

NORTH CAROLINA

ORANGE COUNTY

THE NEWS AND OBSERVER
PUBLISHING COMPANY, et al.,

Plaintiffs,

v.

RICHARD A. BADDOUR, et al.,

Defendants.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
10 CV 001941

ORDER

This matter came on for hearing at the 19 July 2012 session of Wake County Civil Superior Court before the undersigned on the Plaintiffs' Motion to Compel and the Motion of Paul H. Davis, Jr. to Quash Subpoena and for Entry of Protective Order. The Court reviewed the motions and considered the arguments of counsel. In addition, the Court considered Coach Davis's proposal for an "in camera," attorneys' eyes only review by Plaintiffs' counsel of his personal cell phone billing statements.

At issue is the plaintiffs' request for copies of the personal cell phone records of Coach Butch Davis to the extent that those records reflect use of the phone for Coach Davis' official, work-related purposes (i.e. call records that would be public records if the calls were made on a cell phone furnished to him by the University of North Carolina at Chapel Hill ("UNC_CH"). University officials and coaches may not use their personal cell phones to "dodge" or evade the North Carolina Public Records law and may not avoid public scrutiny of their cell phone records by using their personal cell phones to conduct public business. At the same time, Coach Davis is entitled to a protective order that protects his private calling records that reflect non-public calls – i.e., calls unrelated to his duties or responsibilities as an employee of UNC-CH. Counsel for

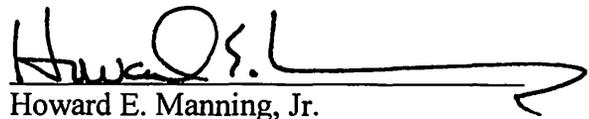
plaintiffs has consented to Coach Davis or his counsel conducting the review and redacting the records of the non-public calls.

Based on the foregoing, it is ORDERED and ADJUGED that:

1. Plaintiffs' Motion to Compel is DENIED.
2. The Motion of Paul H. Davis, Jr. to Quash Subpoena is GRANTED.
3. The Motion of Paul H. Davis, Jr. for Entry of Protective Order is GRANTED.
4. Those portions of Coach Davis's personal cell phone billing statements that reflect phone usage unrelated to his duties and responsibilities as Head Football Coach at UNC-CH are subject to a protective order and may not be reviewed by Plaintiffs or Counsel for Plaintiffs.
5. Within 30 days of entry of this order, Coach Davis shall produce to plaintiffs those portions of his personal cell phone billing statements that reflect phone usage related to his duties and responsibilities as Head Football Coach at UNC-CH.

IT IS SO ORDERED.

This the 22 day of August, 2012.



Howard E. Manning, Jr.
Superior Court Judge Presiding