

Flying Solo: Getting Embarrassing Photos Off Ex's Blog

By Jan Warner and Jan Collins

Question: I am a 40-year-old woman with two teenagers. My ex-husband and I divorced four years ago, and I haven't had a minute's peace since, due to continued harassment, late-night phone calls, threats—you name it. I work for a large corporation, have a responsible job, and want to settle down and have a normal life, but my ex won't leave me alone, especially since he found out I'm getting remarried to a really nice guy I've been dating for nearly a year.

I got a call from friend who had received an e-mail from my ex, inviting my friend to visit my ex's new blog. I went to the address and found a most unflattering blog dedicated to me, on which my ex had posted a number of "personal" photos and videos he had taken of me during our marriage. Years before we divorced, he swore to me that all of these had been destroyed. I am now getting suggestive e-mails at my workplace from people I don't know because my ex posted my e-mail address out there for thousands of people to use.

I called my divorce lawyer who, after reviewing our agreement, told me that any remedies were questionable because we had agreed that all properties in my possession belonged to me and those in his possession belonged him, and released each other from all claims. I called my ex who told me I deserved it, and that I should just wait until our children found out. It seems that there must be something I can do to right this atrocity.

Answer: While our first observation is that your ex needs some mental health evaluation and treatment, that wouldn't help you. Based on our preliminary research and discussions with some good lawyers from around the country, we don't particularly agree there is nothing you can do. Nor do we agree that the "release" in your divorce agreement is necessarily a bar to you protecting yourself. Here are some ideas; still, go to a good tort lawyer who can advise you, based on the law in your state, how you might be able to bring suit against your ex for civil damages, and possibly an injunction.

For example: If you own the copyrights to these photographs and videos, your ex and those who are helping him may have violated your intellectual property rights. And, depending on where you live, the malicious distribution of truthful information may constitute defamation. Moreover, since you are not a public person, you may be able to assert that your privacy rights are being violated. Finally, many states embrace causes of action for "intentional infliction of emotional distress," which appropriately describes your situation.

Should you be able to make a case based on one of the above theories, you may also have a cause of action against the Internet Service Provider that chose to post these pictures without your consent. While your ex may try to say you "waived" your rights by posing, we don't believe that this defense will hold water.

SoloFact: When going through a divorce, remember that no matter how embarrassing it may be, make sure to tell your lawyer everything so he or she can try to protect you. And if you are not sure that items such as the above exist, ask your lawyer to include language in your agreements that will prevent this type of atrocious conduct.