

DONALD CRAIG MITCHELL
Alaska Bar No. 7605046
1335 F Street
Anchorage, Alaska 99501
(907) 276-1681
dcraigm@aol.com

Attorney for Plaintiff

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANDREE McLEOD,)
)
 Plaintiff,)
)
)
 v.)
) No. 3AN-08-10869 CI
 SARAH PALIN, in Her Official)
 Capacity as Governor of Alaska,)
 and the OFFICE OF THE GOVERNOR)
 OF ALASKA,)
)
 Defendants.)
 _____)

MEMORANDUM IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING
ORDER AND PRELIMINARY INJUNCTION

INTRODUCTION

Plaintiff Andree McLeod has moved the court for a temporary restraining order and preliminary injunction to preserve her access to - and indeed the existence of - public records that are the subject of a public records request she submitted to the Office of the Governor of Alaska (hereinafter "Office of the Governor") on October 1, 2008 pursuant to the Public Records Act, A.S. 40.25.110 et seq. Those public records consist of emails

relating to official business of the State of Alaska that Sarah Palin, the Governor Alaska, and employees of the Office of the Governor have sent or received using their private email accounts, rather than the secure email accounts (hereinafter "state email accounts") they have been given by the State of Alaska. See Plaintiff's Exhibit A

Plaintiff McLeod has filed this action and this motion to protect her fundamental right to access public records and the fundamental right of all citizens of the State of Alaska to access public records. Because those fundamental rights will be permanently impaired if the emails that are the subject of plaintiff McLeod's public records request are lost or destroyed, the court's issuance of a temporary restraining order and preliminary injunction is essential if plaintiff McLeod's and the public's rights are to be protected.

BACKGROUND

"[P]ublic access to government information is a fundamental right that operates to check and balance the actions of elected and appointed officials and to maintain citizen control of government." Ch. 200, § 1, SLA 1990. In order to guarantee that fundamental right, that Alaska Legislature enacted the Public Records Act to impose a nondiscretionary duty on Governor Palin to preserve, protect, and make available for public inspection "public records" that Governor Palin and employees of the Office of the Governor create or receive. But throughout her two-year

tenure, Governor Palin has intentionally and purposefully used her private email accounts to conduct official business of the State of Alaska. See Affidavit of Andree McLeod, para. no. 3, at 3 (redacted public records and log of withheld emails indicate that Governor Palin routinely uses her private email accounts, rather than her state email account, to conduct official business of the State of Alaska).

Governor Palin's use of her private email accounts has created a serious and urgent threat to the protection and preservation of the public records held in those accounts. Two weeks ago that threat was realized when computer hackers accessed one of Governor Palin's two private Yahoo email accounts, gov.sarah@yahoo.com, and, as a consequence of that security breach, Yahoo deactivated both accounts. See Plaintiff's Exhibit B (Michael D. Shear and Karl Vick, Hackers Access Palin's Personal E-Mail, Post Some Online, The Washington Post, September 18, 2008, http://www.washingtonpost.com/wp-dyn/content/article/2008/09/17/AR2008091703304_p (Hereinafter "Hackers Access").

The deactivation creates an imminent threat to the preservation of all emails that Governor Palin has sent or received on those email accounts.

Governor Palin's refusal to comply in full with a public records request that plaintiff McLeod filed with the Office of

the Governor in June - see Plaintiff's Exhibit C, as well as her refusal to comply in full with other public records requests that seek access to emails sent or received on her private email accounts add further urgency to the need for this court to ensure that Governor Palin's emails are preserved because her decision to conduct official business of the State of Alaska using her private email accounts appears to be part of an effort to circumvent the disclosure requirements of the Public Records Act.

Decisions of the U.S. District courts have prevented similar attempts by the Bush Administration to prevent the preservation and inspection of federal public records. Just last week, the U.S. District Court for the District of Columbia issued a preliminary injunction to compel Vice President Cheney to preserve certain federal public records. In so holding, the court noted that "unprotected documents could be transferred to other entities, destroyed, or not preserved, and if any of these events occur, the damage is inherently irreparable; once documentary material is gone, it cannot be retrieved." Citizens for Resp. and Ethics in Washington v. Cheney, Civ. A. No. 08-1548 (CKK), 2008 U.S. Dist. LEXIS 71359, at *28 (D.D.C. Sept. 20, 2008).

Unless this court intervenes in a similar fashion, Governor Palin's practice of using her private email accounts to conduct official business of the State of Alaska will thwart the right of plaintiff McLeod and other members of the public to exercise their right to inspect public records. To ensure that right of

inspection, the court should order Governor Palin and employees of the Office of the Governor to preserve all emails in each of Governor Palin's private email accounts whose content relates to the conduct of official business of the State of Alaska, to cease conducting official business using their private email accounts, to provide a complete accounting of all private email accounts they have used to conduct official business, and to inform the court how email in each of those accounts has (or has not) been safeguarded.

The public records contained in Governor Palin's private email accounts are at imminent risk of unavailability, loss, or destruction in the following respects:

Governor Palin's decision to use her unsecured private email accounts to conduct official business of the State of Alaska threatens the integrity of those public records. The threats were recently validated when a hacker gained access to one of her yahoo.com accounts. The hacker reviewed the contents, and published a handful of the emails on the Internet. The hacking incident is Exhibit A for why the State of Alaska gave defendant Palin a secured state email account. Defendant Palin's decision to use an unsecured and easily compromised private email account exposed confidential government and personnel information to unauthorized disclosure.

Reportedly, Governor Palin's yahoo.com private email accounts have been deactivated. There is no evidence that the Governor has taken any steps to preserve the contents of those accounts, or that she even has control over them or the public records they contain. Yahoo has a system for automatically purging emails from closed accounts. Absent action by this court to preserve their contents, the emails in those accounts face imminent destruction.

In response to the public records request that plaintiff McLeod filed in June, Governor Palin withheld over 1,100 emails, many on the ground of deliberative process/executive

privilege. That objection demonstrates conclusively that Governor Palin and the Alaska Department of Law believe that emails in her yahoo.com private email accounts are public records.

Of the aforementioned emails that Governor Palin withheld on the ground of deliberative process/executive privilege, Governor Palin and employees of the Office of the Governor routinely distributed copies to Todd Palin, the Governor's husband, and other private citizens who are not officials or employees of the State of Alaska. Such distribution vitiates Governor Palin's claim of executive privilege. Governor Palin's assertion of deliberative process/executive privilege concedes that the emails are public records, establishes that she has breached her duty to maintain the confidentiality of public records, and undermines any credible claim of legitimate application of the deliberative process/executive privilege. Until such time as plaintiff McLeod has been afforded an opportunity to obtain judicial review of the validity of Governor Palin's assertion of privilege this court should order Governor Palin to preserve the emails that are the subject of the assertion of privilege.

To date, Governor Palin has been unwilling to discuss her email practices and her efforts – if any – in light of the yahoo.com hacking incident to preserve emails that she sent or received on her private email accounts that involve the conduct of official business of the State of Alaska. The State Director of Enterprise Technology Services (who maintains the official state email system) does not have copies of the emails from Governor Palin's private email accounts. Even if Governor Palin has not deleted emails that are public records, a failure to take steps to prevent the routine and automatic deletion of such emails will result in the destruction of countless public records.

Governor Palin Has Used Her Unsecure Private Email Accounts to Conduct Official Business of the State of Alaska.

The State of Alaska provides Governor Palin with a secure state email account. The State maintains that account and, pursuant to the requirements of the Public Records Act (PRA), A.S. 40.25.110 et seq., the account must be designed to "protect

the security and integrity of the information system" of the Office of the Governor. A.S. 40.25.115(d)(1).

However, Governor Palin has routinely chosen to conduct official business of the State of Alaska using (at least) two yahoo.com private email accounts: gov.palin@yahoo.com and gov.sarah@yahoo.com. Throughout her workday Governor Palin routinely carries two Blackberries. On information and belief, she uses one to send and receive emails on her yahoo.com email accounts. See Lisa Demer, Governor's Two E-mail Accounts Questioned, Anchorage Daily News, Sept. 15, 2008, <http://www.adn.com/sarah-palin/story/526281.html> (hereinafter "Two E-mail Accounts").

Pursuant to the Public Records Act, on June 17, 2008 plaintiff McCleod requested the Office of the Governor to provide her copies of emails and other public records relating to two employees of the Office of the Governor, Frank Bailey, the Director of Boards and Commissions, and Ivy Frye, because she believed that Mr. Bailey and Ms. Frye had used public resources of the Office of the Governor to engage in partisan political activities and she wanted to determine whether the emails and public records she requested would substantiate that fact. See David Corn, Sarah Palin's Secret Emails, Mother Jones, September 7, 2008, http://www.motherjones.com/mojoblog/archives/2008/09/9620_sarah_palin_secret_email.html (hereinafter "Secret Emails").

In a letter dated July 18, 2008 Linda Perez, the Administrative Director of the Office of the Governor, informed plaintiff McLeod that the Office of the Governor was partially approving and partially denying her public records request by providing to plaintiff McLeod many of the public records she had requested, but withholding or redacting public records that contained "confidential or privileged information", as well as documents that are not "public records" as defined by AS

40.25.220(3). See Plaintiff's Exhibit D (Letter from Donald C. Mitchell, attorney for plaintiff McLeod, to Governor Palin, Sept. 8, 2008).

The Office of the Governor then provided plaintiff McLeod with four boxes of email and telephone records, most of which had been redacted. See Secret Emails. With respect to the records plaintiff McLeod was provided of emails that Governor Palin had sent or received, all but one had been sent by or to defendant Palin on her yahoo.com private email accounts, rather than on her state email account. See Two E-Mails.

Because in her letter dated July 18, 2008 Linda Perez, the Administrative Director of defendant Office of the Governor, informed plaintiff McLeod that the Office of the Governor was withholding documents that are not "public records" as defined by A.S. 40.25.220(3), on information and belief, Governor Palin has

commingled in her private email accounts emails that relate to her conduct of official business of the State of Alaska and emails that relate to Governor Palin's activities as a private citizen. Assuming so, other than by reading each email sent to or from Governor Palin on her private email accounts to determine into which category it should be placed, unlike emails sent to or from Governor Palin on her state email account, there is no way for the Office of the Governor to know whether a particular email sent to or from Governor Palin on her private email accounts is a public record.

For that reason, on further information and belief, the Office of the Governor withheld from disclosure to plaintiff McLeod emails that were public records to which plaintiff McLeod is entitled.

The fact that the Office of the Governor has allowed Governor Palin to use her private email accounts to conduct official business of the State of Alaska has compromised the ability of the State of Alaska to comply with A.S. 40.25.115(d)(1) by protecting the security and integrity of the information system of the Office of the Governor was confirmed when, on or about September 15, 2008, a hacker group called "Anonymous" hacked into Governor Palin's gov.palin@yahoo.com private email account and posted screen shots of emails from that account on the Internet. See Plaintiff's Exhibit E (Wikileaks, VP Contender Sarah Palin Hacked, Sept. 16, 2008, <http://wikileaks>).

org/wiki/Sarah_Palin_Yahoo_inbox_2008).

Several of the emails Anonymous posted were emails whose subject lines indicated that they involved official business of the State of Alaska, including an email to which Governor Palin had attached a draft letter to California Governor Arnold Schwarzenegger, as well as emails labeled "Confidential Ethics Matter," "Request for Information and Documents," and "DPS" (the acronym for the Alaska Department of Public Safety).

Governor Palin's knowing and intentional use of her unsecured private email account to conduct official business of the State of Alaska has put public records at risk of destruction by third parties. Hackers can access, and, from there, delete and alter, public records contained in her emails. Further, in response to the hacking incident Yahoo deactivated both of Governor Palin's yahoo.com private email accounts. See Hackers Access.

Yahoo has internal procedures that automatically purge deleted emails, as well as emails from accounts that have been closed. Also, when an email is deleted by the owner of a Yahoo private email account, Yahoo removes the email from its storage system within days or, at most, months. And Yahoo retains in its storage system emails sent to or from a closed private email account for only a limited period of time. See Two E-Mail Accounts. See also Plaintiff's Exhibit G (Yahoo, How Do I Close My Account?, <http://help.yahoo.com/l/us/yahoo/edit/changing>

_users/edit-23.html).

The Use By Employees of the Office of the
of the Governor of Their Private Email
Accounts to Avoid Disclosure of Communications
Relating to the Conduct of Official Business
of the State of Alaska Bears a Striking
Resemblance to Similar Conduct by the Bush
Administration That the U.S. District Court
Enjoined.

When Sarah Palin took office as Governor of Alaska, employees of the Office of the Governor who had been hired by Governor Palin exchanged email messages in which they discussed between themselves the benefits of using their private email accounts to conduct official business of the State of Alaska. One employee explicitly noted that email messages sent to Governor Palin's BlackBerry "would be confidential and not subject to subpoena." See Plaintiff's Exhibit H (Jo Becker, Peter S. Goodman and Michael Powell, Once Elected, Palin Hired Friends and Lashed Foes, The New York Times, Sept. 14, 2008, http://www.nytimes.com/2008/09/14/us/politics/14palin.html?_r=1&oref=slogin&pagewas).

In another email exchange the employees suggested that Governor Palin was intentionally not using her state email account, and had instructed employees of the Office of the Governor not to send emails to her on that account. Id.

In an email sent February 7, 2008, Frank Bailey, Governor Palin's director of boards and commissions, sent Governor Palin a message on her state email account. An employee of the Office of the Governor who had received Mr. Bailey's email promptly emailed

Mr. Bailey: "Frank, This is not the Governor's personal e-mail account," to which Mr. Bailey in an email he sent to that employee responded, "Whoops!". Id. In an exchange of emails in March 2008 an employee of the Office of the Governor asked if she would be audited or "dinged in any way" if her personal and state email accounts both routed to the same device, stating "I would gladly buy my own Blackberry if it and its contents were truly mine. Any thoughts here?" Ten minutes later, the Director of the Division of Finance sent the employee an email in which he advised that the Office of the Governor was waiting for guidance on confidentiality issues from attorneys in the Alaska Department of Law, but that using a personal Blackberry made an audit much less likely. The employee subsequently forwarded a copy of that email exchange to Governor Palin and to Todd Palin. See Governor's Two E-Mail Accounts.

Those repeated attempts at subterfuge bear a striking resemblance to the efforts of the Bush Administration to evade similar federal disclosure statutes.

In 2007 it was revealed that more than 80 White House aides, including Karl Rove, used private GOP servers to send and receive emails relating to the conduct of official government business. See Oversight.House.Gov, The Use of RNC E-mail Accounts by White House Officials, June 18, 2007, <http://oversight.house.gov/story.asp?id=1362>.

According to a 2007 report by the House Committee on Oversight and Government Reform, by using the private GOP servers the Bush Administration was able to avoid making emails available to congressional investigators investigating the improper firing of U.S. Attorneys, as well as contacts between White House officials and convicted lobbyist Jack Abramoff. See Interim Report on Investigation of Possible Presidential Records Act Violations, House Committee on Oversight and Government Reform, 110th Congress (2007), <http://oversight.house.gov/documents/20070618105243.pdf>.

As discussed above, last week the U.S. District Court for the District of Columbia issued a preliminary injunction to compel Vice President Cheney to preserve certain public records until a decision on the merits of an action to require the Vice President to preserve certain records pursuant to the Presidential Records Act (PRA) is decided. Citizens for Resp. and Ethics in Washington v. Cheney, supra.

After noting that Congress enacted the PRA to expand on the objective of the statute that it had enacted during the Watergate investigation to take control of Richard Nixon's presidential papers, in Cheney, supra at 2008 U.S. Dist. LEXIS 71359, at *23, the court quoted from Nixon v. Administrator of General Services, 433 U.S. 425, 452-53 (1977) to explain the importance of the PSA in preserving critical pieces of history:

Congress acted to establish regular procedures

to deal with the perceived need to preserve [Presidential] materials for legitimate historical and governmental purposes. An incumbent President should not be dependent on happenstance or the whim of a prior President when he seeks access to records of past decisions that define or channel current governmental obligations. Nor should the American people's ability to reconstruct and come to terms with their history be truncated by an analysis of Presidential privilege that focuses only on the needs of the present.

A.S. 40.21.010, the statute which mandates that Governor Palin preserve her public records, serves the same purpose as the PSA.

In Cheney, supra at *28, the court emphasized that if Vice President Cheney destroyed his public records, irreparable harm would result:

[I]f Defendants' interpretation is not correct as a matter of law, there is no question that documents that may be entitled to PRA protection will not receive the statute's protections. Those unprotected documents could be transferred to other entities, destroyed, or not preserved, and if any of these events occur, the damage is inherently irreparable; once documentary material is gone, it cannot be retrieved.

In addition to finding that the plaintiffs had demonstrated a substantial possibility of irreparable injury, the court also relied on Vice President Cheney's unwillingness to avoid a preliminary injunction motion by agreeing to preserve all records potentially at issue pending the court's decision on the merits. The court found that Vice President Cheney's refusal "heightens the Court's concern that, in the absence of a preliminary injunction, all records potentially covered by the PRA as a

matter of law, will not be preserved through the termination of this litigation." Id. At *29.

In the instant action, Governor Palin's conduct - i.e., her decision to use her unsecured private email accounts to conduct official business of the State of Alaska, the abrupt deactivation of her yahoo.com accounts, her failure to fully comply with the disclosure requirements of the Public Records Act in responding to plaintiff McLeod's first public records request, and the refusal of employees of the Office of the Governor to respond to inquiries about the status of Governor Palin's private email accounts - prompts the same conclusions.

Balancing the hardships, in Cheney the court explained that "[i]n contrast to the injury that Plaintiffs have suffered and will continue to suffer if Defendants have improperly adopted a narrow interpretation of the PRA's statutory language, the Court perceives no injury to Defendants that would arise from a preliminary injunction or any prejudice that would result from requiring Defendants to preserve all records potentially at issue in this litigation which this action is ongoing." Id. At *32.

Relying again on the Nixon case, the court further found that the PRA serves the public interest, concluding that "[t]he American public . . . has a right to the preservation of all records encompassed by the PRA's statutory language." Id. At *35.

The same balance applies here - the injury to plaintiff McLeod (and the public) would be irreparable; the prejudice to

Governor Palin, who has a nondiscretionary duty to preserve public records, is non-existent.

The Unknown Status of Governor Palin's Private Email Accounts and the Unknown Number of Public Records That May Be in Those Accounts Raises Further Concerns About The Integrity and Preservation of Public Records.

The record is uncontroverted that for the past two years Governor Palin has conducted official business of the State of Alaska by sending and receiving email messages on her two yahoo.com private email accounts. Recently, news reports have documented that Governor Palin also uses additional private email accounts. See Plaintiff's Exhibit I (Karl Vick, Palin Had Another Private E-Mail Account, Company Says, The Washington Post, Oct. 1, 2008, http://www.washingtonpost.com/wp-dyn/content/article/2008/09/30/AR2008093002699_p).

There is no indication what, if any, steps Governor Palin has taken to preserve any public records located in those accounts. When Anand Dubey, the Director of the Enterprise Technology Services Division of the Alaska Department of Administration, recently was asked by the Anchorage Daily News whether his agency had copies of the emails in Governor's Palin's private email accounts, he responded: "If you are asking do we have those e-mails, then the answer is no. We don't control Yahoo or Gmail or Hotmail or anything like that." See Governor's Two E-Mail Accounts.

After interviewing other employees of the State of Alaska, the Anchorage Daily News further reported:

Just how much of the state's business does Palin conduct through her BlackBerrys? Her chief of staff didn't respond to that question. But she often is glued to her devices.

No one in the Palin administration could say if the governor is saving her Yahoo e-mails.

[Ivy] Frye [an employee in the Office of the Governor who received copies of emails in which other employees discussed whether use of private email accounts would avoid the risk of public disclosure] did not respond to requests for comment.

Id.

Given Governor Palin's ongoing use of a now unknown number of private email accounts to conduct official business of the State of Alaska, and her refusal to comply fully with the Public Records Act, there is a substantial risk that public records located in those accounts are being lost or destroyed. And if those public records ultimately are preserved, the public's right to review those records clearly has been impeded by Governor Palin's attempt to shield the records from inspection.

ARGUMENT

The purpose of both a temporary restraining order and a preliminary injunction is to maintain the status quo and prevent the irreparable loss of rights before a decision is made on the merits of an action. See e.g., Martin v. Coastal Villages Region Fund, 156 P.3d 1121, 1126 (Alaska 2007). To obtain injunctive

relief, a plaintiff must persuade the court that the plaintiff will suffer irreparable harm if relief is not granted, and the opposing party will be adequately protected if it is. The claims for relief alleged in the plaintiff's complaint also cannot be based on legal assertions that are "frivolous or obviously without merit." See e.g., City of Kenai v. Friends of the Rec. Center, Inc., 129 P.3d 452, 456 (Alaska 2006), N. Kenai Peninsula Rd. Maint. Service Area v. Kenai Peninsula Borough, 850 P.2d 636, 639 (Alaska 1993).

In this action, plaintiff McLeod easily satisfies those requirements.

1. There Is a Strong Likelihood That Plaintiff McCleod and the Public Will Suffer Irreparable Harm If This Motion Is Denied.

Irreparable harm is

an injury, whether great or small, which ought not be submitted to, on the one hand, or inflicted, on the other, and which, because it is so large or small, or is of such constant and frequent occurrence, or because no certain pecuniary standard exists for the measurement of damages, cannot receive reasonable redress in a court of law.

State v. Kluti Kaah Native Village, 831 P.2d 1270, 1273 n.5 (Alaska 1982).

Governor Palin and the Office of the Governor have acknowledged that many of the emails that have been sent to or from Governor Palin and employees of the Office of the Governor on their private email accounts are "public records" for the purposes of the Public Records Act. If, because this motion is

denied, any of those records are destroyed or lost, they will be destroyed or lost permanently. If they are, that will be irreparable harm because, as the Cheney court noted, "once documentary material is gone, it cannot be retrieved."

That already may be the situation in this action because, as has been described above, Yahoo deactivated Governor Palin's two yahoo.com private email accounts after one of the accounts was hacked. That possibility could have been entirely alleviated if, as she was given the opportunity to at the beginning of her administration, Governor Palin had used her secure state email account to conduct official business of the State of Alaska and had used her private email accounts to conduct her personal business. For reasons she has not publicly explained, Governor Palin did not do so. But unless the instant motion is granted, the risk of irreparable harm to plaintiff McLeod and the public if more public records are lost will only increase.

2. Governor Palin and the Office of the Governor Will Not Be Prejudiced If This Motion Is Granted.

In the Records Management Act, A.S. 40.21.010 et seq., and the Public Records Act, A.S. 25.110 et seq., the Alaska Legislature imposed a nondiscretionary duty on Governor Palin and employees of the Office of the Governor to safeguard and preserve the public records of the State of Alaska and to make those records available for inspection by plaintiff McLeod and other members of the public. If this motion is granted, they will be

required to do so.

The Alaska Supreme Court has held squarely and it has held correctly that a party suffers no harm or prejudice if the granting of injunctive relief requires the party to do what it has a legal obligation to do anyway. Turpin v. North Slope Borough, 879 P.2d 1009, 1011 (Alaska 1994).

That will be the situation for Governor Palin and the Office of the Governor if the court grants this motion.

It also should be noted that if the court does so, Governor Palin and employees of the Office of the Governor may still use whatever private email accounts they wish for conducting their own private business. And they will not be compelled to preserve and make available for public inspection emails that are not public records because the content thereof does not involve official business of the State of Alaska.

Simply put, Governor Palin and the Office of the Governor will suffer no prejudice if this motion is granted.

3. The Claim for Relief That Plaintiff McLeod Has Alleged in Her Compliant Presents Serious and Substantial Questions of Law Court for Decision.

As stated above, the protection of public records and the right of plaintiff McLeod and other members of the public to inspect public records are matters of the utmost public importance. In response to plaintiff McCleod's first public records request, Governor Palin and the Office of the Governor

conceded that emails whose content relates to official business of the State of Alaska that are sent from or received by Governor Palin and employees of the Office of the Governor on their private email accounts are "public records" as A.S. 40.25.220(3) and that A.S. 40.25.110 affords plaintiff McCleod a legal right

to inspect those records (unless pursuant to A.S. 40.25.120 the Legislature has directed that a particular public record must be redacted or withheld).

However, Governor Palin and the Office of the Governor then inexplicably argue that the same Public Records Act imposes no legal duty on them to safeguard and preserve those same public records so that they can be available for plaintiff McLeod's inspection. Whether that is a correct interpretation of the intent of the Alaska Legislature embodied in the Public Records Act is a serious and substantial question of paramount public importance.

CONCLUSION

For the reasons set forth above, plaintiff Andree McLeod requests that her motion for a temporary restraining order and preliminary injunction be granted.

DATED: October 2, 2008

Donald Craig Mitchell

Attorney for Plaintiff