

FILED

STATE OF NORTH CAROLINA
JUSTICE

2008 SEP 11 PM 4:49

IN THE GENERAL COURT OF

COUNTY OF WAKE

WAKE COUNTY, N.C.

DISTRICT COURT DIVISION

08 CVD 12310

BY _____

GARRY D. RENTZ, DONNA A.)
RENTZ, KRISTA C. LISTER)

v.)

BRADLEY COOPER)

MOTION TO STRIKE

NOW COMES Defendant Brad Cooper, by and through undersigned counsel, and moves this Honorable Court pursuant to the North Carolina Rules of Civil Procedure, Rule 12 (f) to strike the following statements from Plaintiffs' Complaint because the statements are redundant, irrelevant, immaterial, impertinent, and/or scandalous material having no bearing on the litigation and/or have been set forth for the sole purpose of creating undue bias with both the court and the press, and to inflame the trier of fact and the public.

1. Allegation #6 in the Plaintiffs' Complaint. The allegation that Nancy Cooper retained counsel in March 2008 to resolve issues related her impending separation is irrelevant, immaterial and has no bearing on Brad's fitness as a parent.
2. Allegation #8 in the Plaintiffs' Complaint. The allegation that a neighbor reported Nancy missing and that Brad never reported to the Cary police that Nancy was missing or never contacted the Plaintiffs' Rentz is irrelevant, immaterial, has no bearing on Brad's fitness as a parent, and has been set forth for the sole purpose of creating undue bias with both the court and the press, and to inflame the trier of fact and the public.
3. Allegation #9 in the Plaintiffs' Complaint. The allegation that Brad claimed Nancy went jogging is designed to create the perception that Brad Cooper was responsible for Nancy Cooper's death without any factual basis. With absolutely no evidence to support that Brad Cooper was somehow responsible for Nancy Cooper's death, the statement is irrelevant, immaterial, and has no bearing on the issue of Brad's fitness as a parent. The allegations that Nancy never went jogging and that Brad was the last person to see her alive is designed to create the perception that Brad Cooper was responsible for Nancy Cooper's death without any factual basis. With absolutely no evidence to support that Brad Cooper was somehow responsible for Nancy Cooper's death, the statements are impertinent, scandalous and have been set forth for the sole purpose of creating undue bias with both the court and the press, and to inflame the trier of fact and the public.

4. Allegation #10 in the Plaintiffs' Complaint. The allegations that Nancy's body was discovered in an outdoor location by a third party and that an autopsy was performed and her death has been classified as a homicide are designed to create the perception that Brad Cooper was responsible for Nancy Cooper's death without an factual basis. With absolutely no evidence to support that Brad Cooper was somehow responsible for Nancy Cooper's death, the statements irrelevant, immaterial, impertinent, and scandalous material having no bearing on the litigation and has been set forth for the sole purpose of creating undue bias with both the court and the press, and to inflame the trier of fact and the public.

5. Allegation #12 in the Plaintiffs' Complaint. The allegations that Brad engaged in a pattern of emotional abuse directed at Nancy, and that Brad yelled at and belittled her are designed to create the perception that Brad Cooper was responsible for Nancy Cooper's death without any factual basis. With absolutely no evidence to support that Brad Cooper was somehow responsible for Nancy Cooper's death, the statements are irrelevant, immaterial, impertinent, and scandalous material. Further, the statements have no bearing on Brad's fitness as a parent and are intended to create undue bias with the court and the press and set forth to inflame the trier of fact and the public.

The allegation that Brad engaged in a pattern of emotional abuse directed towards the minor children is unsupported by any allegations or evidence. The allegation is scandalous and impertinent and has been set forth for the sole purpose of creating undue bias with both the court and the press, and to inflame the trier of fact and the public.

6. Allegation #13 in the Plaintiff's Complaint. The allegations that Brad withheld funds from Nancy and refused to provide adequate financial support to Nancy and the children, that Nancy had no source of funds other than Brad, and that Nancy was in such a desperate financial situation that she was forced to borrow funds from Plaintiffs to purchase groceries and necessities for herself and the minor children are irrelevant, immaterial, scandalous and impertinent. Furthermore, the allegations are plainly false and stated without first-hand knowledge of the Cooper's finances. At best, Plaintiffs show a careless disregard for the truth in making these allegations. At worst, they are a complete fabrication. The statements have no bearing on Brad's fitness as a parent and have been set forth for the sole purpose of creating undue bias with both the court and the press, and to inflame the trier of fact and the public.

7. Allegation #14 in the Plaintiff's Complaint. The allegations that Brad was unfaithful during his marriage to Nancy and accusation that he "carried on" a sexual relationship with a woman other than Nancy during his marriage is absolutely irrelevant, immaterial, impertinent, and scandalous material. The statements have no bearing on Brad's fitness as a father and has been designed to create the perception that Brad was responsible for Nancy Cooper's death without any factual basis. With absolutely no evidence to support that Brad was somehow responsible for Nancy's death, the statements have been set forth for the sole purpose of creating undue bias with both the court and the press, and to inflame the trier of fact and the public.

8. Allegation #15 in the Plaintiff's Complaint. The allegations that the marital residence is under investigation and may be a crime scene, that Brad has been prohibited from returning to the marital residence during the investigation, and that the residence is not an appropriate environment for the children during the pending criminal investigation of the murder of Nancy Cooper are irrelevant, immaterial, impertinent, and scandalous material. Furthermore, the allegations are plainly false and stated without first-hand knowledge as Brad was never prohibited from his home. At best, Plaintiffs show a careless disregard for the truth in making these allegations. At worst, they are a complete fabrication. The statements have no bearing on Brad's fitness as a father and have been designed to create the perception that Brad was responsible for Nancy Cooper's death without any factual basis. With absolutely no evidence to support that Brad was somehow responsible for Nancy's death, the statements have been set forth for the sole purpose of creating undue bias with both the court and the press, and to inflame the trier of fact and the public.

9. Allegation #16 in the Plaintiff's Complaint. The allegations that Brad is mentally unstable and poses a danger to the physical safety of the minor children are conclusions that are based on no allegations setting forth any conduct by Brad that support those conclusions. Plaintiffs provided no examples of any relevant conduct to support their conclusion that Brad would injure or allow physical injury to the children to occur. Furthermore, the conclusions are plainly false and stated without first-hand knowledge of any conduct or behavior that would support them. At best, Plaintiffs show a careless disregard for the truth in making these conclusions. At worst, they are a complete fabrication. As such, the conclusions have been set forth herein are impertinent and scandalous material. The statements have been designed to create the perception that Brad was responsible for Nancy Cooper's death without any factual basis. With absolutely no evidence to support that Brad was somehow responsible for Nancy's death, the statements have been set forth for the sole purpose of creating undue bias with both the court and the press, and to inflame the trier of fact and the public.

10. Allegation #17 in the Plaintiff's Complaint. The allegations Brad attempted suicide as a teenager and that he threatened to commit suicide in the winter of 2008 are irrelevant, immaterial, impertinent, and scandalous material. The allegations are plainly false and stated without first-hand knowledge. At best, Plaintiffs show a careless disregard for the truth in making these allegations. At worst, they are a complete fabrication. The statements have no bearing on Brad's fitness as a father and have been designed to create the perception that Brad was responsible for Nancy Cooper's death without any factual basis. With absolutely no evidence to support that Brad was somehow responsible for Nancy's death, the statements have been set forth for the sole purpose of creating undue bias with both the court and the press, and to inflame the trier of fact and the public.

11. Allegation #23 in the Plaintiff's Complaint. The allegation that since Nancy Cooper disappeared on July 12, Plaintiff Lister and various other neighbors, friends, and family members have shared in the day-to-day responsibilities of caring for the minor children is irrelevant, immaterial, impertinent, and scandalous material. The Plaintiffs

filed this action on July 16. For three days, family, friends and neighbors assisted Brad by baby-sitting while he searched for his missing wife and assisted police with investigations. The statements have no possible bearing on Brad's fitness as a father and have clearly been designed for the sole purpose of creating undue bias with both the court and the press, and to inflame the trier of fact and the public.

12. Allegation #24 in the Plaintiff's Complaint. The allegation that in April or May 2008, Brad removed the minor children's passports from Nancy Cooper's vehicle is irrelevant and immaterial. The statement has no bearing on Brad's fitness as a father and has been designed to create the perception that Brad was responsible for Nancy Cooper's death without any factual basis. With absolutely no evidence to support that Brad was somehow responsible for Nancy's death, or had made any plans or attempts to remove the children from the country, the statement have been set forth for the sole purpose of creating undue bias with both the court and the press, and to inflame the trier of fact and the public.

13. Allegation #25 in the Plaintiff's Complaint. The allegation that Brad initially told Nancy she could take the minor children to Canada to reside with Plaintiff Lister is irrelevant and immaterial. The statement has no bearing on Brad's fitness as a father.

14. Allegation #26 in the Plaintiff's Complaint. The allegation that in April or May 2008, by removing the minor children's passports from the car without Nancy Cooper's consent, he prohibited his wife and children from traveling to Canada to be with Plaintiffs is irrelevant, immaterial, impertinent, and scandalous material. The statement has no bearing on Brad's fitness as a father and has been designed to create the perception that Brad was responsible for Nancy Cooper's death without any factual basis. The allegation that Brad's removal of the children's passports prohibited Nancy from traveling to Canada is illogical, irrelevant, impertinent and scandalous. With absolutely no evidence to support that Brad was somehow responsible for Nancy's death, the statement has been set forth for the sole purpose of creating undue bias with both the court and the press, and to inflame the trier of fact and the public.

15. Allegation #32 in the Plaintiff's Complaint. The allegation is a recitation of a conclusion which includes inferences that Brad has a "history of emotional instability" and that Brad faces "intense scrutiny...as a result of the ongoing criminal investigation of Nancy Cooper's murder" without alleging any facts to support either inference. The statement giving rise to the unsupported inferences is impertinent and scandalous material. The statement has no bearing on Brad's fitness as a father and has been designed to create the perception that Brad was responsible for Nancy Cooper's death without any factual basis. With absolutely no evidence to support that Brad was somehow responsible for Nancy's death, the statement has been set forth for the sole purpose of creating undue bias with both the court and the press, and to inflame the trier of fact and the public.

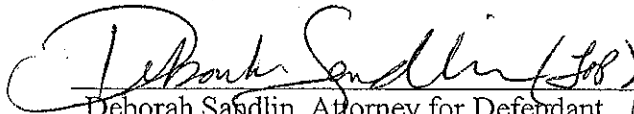
WHEREFORE, Defendant Brad Cooper prays that the Court:

1. Strike each and every statement, conclusion and allegation contained in Plaintiffs' complaint shown above to be irrelevant, immaterial, impertinent, and/or scandalous, and that has no bearing on the litigation and/or has been set forth for the sole purpose of creating undue bias with both the court and the press, and to inflame the trier of fact and the public.
2. Order Plaintiffs to pay Defendant's reasonable attorneys' fees for this motion as sanctions for making said allegations while knowing or having reason to know that they are irrelevant, immaterial, impertinent, and/or scandalous material which has no bearing on the litigation and/or has been set forth for the sole purpose of creating undue bias with both the court and the press, and to inflame the trier of fact and the public.
3. Grant the Defendant such other and further relief as the Court deems just and proper.

This is the 11 day of September, 2008.

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CERTIFICATE OF SERVICE

FILED

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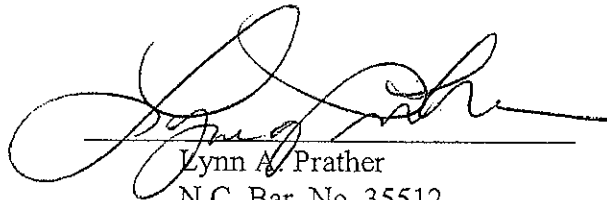
This is to certify that a copy of the foregoing document was duly served this day on all parties to this action by placing

BY

A copy thereof in a postage-paid envelope deposited in the United States Mail, addressed as follows:

Alice C. Stubbs
Wade M. Smith
Tharrington Smith, LLP
PO Box 1151
Raleigh, North Carolina 27602-1151

This the 11 of September, 2008.



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