

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE**

JOHN DOE,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. _____
)	
SARA SMITH,)	
)	
Defendant.)	

COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES

Plaintiff John Doe (“John Doe”), by and through counsel, files this Complaint for Injunctive Relief and Damages (the “Complaint”) against Defendant Sara Smith (“Defendant”).¹ This is an action for equitable and legal relief to restrain violations of the Non-Disclosure Agreement that John Doe entered into with Defendant, as well as for breach of contract.

PARTIES

1. John Doe is a natural person and resident of the State of Maine.
2. Defendant is a natural person and resides at in Dracut, Massachusetts.

JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to 28 U.S.C. § 1332 based on diversity of citizenship of the parties. The amount in controversy exceeds \$75,000.

¹ Plaintiff and Defendant are both identified herein by pseudonyms for the reasons articulated in the Plaintiff’s Motion to Proceed Under Pseudonym and for Protective Order.

4. Venue in the District of Maine is proper pursuant to 28 U.S.C. § 1391(b)(3) because Defendant agreed to Maine as a venue and purposefully directed her actions and associated harms at Plaintiff John Doe, a resident of the State of Maine.

FACTS

5. John Doe is a winner of the Maine State Lottery.

6. Defendant is the mother of John Doe's minor daughter.

7. Due to the unique safety, security, and privacy concerns associated with winning the lottery, Defendant agreed to enter into a Non-Disclosure Agreement ("NDA") with John Doe to promote the safety and security of John Doe, Defendant, and their daughter and to avoid the irreparable harm of allowing the media or the public in general to discover, *inter alia*, John Doe's identity, physical location, and assets. (A true and correct copy of the signed NDA between John Doe and Defendant is attached hereto as **Exhibit A**.)

8. The NDA was supported by good and sufficient consideration. As consideration for Defendant's agreement to enter into the NDA, John Doe agreed to provide Defendant with support and ongoing security resources. (*Id.* at ¶ 2).

9. The NDA sets forth a "Covenant" provision at paragraph 2, in which Defendant agrees to hold in confidence and not disclose to anyone other than an "Authorized Recipient," "any and all information which she necessarily obtains in the maintenance and support of Daughter," including any "Protected Subject Matter." (*Id.*)

10. The NDA defines "Protected Subject Matter" at paragraph 1(b) to include:

Information indicating that [John Doe] was the winner of the Maine lottery in January of 2023, the amount or existence of any assets of [John Doe], the amount of any assets being conveyed to the Daughter by [John Doe], the existence of children, family members, friends, and business associates, identity of the physical location or assets of [John Doe], or other information which

[Defendant] reasonably knows not to disclose to protect [John Doe's] privacy.

(*Id.* at ¶ 1(b)).

11. The NDA defines “Authorized Recipient” at paragraph 1(a) to include:

[Defendant], Daughter, [Defendant's] significant other, parties' attorneys, financial advisors, accountants, advisors or others who necessarily need to know or to be authorized by their principals to discuss the Protected Subject Matter defined herein.

(*Id.* at ¶ 1(a)). It makes clear that “[t]o the extent that [Defendant] feels it is necessary to disclose the Protected Subject Matter to a person or entity that is not an Authorized Recipient...[Defendant] must obtain [John Doe's] permission to disclose an additional Authorized Recipient and obtain written acknowledgement of the terms of this Agreement and that person's consent to be bound by the same.” (*Id.*).

12. The NDA expounds in a “Disclosure” provision at paragraph 7 that:

In order for [Defendant] to be able to disclose any of the Protected Subject Matter set forth in this Agreement to anyone else...such other person must first individually execute a similar Non-Disclosure Agreement with [John Doe].

(*Id.* at ¶ 7).

13. In the event of “an intentional or an inadvertent disclosure” of any Protected Subject Matter by Defendant, the NDA sets forth a “Notice of Breach” provision at paragraph 4 stating:

[Defendant] shall report that fact to [John Doe] within 24 hours of first acquiring knowledge of that disclosure. Such report shall be made in writing and shall include, at a minimum, (a) the identity of the person(s) to whom unauthorized disclosure was made; (b) when such unauthorized disclosure occurred; (c) the medium by which the unauthorized disclosure occurred; and (d) efforts undertaken by the disclosing party to retrieve the disclosed Protected Subject Matter and/or minimize its republication.

(*Id.* at ¶ 4).

14. The NDA sets forth a “Remedies for Breach” provision at paragraph 5, in which Defendant recognizes and acknowledges that the terms and conditions of the NDA are “reasonable and necessary in order to protect [the] legitimate interests of [John Doe] and Daughter and are not unduly burdensome to [Defendant].” (*Id.* at ¶ 5). The “Remedies for Breach” provision also memorializes Defendant’s agreement that a breach of the NDA “could cause irreparable harm to all parties herein.” (*Id.*). Further, Defendant acknowledges and agrees in the “Remedies for Breach” provision that John Doe shall be entitled to legal and equitable relief for “any breach or threatened breach of this Agreement by [Defendant], without the requirement or necessity of proving actual damages by [John Doe],” in the form of: (a) temporary injunctive relief, without the need for John Doe to post a bond; (b) an award of monetary damages; and (c) reasonable attorney fees, costs, and expenses incurred by John Doe. (*Id.*).

15. The NDA expressly provides that it “is effective as of the 8th day of February 2023” and “shall remain in effect through June 1, 2032, representing the date of majority for the Daughter.” (*Id.* at line 1 and ¶ 9).

16. In or about September 2023, John Doe discovered that Defendant has violated the NDA by directly or indirectly disclosing Protected Subject Matter, without John Doe’s permission, to persons other than those defined as an “Authorized Recipient” in paragraph 1(a) of the NDA and by failing to report these disclosures to John Doe as required by paragraph 4 of the NDA. (*See id.* at ¶¶ 1(a) and (4)).

17. Upon information and belief, Defendant has disclosed Protected Subject Matter in one or more telephone communications with John Doe’s father and stepmother.

18. Upon information and belief, and as a result of Defendant's unauthorized disclosure of Protected Subject Matter to John Doe's father and stepmother, other third parties are now in possession of John Doe's Protected Subject Matter, including his sister.

COUNT I
DAMAGES AND INJUNCTIVE RELIEF FOR
BREACH OF CONTRACT AGAINST DEFENDANT
FOR VIOLATION OF THE NON-DISCLOSURE AGREEMENT

19. John Doe realleges and incorporates by reference herein all of the allegations contained in Paragraphs 1 through 18 of this Complaint.

20. The NDA executed by Defendant is a valid and enforceable contract with John Doe.

21. Defendant's unauthorized disclosure of Protected Subject Matter to third parties constitutes a breach of the "Covenant," "Notice of Breach," and "Disclosure" provisions of the NDA.

22. As a result of Defendant's unauthorized disclosures, John Doe has suffered irreparable injury, and there is immediate and imminent danger that John Doe will continue to suffer irreparable injury for which there is no adequate remedy at law.

23. John Doe is entitled to preliminary and permanent injunctive relief against further breaches by Defendant of the NDA.

24. John Doe has suffered damages as a direct result of Defendant's breach and is entitled to an award of actual and compensatory damages in addition to reasonable attorney fees, costs, and expenses incurred in connection with this litigation.

PRAYER FOR RELIEF

WHEREFORE, John Doe respectfully requests that this Court:

- A. Enter a preliminary and permanent injunction enjoining Defendant from violating the NDA, during the applicable time period set forth in the NDA;
- B. Require Defendant to abide by the “Notice of Breach” provision at paragraph 4 of the NDA and immediately report in writing as to each unauthorized disclosure:
- the identity of the person(s) to whom unauthorized disclosure was made;
 - when such unauthorized disclosure occurred;
 - the medium by which the unauthorized disclosure occurred; and
 - efforts undertaken by each Defendant to retrieve the disclosed Protected Subject Matter and/or minimize its republication;
- C. Award John Doe actual and compensatory damages in an amount to be determined at trial, but no less than \$100,000 per unauthorized disclosure;
- D. Award John Doe all reasonable attorney fees, expenses, and court costs incurred in the prosecution of this lawsuit; and
- E. Grant John Doe any such other and further relief as this Court deems just and equitable.

Respectfully submitted this 14th day of November, 2023

By: /s/ Gregory Brown
Gregory Brown (ME Bar No. 9023)
Louise M. Aponte (ME Bar No. 9285)
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EXHIBIT

A

NONDISCLOSURE AGREEMENT

The Agreement is effective as of the 8th day of February 2023 (hereinafter, the “Effective Date”).

This NonDisclosure Agreement (“Agreement”) is entered into by and between [REDACTED] (hereinafter “Father”) and [REDACTED] (hereinafter “Mother”) for the following reasons:

AS the parties agree that disclosure of Father’s identity [REDACTED] [REDACTED] could cause irreparable harm to both parties, their daughter, close family members, friends, and associates if members of the media or the public in general seek to discover Father’s identity and assets; and

AS the parties each desire to enter into an Agreement to promote the safety and security of Father, Mother and [REDACTED] (hereinafter “Daughter”), and to disclose assets and other information for the benefit of Daughter, for her use and maintenance until she reaches the age of majority; and

AS the parties agree that disclosure of the “Protected Subject Matter” defined herein could pose a risk to the safety of the parties, their Daughter, close family members, friends and associates, and that said disclosure could cause irreparable harm; and

AS the parties seek to protect the value of any assets being given by Father for Daughter’s use and benefit as well as to share certain assets for the use and benefit of their Daughter during her minority years.

THEREFORE, for consideration as set forth below and for the terms and obligations set forth in this Agreement, the parties agree as follows:

1. Definitions

(a) “Authorized Recipient” means Mother, Daughter, Mother’s significant other, parties’ attorneys, financial advisers, accountants, advisers or others who necessarily need to know or to be authorized by their principals to discuss the Protected Subject Matter defined herein. To the extent that Mother feels it is necessary to disclose the Protected Subject Matter to a person or entity that is not an Authorized Recipient of the disclosing party, Mother must obtain said Father’s permission to disclose to an additional Authorized Recipient and obtain written acknowledgement of the terms of this Agreement and that person’s consent to be bound by the same as further discussed in Section 7 below.

(b) “Protected Subject Matter” includes information indicating that Father [REDACTED] [REDACTED] the amount or existence of any assets of the Father, the amount of any assets being conveyed to the Daughter by Father, the existence of children, family members, friends, and business associates, identity of the

physical location or assets of the Father, or other information which Mother reasonably knows not to disclose to protect Father's privacy.

(c) "Confidential Information" is included but not limited to documents, emails, texts, instant messages, contracts, correspondence, faxes, tapes, audio or video recordings, CD Roms, USB flash drives, photographs or any other format transmitting or embodying data or information. Confidential Information shall include any information with regard to Protected Subject Matter as defined above.

2. Covenant

For and in consideration of support to be given to Mother and Daughter by Father in the form of ongoing security resources to ensure her safety and except as permission may be specifically granted with the terms herein, Mother agrees to hold in confidence and not to disclose to any third-party, with the exception of Authorized Recipient, any and all information which she necessarily obtains in the maintenance and support of Daughter and the support that is given to either by Father. Mother further agrees not to disclose any Protected Subject Matter defined in this Agreement under the terms set forth herein.

Mother agrees not to directly or indirectly disclose Protected Subject Matter to any person or entity whatsoever, including but not limited to friends, family members, journalists, media organizations, newspapers, magazines, tabloids, television programs, radio programs, blogs, podcasts, social networks, internet service providers, publishers, and databases. Mother further agrees not to disclose Protected Subject Matter in any manner whether it is truthful, fictionalized, on the record, or "off the record."

3. Permitted Disclosures

Mother understands that she may disclose Confidential Information to her attorneys as required for their professional services. Furthermore, if compelled to disclose Confidential Information pursuant to legal process, such as a Court subpoena, Mother shall provide Father or his representatives with reasonable advanced notice before making any such disclosure. In no event will that date be less than forty-eight (48) hours prior to disclosure.

4. Notice of Breach

The parties agree that in the event Mother becomes aware of a disclosure of any Protected Subject Matter, whether an intentional or an inadvertent disclosure, she shall report that fact to Father within 24 hours of first acquiring knowledge of that disclosure. Such report shall be made in writing and shall include, at a minimum, (a) the identity of the person(s) to whom unauthorized disclosure was made; (b) when such unauthorized disclosure occurred; (c) the medium by which the unauthorized disclosure occurred; and (d) efforts undertaken by the disclosing party to retrieve the disclosed Protected Subject Matter and/or minimize its re-publication.

5. Remedies for Breach

Mother recognizes and acknowledges that the terms and conditions of this Agreement are reasonable and necessary in order to protect legitimate interests of Father and Daughter and are not unduly burdensome to Mother. Mother further agrees that Breach of this Agreement could cause irreparable harm to all parties herein. If Mother engages in any activities in violation of this Agreement, including but not limited to disclosure of Father's identity [REDACTED] disclosure of Daughter's identity as an heir of any lottery proceeds, or any other disclosure prohibited herein, Mother acknowledges and agrees that her failure to abide by the provisions of this Agreement or to even threaten failure to abide by this Agreement would cause irreparable harm to Father, and that any damages suffered by Father as a result of such a breach by Mother are not now able to be ascertained and would be difficult to determine and quantify at the time of any breach. Mother therefore agrees that Father shall be entitled to temporary injunctive relief for any breach or threatened breach of this Agreement by Mother, without the requirement or necessity of proving actual damages by Father. Mother further agrees to waive any requirement for posting a bond for such equitable relief, to the extent that a bond may otherwise be required. Temporary Injunctive relief may be granted pending final determination on the merits of any controversy regarding this Agreement between the Parties.

Temporary Injunctive relief shall be available in addition to any other remedies available to Father in law or in equity, including but not limited to an award for any damages that may be found to be due to Father as a consequence of Mother's breach of this Agreement. In the event that Father has to enforce this Agreement by filing a legal action, should Father be the substantially prevailing party that action, Mother shall be liable for reasonable attorney fees, costs and expenses incurred by Father in those legal proceedings.

6. Amendments

This Agreement shall be amended only in writing signed by both parties.

7. Disclosure

In order for Mother to be able to disclose any of the Protected Subject Matter set forth in this Agreement to anyone else, including her agents or attorneys, such other person must first individually execute a similar confidential Non-Disclosure Agreement with Father. See Exhibit A attached. Prior to asking for such Agreement with a third party, Father may, at his option, choose whether to permit or disallow such disclosure by choosing whether or not to sign such an Agreement. This section does not apply where such disclosure is legally required as defined above.

8. Governing Law and Venue.

The parties agree without regard to principals of conflicts of laws, that the internal laws of the state of Maine shall govern and control the validity, interpretation, performance and enforcement of this Agreement. The parties further agree that any action relating to this

Agreement shall be instituted and prosecuted only in the Courts of York County, Maine or in the Federal Courts with jurisdiction over York County, Maine. The parties hereby consent to the jurisdiction of such Courts and waive any right or defenses relating to venue and jurisdiction over the person.

9. Duration

This Agreement shall remain in effect through June 1, 2032, representing the date of majority for the Daughter.

10. Severability

The validity or unenforceability of any particular provision of this Agreement shall not affect the other provisions herein, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were not contained in this Agreement.

This Agreement contains the entire understanding between the parties as to the matters contained herein and no conditions have been agreed to outside of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date first written above.

DocuSigned by:



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DocuSigned by:



A black rectangular redaction box covers the signature area. A horizontal line extends to the right from the right edge of the redaction box.



Certificate Of Completion

Envelope Id: 0AB1F70E8A4D46529FE9126000A17BF8
 Subject: Complete with DocuSign [Redacted]
 Source Envelope:
 Document Pages: 4 Signatures: 2
 Certificate Pages: 5 Initials: 0
 AutoNav: Enabled
 Envelope Stamping: Enabled
 Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Status: Completed



Record Tracking

Status: Original
 2/8/2023 10:08:46 AM

Holder: [Redacted]

Location: DocuSign

Signer Events

Christopher Mooney
 forgivenessrustywh@gmail.com
 Security Level: Email, Account Authentication (None)

Signature



Signature Adoption: Drawn on Device
 Using IP Address: [Redacted]
 Signed using mobile

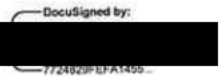
Timestamp

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 Viewed: 2/8/2023 10:15:41 AM
 Signed: 2/8/2023 10:16:04 AM

Electronic Record and Signature Disclosure:
 Accepted: 2/8/2023 10:15:41 AM
 ID: b3936b8a-7cef-4998-9087-3fff571ba990



Security Level: Email, Account Authentication (None)



Signature Adoption: Pre-selected Style
 Using IP Address: [Redacted]

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 Viewed: 2/8/2023 10:11:03 AM
 Signed: 2/8/2023 10:11:37 AM

Electronic Record and Signature Disclosure:
 Accepted: 2/8/2023 10:11:03 AM
 ID: bd0c594f-0669-4e5a-beb9-7670e7fc36ce

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	2/8/2023 10:10:37 AM
Envelope Updated	Security Checked	2/8/2023 10:12:30 AM

Envelope Summary Events	Status	Timestamps
Certified Delivered	Security Checked	2/8/2023 10:11:03 AM
Signing Complete	Security Checked	2/8/2023 10:11:37 AM
Completed	Security Checked	2/8/2023 10:16:04 AM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure

Parties agreed to: [REDACTED]

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, [REDACTED] (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact [REDACTED]

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [REDACTED]

To advise [REDACTED] of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at wes@cogentbluewealth.com and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from [REDACTED]

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to [REDACTED] and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with [REDACTED]

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to [REDACTED] and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify [REDACTED] as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by [REDACTED] during the course of your relationship with [REDACTED]