

IN THE DISTRICT COURT, BOULDER COUNTY, COLORADO  
Case No. 99CV169-2

Complaint for Injunctive Relief (FILED UNDER SEAL)

Alexander M. Hunter  
District Attorney in and for  
the 20th. Judicial District,  
Plaintiff

vs.

Andrew Louis (Lou) Smit  
Defendant

First Claim for Relief: Conversion

1. Plaintiff Alexander M. Hunter is the District Attorney for the Twentieth Judicial District, State of Colorado, and maintains his offices in Boulder County Colorado;
2. Plaintiff Hunter is charged with the responsibility of investigating and prosecuting criminal offenses committed against the people of the state of Colorado within Boulder County;
3. The Boulder Police Department is the primary investigating agency for crimes committed against the People of the State of Colorado within the City of Boulder;
4. The Boulder District Attorney and the Boulder Police Department are conducting a joint criminal investigation (hereinafter "the investigation") into the death of Jonbenet Ramsey, which occurred in the City of Boulder on or about December 26, 1996;
5. Defendant, Andrew Louis Smit, was formerly employed as an investigator by the Office of the District Attorney for the Twentieth Judicial District. He performed his duties in an office in the Boulder Criminal Justice Center, in Boulder County Colorado;
6. Defendant, while employed by the Office of the District Attorney, was assigned to the investigation of the death of JonBenet Ramsey;
7. As part of the investigation into the death of JonBenet Ramsey, personnel from the Boulder

Police

Department took photographs of the crime scene, autopsy and related evidence. In addition, the crime scene was video taped on the night of 12-26-96;

8. Copies of all photographs and video tapes taken by Boulder Police Department personnel were given to the District Attorney's Office for use in the official investigation into the homicide;

9. Said photographs and video tape, and the images they depict are the property of the Boulder Police Department and the Boulder District Attorney;

10. As part of the investigation into the death of JonBenet Ramsey, personnel from the Boulder Police Department and the District Attorney's Office generated reports and transcriptions of interviews with witnesses;

11. In his capacity as investigator in the Ramsey case, Defendant had access to all evidence generated in the case, including, reports, transcripts, video tapes and photographs taken by members of the Boulder Police Department;

12. In September, 1998, Defendant resigned from his position with the District Attorney's Office. He was requested by Plaintiff to return all property of the Boulder District Attorney that was in his possession at that time;

13. On September 30, 1998, Defendant was given a letter by Plaintiff (exhibit A) which directed Defendant to confirm, in writing that he had returned all materials and information connected with the Ramsey investigation;

14. Defendant was also provided a letter to return to Plaintiff, certifying that he had complied with his obligation to return all property of the District Attorney that he had in his possession. (exhibit B);

15. At the present time, Defendant has in his possession a compact disc which contains digital copies of many, if not all, of the photographs previously described. This compact disc was produced by digitally scanning the original photographs or authorized copies of the original photographs with a digitizer. The digital images were then transferred to the compact disc;

16. On January 22, 1999 and January 26, 1999, defendant admitted that he took the disc with him when he resigned from his employment.

17. On the same dates, Defendant admitted to Plaintiff that he has transferred images from the compact disc to his personal computer and to other compact discs;

18. On the same dates, Defendant acknowledged to Plaintiff that he also has in his possession or control a copy of the video tape of the crime scene;

19. Upon learning that Defendant had materials and photographs in his possession, Plaintiff drew Defendant's attention to Exhibit B. Defendant stated that he had not signed it.

20. Plaintiff avers on information and belief that Defendant has in his possession or control digital or paper copies of reports and transcriptions of witness interviews generated in the investigation.

21. Defendant's receipt of or removal of the compact disc and the video tape from the Office of the District Attorney was without the authorization of Plaintiff;

22. Defendant's copying of the digital images and/or video images onto other media was done without the authorization of Plaintiff;

23 Defendant's receipt of , removal or copying of digital or paper copies of reports and transcriptions of witness interviews generated in the investigation was done without Plaintiff's Authorization;

24. Plaintiff has requested defendant to return the compact disc and any copies of it. Plaintiff offered to back up and preserve any data on Defendant's personal computer for use by Defendant if and when Defendant may appear in any official proceeding . Defendant has refused to surrender the discs and erase unauthorized material from his computer;

WHEREFORE, Plaintiff prays that this Honorable Court

1. Enter judgment in favor of Plaintiff and against Defendant and award Plaintiff the following relief:

2. Order that Defendant provide an accounting to Plaintiff of all reports, transcriptions of witness interviews stored by whatever means, and copies of any complete or partial photographs previously described that are in his possession or control;

3. Order that Defendant surrender to Plaintiff all reports, transcripts of witness interviews, storage devices on which any photographic or video images are stored, including., but not limited to,

compact

discs, fixed discs, zip discs, floppy discs or magnetic tapes which are in his possession or control;

4. Order that all discs be reviewed by Plaintiff or his designee(s) and that plaintiff be permitted to permanently erase any of the above described images that are stored on said media;

5. Order that Plaintiff be permitted to retain any disc which can not be permanently erased and;

6. Order such other relief that the court deems appropriate.

#### Second Claim for Relief; Breach of Contract

1. Plaintiff incorporates averments 1-24 of his first claim for relief as if restated here in full.

2. Defendant was bound by a written contract of employment (Exhibit C) which specifically prohibits him from disclosing, during the course of his employment or thereafter,, any information that he learned in connection with his official duties with the District Attorney's Office;

3. That Defendant has breached his contract by disclosing to unauthorized persons material information which he learned of or came into possession of during the course of his employment; Defendant has publicly stated that he will continue to investigate the death of JonBenet Ramsey as a private citizen.

4. On information and belief, Defendant's investigation will disclose information which he learned of or came into possession of during the course of his employment;

5. The disclosure of investigative information during the pendency of the official investigation will produce irreparable harm to Plaintiff and impair his ability to perform his official duties in the investigation;

6. Plaintiff has no plain, speedy and adequate remedy at law to redress Defendant's breach and anticipated future breaches of his contract of employment.

WHEREFORE, Plaintiff prays that the Honorable Court:

1. Enter judgment in favor of Plaintiff and against Defendant;

2. Enjoin Defendant from disclosing through any means any information which Defendant learned of or came into possession of during the course of his employment with the District Attorney's Office unless authorized in writing by the District Attorney or by order of this court;

3. Order such other relief that the court deems appropriate.

Dated February 1, 1999 Michael J. Kane  
Deputy District Attorney (Reg. No. 9790)  
District Attorney's Office  
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Boulder CO, 80306