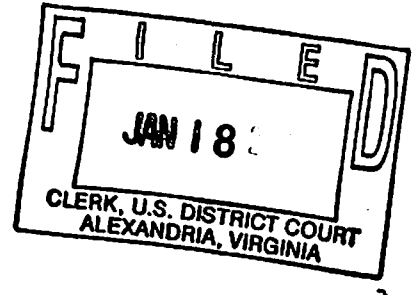


IN THE  
UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division



FAIRFAX COUNTY SCHOOL BOARD )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
JOHN DOE, a/k/a "FAIRFAX LEAKS," )  
CARY WIEDEMANN )

Case No. 1:12CV1480-CMH/TCB

**PRELIMINARY INJUNCTION**

THIS MATTER came before the Court on January 18, 2013, by motion of the Plaintiff, the Fairfax County School Board, to convert the Temporarily Restraining Order entered by the Court on December 21, 2012, and extended by the Court's Order of January 3, 2013, into a Preliminary Injunction, enjoining the Defendants, John Doe a/k/a "FAIRFAX LEAKS," and Cary Wiedemann, pending entry of final judgment on the claims in this case, to take all steps necessary to remove the Student Report Cards File from the fairfaxunderground.com and to refrain from certain other conduct described specifically below.

**IT APPEARS TO THE COURT THAT:**

1. On December 18, 2012, Defendant John Doe, using the username "Fairfax Leaks," posted on a public, online bulletin board, a file copied from the School Board's computer network containing the names and report cards of over 2,100 Fairfax High School students (the "Student Report Cards File"). (Dkt. #1, Compl., ¶¶ 13, 15, 21, 22.)
2. The file contains student names, student I.D. numbers, the grade that each student received on the final exam in each course, by teacher, and the overall final grade each student received in every course, and the number of absences recorded, by student—which information

is protected from disclosure by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and Virginia Code § 22.1-287. (*Id.* ¶¶ 23, 24)

3. The Internet bulletin board on which Doe posted this file, fairfaxunderground.com, is owned, operated, and moderated by Defendant Wiedemann. (*Id.* ¶ 8.)

4. The School Board made a prompt request to Wiedemann to remove the file from his online bulletin board. (Dkt. #2, Emergency Motion for TRO or Expedited Preliminary Injunction, Exhibit 4.) But he refused, opting instead to leave the Student Report Cards File available for viewing, copying, and re-publication by the general public. (Dkt. #2, Emergency Motion, Exhibit 5.) Doe also had taken measures to avoid being held accountable for this unauthorized access and disclosure by using a pseudonym and posting through a “proxy” server. (*Id.*; and Dkt. #1, Complaint, ¶ 15.)

5. On December 21, 2012, the School Board filed a Complaint and Emergency Motion for Temporary Restraining Order or Preliminary Injunction against Defendants Doe and Wiedemann. (Dkt. #1 & #2.) The School Board alleged that the Student Report Cards File was obtained and copied from the School Board’s computer network in violation of the federal Computer Fraud and Abuse Act, and Virginia’s Computer Crimes Act. It asked the Court to order Defendants to take immediately all steps necessary to remove the Student Report Cards File from Wiedemann’s fairfaxunderground.com website.

6. Upon review of the School Board’s Complaint, Emergency Motion, and Memorandum in Support, the Court granted the Emergency Motion, and entered a TRO. (Dkt. #5.) The TRO directed Wiedemann and Doe to, among other things, “[t]ake all steps necessary to remove the Student Report Cards File from the fairfaxunderground.com website” and

“[r]efrain from . . . disseminating, copying, or causing to be disseminated or copied the Student Report Card File, in any form.” (*Id.* at 3.)

7. The School Board transmitted a copy of the TRO to Wiedemann by email at 2:34 p.m., on December 21, 2012, who confirmed receipt of the email at 3:08 p.m., the same day. (*See* Dkt. #7, Mem. in Support of Extension of TRO, Exhibits 1 and 2.) Wiedemann’s response email said that the file would be removed from his website the same day. (*Id.*, Ex. 2.) At 5:51 p.m., Wiedemann edited Doe’s original post on his bulletin board to notify his readers that the file was being removed “temporarily” pursuant to a preliminary injunction, and that the “temporary injunction expired on January 4, 2013.” (Dkt. # 7, Mem. in Support of Motion for Extension of TRO, Ex. 3.)

8. Although the TRO ordered Wiedemann to “[r]efrain from . . . disseminating, copying, or causing to be disseminated or copied the Student Report Card File, in any form,” Wiedemann created a new, “redacted” copy of the Student Records File, which he posted in place of the original in Doe’s post. (Dkt. #7, Mem. in Support of Motion for Extension of TRO, Ex. 4.)

9. Pursuant to Federal Rule of Civil Procedure 65, the TRO was entered for a duration of 14 days, expiring at 2:00 p.m., on January 4, 2013. On December 28, 2012, the School Board filed a Motion to extend the TRO until January 18, 2013, when the School Board stated it would appear before the Court to request a preliminary injunction pending trial on the merits. (Dkt. #6 and #7.) On January 3, 2013, the Court granted the motion, extending the TRO until January 18, 2013. (Dkt. #9.)

10. Following receipt of the Order, the School Board, the same day, forwarded copies of the Order to Defendant Wiedemann by electronic mail, and also at the mailing address he had

previously provided to the School Board's counsel. (See Dkt. # 12, Exhibit 1.) In addition to serving all pleadings in this case to Wiedemann via his email and mailing addresses, the School Board also effected personal service of the Summons and Complaint on Defendant Wiedemann, on January 9, 2013. (See Dkt. #14.)

11. The School Board is likely to succeed on the merits of its claims against the Defendants under the Computer Fraud Abuse Act and the Virginia Computer Crimes Act;

12. The School Board will be irreparably harmed if the Court does not grant the requested preliminary injunctive relief;

13. The balance of equities clearly tips in favor of granting the preliminary injunction relief requested by the School Board;

14. There is a strong public interest in removing the private and confidential information about thousands of current and past Fairfax High School students from further public dissemination.

It is, therefore ORDERED, that the School Board's motion is GRANTED, as follows:

(1) conditional upon posting security in the sum of \$0.00 by the School Board, the Defendants, John Doe a/k/a "FAIRFAX LEAKS," and Cary Wiedemann, are hereby ORDERED to:

A. Take all steps necessary to remove the Student Report Cards File from the fairfaxunderground.com website;

B. Refrain from taking any of the following actions:

i. disseminating, copying, or causing to be disseminated or copied the Student Report Card File, in any form;

ii. accessing the School Board's computer network;

- iii. reproducing, disclosing, using, or disseminating any personally identifiable student information obtained from the School Board's computer network;
- iv. altering, erasing, deleting or destroying any computer, computer drive, computer disk, personal data assistant or any other information-containing medium currently in his possession, custody or control, or in any other way spoliating evidence pertaining to his accessing of or attempts to access the School Board's computer network.

C. Specifically identify all documents, files and communications that Defendant Doe (a/k/a "FAIRFAX LEAKS") accessed and/or viewed during his unauthorized access to the School Board's computer network.

(2) This Preliminary Injunction will remain in effect until entry of final judgment on the claims in this case.

(3) Pursuant to Rule 65(d)(2), this Preliminary Injunction shall apply to any persons with actual notice of this order and who are in active concert or participation with Defendant Doe (a/k/a "FAIRFAX LEAKS"), or Wiedemann.

Alexandria, Virginia  
January 18, 2013

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/s/  
Claude M. Hilton  
United States District Judge