

Complaint by Mrs. Kennedy

SUPREME COURT
OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

JACQUELINE B. KENNEDY,

Plaintiff,

-against-

HARPER & ROW,
PUBLISHERS, INC.,
COWLES COMMUNICATIONS,
INC.,
and WILLIAM MANCHESTER,

Defendants.

VERIFIED
COMPLAINT

Plaintiff, by her attorneys, Paul, Weiss, Rifkind, Wharton & Garrison, Esqs., for her complaint, respectfully alleges:

As and For a First Cause of Action Against All of the

Defendants

1. Upon information and belief, defendant Harper & Row, Publishers, Inc. (hereinafter "Harper") is a corporation organized and existing under the laws of the State of Illinois and maintains an office and place of business at 49 East 33rd Street, New York, N.Y. Said defendant is in the business of publishing and distributing books.

2. Upon information and belief, defendant Cowles Communications, Inc. (hereinafter "Cowles") is a corporation organized and existing under the laws of the State of Iowa and maintains an office and place of business at 488 Madison Avenue, New York, N.Y. Said defendant is the publisher of LOOK Magazine.

The Agreement

3. In or about February 1964, plaintiff, the widow of the late President John F. Kennedy, Robert F. Kennedy, his brother, and other members of the late President's immediate family determined to assist defendant William Manchester (hereinafter "Manchester"), an author of repute, in preparing a detailed account of the events and circumstances of the death of President Kennedy. Their purpose was to assure the preparation of at least one text concerning that event which would treat that subject accurately, in depth, and with appropriate dignity and good taste, and hopefully, by so doing, to forestall inaccurate or sensational treatment by others.

4. Robert F. Kennedy and defendant Manchester executed an agreement dated March 26, 1964. (A copy of the agreement, denominated "Memorandum of Understanding," is annexed hereto as Exhibit "A" and is hereinafter called the "Agreement.")

5. The following provisions were included in the Agreement:

A. Defendant Manchester shall prepare for publication an historical account of the events of and surrounding the death of President John F. Kennedy

on November 22, 1963 (Paragraph 1)

B. The completed manuscript shall be reviewed by plaintiff, Jacqueline B. Kennedy, and Robert F. Kennedy, and the text shall not be published unless and until approved by them. (Paragraph 3)

C. No motion picture or television adaptation shall ever be made based on the book. Other rights may be disposed of by defendant Manchester, with the approval of plaintiff, Jacqueline B. Kennedy, and Robert F. Kennedy, though it is not the intention to prevent the sale of serial option rights to a responsible publisher. (Paragraph 4)

D. The book may not be published before November 22, 1968, unless plaintiff, Jacqueline B. Kennedy, designates a prior date, and shall be published at such date thereafter as shall be mutually agreeable to the contracting parties. (Paragraph 6)

E. At the request of the Kennedy family, the publisher will be defendant Harper. (Paragraph 5)

F. Members of the Kennedy family shall not co-operate with any other author who wishes to deal with the subject of the death of President Kennedy. (Paragraph 7)

G. Robert F. Kennedy will, in his discretion, provide assistance to defendant Manchester

in the form of introductions to public officials and access to certain pertinent documents. (Paragraph 8)

H. Upon the signing of the Agreement, a brief public announcement of the project shall be made by Robert F. Kennedy or by plaintiff, Jacqueline B. Kennedy, and Robert F. Kennedy jointly. (Paragraph 9)

6. Pursuant to the provisions of the Agreement, and with the approval of defendant Manchester, a Public Statement was issued on March 26, 1964, announcing the project and setting forth certain basic understandings of the parties which extended beyond the terms of the written Agreement. (A copy of such Public Statement is annexed hereto as Exhibit "B".)

7. The Public Statement reflected the basic understanding of plaintiff, Jacqueline B. Kennedy, Robert F. Kennedy and defendant Manchester that the objective of the project was to arrange for the preparation and publication of an authoritative and accurate historical work setting forth the events and circumstances surrounding the death of President Kennedy, in good taste and with the dignity befitting that event. The

publication was intended to be a work of historical significance, free of distortion and published in a manner which would avoid sensationalism and commercialism.

8. In keeping with this objective, the parties agreed, as reflected in the Public Statement, that all profits from the publication of defendant Manchester's work, beyond expenses and a moderate return on investment on the first printing, would be donated by both the author and the publisher to the John F. Kennedy Library at Boston, Massachusetts.

9. Pursuant to the Agreement, plaintiff and Robert F. Kennedy gave exclusive interviews to defendant Manchester. Plaintiff granted said exclusive interviews to defendant Manchester

in reliance upon the provisions of the Agreement which vested in her the right to approve the mode and time of publication and the text thereof. In said interviews, plaintiff made disclosures to defendant Manchester which she would not have made but for her reliance upon said right of approval.

10. In addition, plaintiff and Robert F. Kennedy assisted defendant Manchester by arranging for him to interview public officials and the family and friends of the late President and by facilitating his access to various documents. Plaintiff arranged for said interviews and facilitated such access to documents in reliance upon the provisions of the Agreement which vested in her the right to approve the mode and time of publication and the text thereof. But for her reliance upon said right of approval, plaintiff would not have arranged such interviews or facilitated such access to documents.

11. Defendant Manchester has written a manuscript concerning the death of President Kennedy which, upon information and belief, consists of approxi-

mately 300,000 words (hereinafter "the Manuscript").

The Proposed Harper Publication

12. Upon information and belief, in or about April 1964, defendant Manchester entered into a contract with defendant Harper pursuant to which Harper was to act as the publisher of the Manuscript.

13. Plaintiff was not a party to nor was she advised of the terms and conditions of the contract entered into between defendant Manchester and defendant Harper. Upon information and belief, said contract fails to respect the rights of plaintiff as set forth in paragraphs 5, 6, 7 and 8 hereof and contains no provision protecting the absolute right of plaintiff to approve of the mode and time of publication and the text thereof.

14. Upon information and be-

lief, defendant Harper has announced that in or about March or April 1967 it will publish the text of the Manuscript in book form.

15. Upon information and belief, defendant Harper has purported to sell to others certain rights to publish said Manuscript in book form.

16. Upon information and belief, defendant Harper had full knowledge of the respective rights and obligations of plaintiff, Jacqueline B. Kennedy, Robert F. Kennedy and defendant Manchester with respect to the Manuscript at and prior to the time it entered into its contact with defendant Manchester.

The Proposed British Publication

17. Upon information and belief, in or about October or November 1966, defendant Manchester purported to sell to Michael Joseph, Ltd., of London, England, the right to publish the Manuscript in England.

The Proposed Cowles Publication

18. On or about August 11, 1966, defendant Manchester and defendant Cowles entered into a written contract (a copy of which is annexed hereto as Exhibit "C") in which, for a consideration of \$665,000, defendant Manchester purported to grant to defendant Cowles certain rights of publication therein defined, including the right to publish selected material from the Manuscript in serial form in LOOK Magazine. Plaintiff was not a party to nor was she advised of the terms and conditions of said contract prior to its execution. The contract fails to respect plaintiff's rights as set forth in paragraphs 5, 6, 7 and 8 hereof and contains no provision protecting the absolute right of plaintiff to approve of the mode and time of publication and the text thereof.

19. Upon information and belief, defendant Cowles had full knowledge of the respective rights and obligations of plaintiff Jacqueline B. Kennedy, Robert F. Kennedy and defendant Manchester with respect to the Manuscript at and prior to the time it entered into its contract with defendant Manchester.

20. Defendant Cowles has publicly announced and advertised that it will publish selected material from the Manuscript in a series of installments commencing in or about January 1967. Upon information and belief, the serialized version to be published in LOOK Magazine will be an abridged or truncated version of the Manuscript.

21. The contract entered into between defendants Cowles and Manchester further grants to defendant Cowles the right to grant to others rights to pub-

lish excerpts, not in excess of 80,000 words, of the 400,000 word Manuscript, without the consent or approval of plaintiff. Upon information and belief defendant Cowles has purported to sell such publication rights to others.

The Absence of Approval or Consent by Plaintiff

22. Plaintiff, Jacqueline B. Kennedy, has not approved or consented to (a) the text of the Manuscript, or (b) the proposed publication of the Manuscript in book form by defendant Harper, by Michael Joseph, Ltd. or by others, or (c) the proposed publication of selected excerpts from the Manuscript in serial form by defendant Cowles, in LOOK Magazine or elsewhere, or (d) the purported grant of publication rights in and to the Manuscript of defendant Manchester to defendant Harper, to Michael Joseph, Ltd., or to others, or (e) the purported grant of publication rights in and to the Manuscript by defendant Harper to others, or (f) the purported grant of publication rights in and to the Manuscript by defendant Cowles to others or (g) any date or dates for any publication of the Manuscript in book, magazine or any other form.

23. By reason of the lack of approval or consent by plaintiff, defendant Manchester was, and is, prohibited from disposing of any publication rights in the Manuscript unless such disposition is approved by plaintiff and unless in such disposition the further rights of plaintiff to approve the mode and time of publication and the text thereof are appropriately provided for and defendant Manchester's purported attempt to do so without fulfilling such obligations is without legal effect and confers no rights upon either defendant Harper or defendant Cowles or any transferee purporting to assert publication rights from or through any of defendants.

24. Defendant Manchester's purported contracts with defendants Harper and Cowles are each a breach of the terms and conditions of his Agreement with Robert F. Kennedy, of which plaintiff is a third party beneficiary.

25. Upon information and belief, defendants Harper and

Cowles have wilfully induced defendant Manchester to breach his Agreement with Robert F. Kennedy, of which plaintiff is a third party beneficiary, by inducing him to enter into contracts with defendants Harper and Cowles purporting to grant to said defendants the right to publish the Manuscript without making such rights to publish subject to plaintiff's contractual rights to approve the

mode and time of publication and the text thereof.

26. Defendants Harper and Cowles have been specifically and directly advised of Robert F. Kennedy's Agreement with defendant Manchester and of the rights granted to plaintiff therein, but nonetheless have refused to permit plaintiff to exercise her rights pursuant to said Agreement and have purported to assign publication rights to others in violation of said Agreement.

27. Upon information and belief, the acts and conduct of defendants Manchester, Harper and Cowles are designed to, and will, subvert and destroy the entire object and purpose of the Agreement between Robert F. Kennedy and defendant Manchester, and the rights granted to plaintiff therein, and of the basic understanding between plaintiff, Jacqueline B. Kennedy, Robert F. Kennedy and defendant Manchester, to plaintiff's irreparable injury, in that the unapproved text of the Manuscript as a book and in serial form at unapproved times will lead to precisely the distortion, sensationalism and extended commercialization which the parties intended to avoid by their Agreement and basic understanding.

28. Upon information and belief, defendants Manchester, Harper and Cowles intend to, and will, unless enjoined and restrained by this Court, proceed with their proposed illegal publications and will, unless enjoined and restrained by this Court, continue to make purported assignments of publication rights.

29. Plaintiff has no adequate remedy at law.

As and For a Second Cause of Action Against All of the Defendants

30. Plaintiff realleges paragraphs 1 through 21 inclusive of this Complaint.

31. Defendant Manchester in the course of preparing the Manuscript obtained possession of copies of letters written by plaintiff and her daughter, Caroline, to the late President Kennedy.

32. Upon information and belief, those copies are presently in the possession or control of defendant Manchester.

33. Upon information and belief, defendant Manchester has copied and used such letters, or substantial portions thereof, in the Manuscript and, unless enjoined and restrained by this Court, defendants will proceed with their proposed publications of the Manuscript, and said letters will be copied published and used as part of said publications.

34. Plaintiff has not given her consent to the copying, publication or use of such letters in

the Manuscript or elsewhere.

35. The proposed copying, publication and use of such letters will violate plaintiff's common law rights of copyright in and to the said letters.

36. Plaintiff has no adequate remedy at law.

As and For a Third Cause of Action Against All of the Defendants

37. Plaintiff realleges paragraphs 1 through 21 inclusive of this Complaint.

38. Part of the assistance which plaintiff rendered to defendant Manchester in his preparation of the Manuscript was giving personal interviews to him.

39. Defendant Manchester recorded such interviews on a tape recorder and, upon information and belief, said tapes, containing the words and statements of plaintiff, are presently in the possession or control of defendant Manchester.

40. Upon information and belief, defendant Manchester has copied and used the recorded words and statements of plaintiff, or substantial portions thereof, in the Manuscript and, unless enjoined and restrained by this Court, defendants will proceed with their proposed publications of the Manuscript, and said recorded words and statements will be copied, published and used as part of said publications.

41. Plaintiff has not given her consent to the copying, publication or use of her recorded words and statements in the Manuscript or elsewhere.

42. The proposed copying, publication and use of such recorded words and statements will violate plaintiff's common law rights of copyright in and to the said words and statements.

43. Plaintiff has no adequate remedy at law.

As and For a Fourth Cause of Action Against Defendant Cowles Publications, Inc.

44. Plaintiff realleges paragraph 2 of this Complaint.

45. LOOK Magazine is widely distributed and circulated in the State of New York and throughout the United States.

46. Commencing on or about September 1, 1966, and up to the present time, defendant Cowles, as publisher of LOOK Magazine, has knowingly used plaintiff's name for advertising purposes and purposes of trade within the State of New York and throughout the United States in advertisements and circulars designed and intended to sell subscriptions to LOOK Magazine and to promote the sale of individual issues of said magazine.

47. These advertisements and

circulars were widely published and circulated within the State of New York and throughout the United States. A copy of an advertisement published in The New York Times on Thursday, September 1, 1966, is annexed hereto as Exhibit "D". A copy of advertising material mailed in or about October or November of 1966 into the State of New York and throughout the United States is annexed hereto as Exhibit "E". A copy of a circular mailed in or about December of 1966 into the State of New York and throughout the United States is annexed hereto as Exhibit "F". A copy of advertising material contained in the November 29, 1966 issue of LOOK Magazine is annexed hereto as Exhibit "G". A copy of further advertising material contained in the December 27, 1966 issue of LOOK Magazine is annexed hereto as Exhibit "H".

48. Plaintiff did not give any written consent to the use of her name in the advertisements and circulars hereinabove referred to, or to the use of her name in any advertisements or circulars of defendant Cowles, and such use was entirely un-

authorized and without her consent.

49. The acts of defendant Cowles violate plaintiff's rights under Sections 50 and 51 of the Civil Rights Law of the State of New York.

50. The unauthorized and unlawful use of plaintiff's name by defendant Cowles to advertise and sell its magazine, LOOK, has caused plaintiff great emotional distress.

51. Upon information and belief, unless enjoined and restrained by this Court, defendant Cowles will continue to use plaintiff's name in violation of her rights and to plaintiff's irreparable injury and detriment.

52. Plaintiff has no adequate remedy at law.

WHEREFORE, plaintiff respectfully prays for judgment

On the First Cause of Action

(a) Enjoining and restraining defendants Harper, Cowles and Manchester, and each of them, permanently and *pendente lite* [while litigation continues], from publishing, or granting to others the right to publish, all or any part of, the Manuscript, and from disposing of any rights in and to the Manuscript, or announcing or advertising the publication of the text of the Manuscript unless and until plaintiff's approval of the mode and time of publication and the text thereof shall have been obtained.

(b) Enjoining and restraining defendants Harper, Cowles and Manchester, and each of them, permanently and *pendente lite*, from delivering or transferring to any other per-

son any copy of the Manuscript without plaintiff's consent.

On the Second Cause of Action

(c) Enjoining and restraining defendants Harper, Cowles and Manchester, and each of them, permanently and *pendente lite*, from copying, publishing or using any of said letters, and from delivering or transferring said letters or copies thereof to any person, without plaintiff's consent.

(d) Directing defendants Harper, Cowles and Manchester to return to plaintiff said letters and all copies thereof in their possession or control.

On the Third Cause of Action

(e) Enjoining and restraining defendants Harper, Cowles and Manchester, and each of them, permanently and *pendente lite*,

from copying, publishing, or using any of said tapes or the contents thereof, and from delivering or transferring said tapes or copies or transcripts thereof to any other person.

(f) Directing defendants Harper, Cowles and Manchester to return to plaintiff said tapes and all copies or transcripts thereof in their possession or control.

On the Fourth Cause of Action

(g) Enjoining and restraining defendant Cowles, permanently and *pendente lite*, from using plaintiff's name for advertising purposes and purposes of trade.

On All Causes of Action

(h) For such other and further relief, including compensatory and punitive damages and declarations of the rights of the parties, as to the Court may seem just and proper in the premises, together with the costs and disbursements of this action.

Dated: New York, New York
December 16, 1966.
Paul, Weiss, Rifkind, Wharton
& Garrison
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