)
)
PAULA DEEN; LADY & SONS)
RESTAURANT, LLC; THE LADY)
RESTAURANT, INC.; EARL W.)
"BUBBA" HIERS; and UNCLE)
BUBBA'S SEAFOOD AND OYSTER)
HOUSE, INC.,)
)
Defendants.)

CIVIL ACTION NO.: SPCV1200396

CERTIFICATE OF SERVICE


I hereby certify that a true and complete copy of the foregoing has been served upon all counsel of record by sending the same via electronic mail, facsimile, and United States Mail, proper postage affixed thereto, addressed to the following:

S. Wesley Woolf
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This 6 day of March, 2012.

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IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA

LISA T. JACKSON,

Plaintiff,

v.

PAULA DEEN; LADY & SONS
RESTAURANT, LLC; THE LADY
RESTAURANT, INC.; EARL W.
"BUBBA" HIERS; and UNCLE
BUBBA'S SEAFOOD AND OYSTER
HOUSE, INC.,

Defendants.

CIVIL ACTION NO.: SPCV1200396

**MOTION OF DEFENDANTS PAULA DEEN, LADY & SONS RESTAURANT, LLC,
AND THE LADY RESTAURANT, INC. FOR AN EMERGENCY HEARING ON THEIR
EMERGENCY MOTION FOR INJUNCTIVE RELIEF TO PROHIBIT THE
DISSEMINATION OF EXTRAJUDICIAL COMMENTS OR INFORMATION**

COME NOW Paula Deen, Lady & Sons Restaurant, LLC, AND The Lady Restaurant, Inc., three of the Defendants in the above-styled action, and file this Motion for an Emergency Hearing on Their Emergency Motion for Injunctive Relief to Prohibit the Dissemination of Extrajudicial Comments or Information, showing the Court as follows:

1. Plaintiff filed the above-styled action on March 5, 2012, alleging claims of sexual and racial discrimination and employee mistreatment against Defendants.
2. Prior to filing her lawsuit, Plaintiff, through her counsel, made certain settlement demands to Defendants. Plaintiff represented that if her settlement demands were not met, she would file the case at bar and issue press releases to the national media outlets.

3. Upon the filing of Plaintiff's Complaint, Defendants filed their Emergency Motion for Injunctive Relief to Prohibit the Dissemination of Extrajudicial Comments or Information.
4. Plaintiff and her counsel have already begun the media campaign that was threatened pre-litigation.
5. The harm complained of by Defendants and threatened by Plaintiff is substantial, imminent, and irreparable.
6. Plaintiff's counsel, S. Wesley Woolf, is local to this Court and has been served with copies of this Motion and the Emergency Motion for Injunctive Relief.
7. Due to the imminence of Plaintiff's threats, actions, and the nature of the harm that will result therefrom, Defendants request that the Court hold an emergency hearing on their Motions and show that any delay in granting the relief sought by Defendants will cause substantial, irreparable harm.
8. A rule nisi ordering the parties to appear before the Court is attached hereto.

Respectfully submitted, this 6 day of March, 2012.

OLIVER MANER LLP


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TMZ

IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA

LISA T. JACKSON,

Plaintiff,

v.

Civil Action No.: SPCV1200396

PAULA DEEN; LADY & SONS
RESTAURANT, LLC; THE LADY
RESTAURANT, INC.; EARL W.
“BUBBA” HIERS; and UNCLE
BUBBA’S SEAFOOD AND OYSTER
HOUSE, INC.,

Defendants,

**EMERGENCY MOTION OF DEFENDANTS’ PAULA DEEN, LADY & SONS
RESTAURANT, LLC, AND THE LADY RESTAURANT, INC., FOR
INJUNCTIVE RELIEF TO PROHIBIT THE DISSEMINATION OF
EXTRA-JUDICIAL COMMENTS OR INFORMATION**

“MOTION FOR GAG ORDER”

COME NOW Paula Deen, Lady & Sons Restaurant, LLC, and The Lady Restaurant, Inc., three of the Defendants in the above-styled action, and file this Emergency Motion for Injunctive Relief to Prohibit the Dissemination of Extra-Judicial Comments or Information, respectfully showing the Court as follows: ¹

I. GENERAL BACKGROUND

As the Court is likely well aware, Paula Deen is a public figure with a substantial national, and international following. Mrs. Deen’s public notoriety arises from her restaurant, The Lady &

¹ Contemporaneous to the filing of this Motion, Defendants filed their Motion for Emergency Hearing. Such Motion for Emergency Hearing is incorporated herein by reference.

Sons, and her nationally televised cooking shows. In fact, many tourists plan their trips to Savannah around meals at The Lady & Sons Restaurant. Through her cooking and television exposure, Mrs. Deen has arguably become the face of Southern cuisine and living. The other Defendants to this action are Mrs. Deen's brother, Earl W. "Bubba" Hiers, and entities associated with Paula Deen's name.

This Emergency Motion is filed as a result of threats made by Plaintiff Lisa T. Jackson through her attorney, S. Wesley Woolf and his firm, and acts following those threats. To wit, on January 31, 2012, Mr. Woolf sent to Defendants' counsel a letter making certain demands for settlement. (See S. Wesley Woolf, Esq. letter to James P. Gerard dated January 31, 2012 attached hereto as Exhibit A). Mr. Woolf's correspondence enclosed a draft complaint similar to the Complaint filed yesterday by Plaintiff. Plaintiff's Complaint contains highly inflammatory allegations of sexism, racism, and employee mistreatment. For a public figure such as Mrs. Deen, even if Ms. Jackson's allegations are proven untrue, the harm resulting from the continuing mass dissemination of the allegations may never be undone. Plaintiff and her counsel are clearly cognizant of this fact as evidenced by their demands and actions. These Defendants responded to Mr. Woolf's letter by correspondence dated February 13, 2012. (See I. Gregory Hodges, Esq., letter to S. Wesley Woolf, Esq., dated February 13, 2012, attached hereto as Exhibit B).

Based upon Mr. Woolf's letter and the course already taken by Plaintiff and her counsel, Defendants expect that Plaintiff will engage in a course of media warfare to Defendants' finances, personal reputations, and professional reputations. Mr. Woolf's letter states in pertinent part:

Of course, your client places no value on Ms. Jackson's losses, so it may be that the only factor available to cause your clients' consideration is the economic losses they will experience if we are caused to bring this matter to a public forum. It

is my understanding that Paula Deen has lost a substantial amount of her fan base in the latest diabetes debacle.

....

If we are unable to settle, the **Complaint will not be quietly filed**. I am making **arrangements for a press conference on the day of filing**. I have identified the **journalist for the New York Times** who covers civil rights matters and he will be provided a **pre-filing exclusive**. A **nationwide press release** will be issued to the major networks, newspapers, newsmagazines and news Websites across the country.

....

...I hope that upon full and deliberate consideration of this offer, [Defendants] will come to understand that **the small price they quietly pay and that my client quietly accepts will allow Paula Deen a chance to salvage a brand that can continue to have value into the future**. Failure to accept this offer of settlement will expose your client to a risk of economic loss well in excess of this offer.

(Exhibit A) (emphasis added).

Defendants seek emergency relief from this Court to protect them from the extra-judicial harm threatened by Plaintiff and her counsel. Specifically, Defendants request an order restraining the dissemination of extrajudicial comments or information about this case by the parties to this action or their counsel, an order commonly referred to as a “gag order.” The requested relief includes prohibiting the parties or their legal counsel from inducing others to disseminate extrajudicial comments or information about this case. As made clear by Mr. Woolf’s letter and by the news articles already written about this lawsuit, Mr. Woolf and his client fully intend to cause Defendants economic and personal ruin and to prospectively influence the jury pool.² (See Articles attached hereto as Exhibit C). This plan of action deprives Defendants of an opportunity to fairly

² The tactic chosen by Plaintiff and her counsel is not new or unique. Another public figure, current head basketball coach at the University of Louisville Rick Pitino, previously faced the decision of paying a large sum of money or having certain allegations against him aired in the media.

confront the allegations against them and instead tries the case in the court of public opinion.

II. ARGUMENT AND CITATION OF AUTHORITY

This Emergency Motion respectfully requests that the Court order the parties and their legal counsel to not make any extra-judicial dissemination of information pertaining to this lawsuit. Mr. Woolf's letter clearly identifies Plaintiff's strategy with regard to Ms. Jackson's allegations against Defendants: **pay or I will ruin you**. By this Motion, Defendants do not ask the Court to infringe upon Ms. Jackson's First Amendment Rights. This Emergency Motion and the relief sought by Defendants is not about denying access to the courts or about restraining free speech. This Emergency Motion is about restraining a litigant's stated intent, plan, and actions undertaken to influence this litigation through the media. This Motion is about fairness to litigants, upholding the rights of all parties to a fair trial, and properly maintaining this Court's control over these proceedings. A protective order is necessary because Ms. Jackson and her counsel have made abundantly clear that they intend to engage in a path of personal and financial destruction because Defendants would not pay their pretrial settlement demand.

A. The Standard for Injunctive Relief.

"Equity, by a writ of injunction, may restrain proceedings in another or the same court, a threatened or existing tort, or any other act of a private individual or corporation which is illegal or contrary to equity and good conscience and for which no adequate remedy is provided at law." O.C.G.A. § 9-5-1 (2009). "The superior court may issue an interlocutory injunction to maintain the status quo until a final hearing if, by balancing the relative equities of the parties, it would appear that the equities favor the party seeking the injunction." Cotton States Mut. Ins. Co. v. Stephen Brown Ins. Agency, Inc., 290 Ga. App. 660, 662-663 (2008) (quoting Outdoor Advertising Assn.

of Ga. v. Garden Club of Ga., 272 Ga. 146, 147 (1) (2000)).

B. **A Protective Order Should Issue Upon a Showing of “Substantial Likelihood of Material Prejudice.”**

“Legal trials are not like elections, to be won through the use of the meeting-hall, the radio, and the newspaper.” Bridges v. State of California, 314 U.S. 252, 271 (1941).

Freedom of discussion should be given the widest range compatible with the essential requirement of the fair and orderly administration of justice. But it must not be allowed to divert the trial from the very purpose of a court system to adjudicate controversies, both criminal and civil, in the calmness and solemnity of the courtroom according to legal procedures. Among these legal procedures is the requirement that the jury’s verdict be based on evidence received in open court, not from outside sources.”

Sheppard v. Maxwell, 384 U.S. 333, 350-51 (1966) (citations omitted).

Orders restricting extrajudicial comments by trial participants are evaluated under the standard set forth by the United States Supreme Court in Gentile v. State Bar of Nevada, 501 U.S. 1030, 1074 (1991). Atlanta Journal-Constitution v. The State, 266 Ga. App. 168, 168 (2004). In Gentile, the United States Supreme Court held that the “‘substantial likelihood of material prejudice’ standard constitutes a constitutionally permissible balance between the First Amendment rights of attorneys in pending cases and the State’s interest in fair trials.” Atlanta Journal-Constitution, 266 Ga. App. at 169 (quoting Gentile, 501 U.S. at 1075).

The State Bar of Georgia incorporated the standard enunciated by the Supreme Court in Gentile into the Rules of Professional Conduct:

A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that a person would reasonably believe to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.

Id. (quoting Georgia R. Prof. Conduct 3.6(a)). The federal courts have also taken note of the danger of extrajudicial commentary by trial participants and have, by their local rules, barred attorneys from interfering with justice by the release of extrajudicial information:

It is the duty of every lawyer or law firm associated with the case not to release or authorize the release of information or an opinion, which a reasonable person would expect to be disseminated by means of public communication, in connection with a pending or imminent civil litigation with which he or his firm is associated, if there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

S.D. Ga. L. R. 11.2.

The Georgia State Bar Rules further provide instruction to attorneys with regard to claims filed for harassment or to injure another party. Rule 3.1 states in pertinent part:

In the representation of a client, a lawyer shall not:

(a) file a suit, assert a position, ..., or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another; ...

Ga. R. Prof. Conduct 3.1(a).

C. There is a Substantial Likelihood of Material Prejudice In the Case at Bar.

Mr. Wolff's letter to Defendants' counsel clearly sets forth the showing of substantial likelihood of material prejudice required before this Court can issue an injunctive order prohibiting the dissemination of extrajudicial statements or information. It is clear that Plaintiff intends to use the media to taint a prospective jury. Mr. Wolff states:

Neither will your client share the values of a Chatham County jury, but the fact is that a jury in this community, angered by the truly outrageous behavior outlined in the draft Complaint and proved at trial, if necessary, will award my client my client much more than the approximately three hundred thousand dollars she already has lost in economic damages.

....

Although the value of the offered in settlement of these claims is substantial, it pales in comparison to **financial losses that are certain to arise** from a public airing of these claims.

(Exhibit A) (emphasis added). Plaintiff and Mr. Wolff also make clear that they aim beyond influencing the prospective jury pool; Plaintiff and Mr. Wolff intend to engage in a national campaign to ruin Defendants' reputations. Of course, the national smear campaign Plaintiff and her counsel have indicated precludes Defendants an opportunity to respond to the allegations made and "convicts" Defendants before this Court has had an opportunity to hear the evidence. Plaintiff and Mr. Wolff have already begun this process.

The harm that will *certainly* result from the conduct that Plaintiff and Mr. Wolff have indicated they will take will be immediate, severe, and irreversible. Plaintiff and Mr. Wolff recognize this fact in Mr. Wolff's correspondence. (Exhibit A). News coverage from the New York Times and the major networks, the avenue threatened by Mr. Wolff, will not only unnecessarily sensationalize this action and taint a prospective jury, it will irreparably harm Mrs. Deen's reputation and harm her financial interests. An order prohibiting extrajudicial statements or data must issue to protect Defendants.

WHEREFORE, Defendants have clearly shown that serious, substantial, and irreparable harm will result both to their ability to receive a fair trial and to their financial interests and reputations if an order is not entered prohibiting the continued dissemination of extrajudicial statements or information pertinent to this case. For such reasons, Defendants respectfully request that the Court enter such an order. A proposed Order is attached hereto as Exhibit D.

Respectfully submitted, this 6 day of March, 2012.

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EXHIBIT
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January 31, 2012

VIA SAME-DAY HAND DELIVERY

James P. Gerard
Oliver Maner, LLP
218 West State Street
Savannah, Georgia 31401

Re: *Lisa T. Jackson v. Paula Deen, Lady & Sons Restaurant, LLC, The Lady Restaurant, Inc., Earl W. "Bubba" Hiers, Uncle Bubba's Seafood and Oyster House, Inc.; Superior Court of Chatham County*

Dear Jim:

Enclosed you will find a copy of a draft Complaint that will be filed in the very near future in the Superior Court of Chatham County. It is, of course, a draft that may change slightly before it is filed. This correspondence and the enclosed draft Complaint are provided in the context of a settlement offer and may not be used for any other purposes, including as evidence in any further proceeding.

Despite entreaties, my client has refrained from publicly discussing her claims. Your client can still gain substantial value from settlement before we file the Complaint. We are willing to sign a settlement agreement that provides for substantial mutuality of commitment, including a confidentiality provision. Settlement can occur if your clients pay my client \$1.25 million.

Of course, this is a substantial sum, and I expect the initial reaction of your clients is that we have exaggerated the value of settlement. I recognize that your clients place little or no value on any losses experienced by my client. Neither will your client share the values of a Chatham County jury, but the fact is that a jury in this community, angered by the truly outrageous behavior outlined in the draft Complaint and proved at trial, if necessary, will award my client much more than the approximately three hundred thousand dollars she already has lost in economic damages.

**James P. Gerard
Oliver Maner, LLP
January 31, 2012
Page 2**

Our focus at this pre-litigation stage is recouping Ms. Jackson's losses, but much of what was taken from my client is incapable of precise economic valuation. Of course, your client places no value on Ms. Jackson's losses, so it may be that the only factor available to cause your clients' consideration of settlement is the economic losses they will experience if we are caused to bring this matter to a public forum. It is my understanding that Paula Deen has lost a substantial amount of her fan base in the latest diabetes debacle. Exposure of the racist and sexist culture of her corporate and personal life is going to permanently, and irreparably, damage the value of her brand. Although the value of the offered in settlement of these claims is substantial, it pales in comparison to financial losses that are certain to arise from a public airing of these claims.

If we are unable to settle, the Complaint will not be quietly filed. I am making arrangements for a press conference on the day of filing. I have identified the journalist for the New York Times who covers civil rights matters and he will be provided a pre-filing exclusive. A nationwide press release will be issued to the major networks, newspapers, newsmagazines and news Websites across the country. Of course, my client's First Amendments rights are not restrained in the Superior Court of Chatham County. While maintaining respect for the Court, we will take full advantage of these rights.

I respectfully insist that you forward this correspondence and the enclosed draft Complaint directly to your clients. And I hope that upon full and deliberate consideration of this offer, they will come to understand that the small price they quietly pay and that my client quietly accepts will allow Paula Deen a chance to salvage a brand that can continue to have value into the future. Failure to accept this offer of settlement will expose your client to a risk of economic loss well in excess of this offer.

Thank you for consideration of this offer and I look forward to receiving your clients' acceptance by the close of business on February 6, 2012.

Sincerely,



S. WESLEY WOOLF

SWW/bms
c: Lisa T. Jackson
Enclosure