

FILED
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UNION COUNTY
CLERK OF SUPERIOR COURT
BY: S. Higgins

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

COUNTY OF UNION

NO.: 26CV000296-890

MICHELLE BALL, TED TOMS, SOFIA CHABOT,)
AMELIA BALL, ELIZA BALL, JESSICA MULLEN,)
and LISA METZGER,)

Plaintiffs/Counterclaim Defendants,)

v.)

EAST FRANKLIN SUPERETTE AND KITCHEN LLC)
d/b/a EAST FRANK SUPERETTE & KITCHEN,)

Defendant/Counterclaim Plaintiff,)

ROBERT E. HUFFMAN and CARLEY ELIZABETH)
ENGLANDER,)

Defendants.)

ORDER ON MOTION FOR
PARTIAL SUMMARY
JUDGMENT

THIS MATTER came on for hearing upon Plaintiffs' Motion for Partial Summary Judgment on Liability and Injunctive Relief and was heard at the regularly scheduled term of Civil Superior Court on September 1, 2026, before the Honorable Jonathan Perry, Superior Court Presiding. The Plaintiffs were represented at the hearing by Jonathan A. Vogel and Defendants East Franklin Superette and Kitchen LLC d/b/a East Frank Superette & Kitchen, Robert E. Huffman, and Carley Elizabeth Englander were represented at the hearing by Jeremy S. Foster, and after having carefully reviewed the pleadings and the parties' memoranda of law, and after having heard arguments of counsel, the Court enters the following:

I. Finding of Facts

The following facts are not subject to genuine dispute for purposes of resolving this Motion:

1. Photographs depicting Plaintiffs were obtained by Defendants.
2. Defendants posted modified versions of those photographs on East Frank's business-related social-media accounts.
3. Plaintiffs did not authorize Defendants to use their likenesses in these posts.
4. The posts referenced East Frank's events, offerings, or other aspects of its business.
5. The posts remained available on East Frank's social-media accounts during the relevant periods.

II. Standard of Review

Summary judgment is proper when the materials before the Court demonstrate that there is no genuine issue of material fact and that a party is entitled to judgment as a matter of law. The Court may grant summary judgment on the issue of liability alone even where damages remain in dispute. Defendants requested additional time for discovery under Rule 56(f). The affidavits submitted do not identify specific facts essential to opposing summary judgment that could be obtained through further discovery. Defendants have therefore not satisfied the requirements of Rule 56(f), and the Court proceeded to the merits.

III. Conclusions of Law

A. Invasion of Privacy by Unauthorized Appropriation of Likeness Cause of Action

North Carolina recognizes a claim for invasion of privacy where a defendant uses a plaintiff's likeness without authorization in connection with advertising or other commercial enterprises. Based on the undisputed facts, Plaintiffs did not authorize the use of their likenesses, and the posts at issue appeared in a commercial context. No genuine issue of material fact remains regarding liability. Plaintiffs are entitled to summary judgment as to liability on this claim. Issues concerning damages and any request for injunctive relief are reserved.

B. Unfair and Deceptive Trade Practices (UDTPA) Cause of Action

A claim under N.C. Gen. Stat. § 75-1.1 requires: (1) an unfair or deceptive act or practice, and (2) that the act occurred in or affected commerce. The undisputed use of Plaintiffs' likenesses without authorization in posts referencing the business satisfies the statute's "in or affecting commerce" requirement. Whether such conduct is unfair or deceptive is a question of law, and on the undisputed facts the Court concludes that it meets the statutory standard for liability. Plaintiffs are therefore entitled to summary judgment as to the first two elements of their UDTPA claim. Issues of proximate causation, damages, and additional remedies remain for later determination.

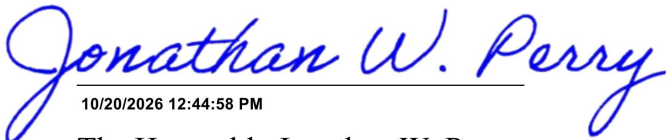
C. Unjust Enrichment Cause of Action

The issue of whether Defendants received a measurable benefit from the use of Plaintiffs' likenesses is intertwined with questions of damages or restitution. These issues are not appropriate for resolution at the summary-judgment stage. Plaintiffs' Motion for Partial Summary Judgment on their unjust enrichment claim is denied.

IT IS THEREFORE ORDERED:

1. Plaintiffs' Motion for Partial Summary Judgment on liability for **invasion of privacy by unauthorized appropriation of likeness** is **GRANTED**.
Determination of damages and any request for injunctive relief is reserved.
2. Plaintiffs' Motion for Partial Summary Judgment on the first two elements of their **UDTPA claim** is **GRANTED**. The issues of proximate causation, damages, and statutory remedies are reserved.
3. Plaintiffs' Motion for Partial Summary Judgment on **unjust enrichment** is **DENIED**.

SO ORDERED, this 20 day of October, 2026.



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The Honorable Jonathan W. Perry
Superior Court Judge Presiding