

STATE OF NORTH CAROLINA
COUNTY OF WAKE

FILED
2008 OCT 15 11:51 AM
WAKE COUNTY, C.S.C.

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO.: 08 CVD 12310

GARRY D. RENTZ AND DONNA A.
RENTZ AND KRISTA C. LISTER
Plaintiff,

v.

BRADLEY COOPER,
Defendant.

**MOTION
TO COMPEL**

NOW COMES the defendant, by and through his undersigned counsel, pursuant to Rules 45 and 26 of the North Carolina Rules of Civil Procedure, respectfully moves this court for an order compelling Detective George Daniels to comply with three subpoenas which were lawfully issued and served on October 10, 2008 and that he be ordered to produce the documents and materials set forth in those subpoenas showing the court as follows:

I. Background

1. Plaintiffs filed a Complaint and Motion for Emergency Custody on July 16, 2008 at 4:45 p.m. Upon information and belief from the face of said order, a member of law enforcement made some witness appearance at the *ex parte* hearing.
2. The order for temporary custody was granted, *ex parte*, on July 16, 2008 at 4:45 p.m.
3. Plaintiffs have alleged that Defendant is unfit and has acted inconsistently with his constitutionally protected status as the parent of the minor children in question.
4. On October 9th, 2008, Detective George Daniels provided an affidavit in support of Plaintiffs' claims for custody (See Exhibit 1).
5. Defendant, by and through his attorney, issued three subpoenas *duces tecum* to Detective George Daniels on or about October 10, 2008, which were served via personal service on Detective Daniels on or about October 10, 2008 (See Exhibit 2).
6. Assistant District Attorney Howard Cummings filed a motion to quash the subpoena and a motion for a protective order on October 10, 2008 (See Exhibit 3).

II. Daniels' File is Discoverable

7. Mr. Cooper has a right to discover all information relevant to the detective's testimony in this case. It is long standing constitutional principal that, once a witness offers testimony, he

“can no more advance the work product doctrine to sustain a unilateral testimonial use of work product materials than he could elect to testify in his own behalf and thereafter assert his Fifth Amendment privilege to resist cross-examination on matters reasonably related to those brought out in direct examination.” *NC State Bar v. Harris*, 139 N.C. App. 822, 535 S.E.2d 74 (2000), citing *United States v. Nobles*, 422 U.S. 225 (at 239-40).

8. The moment Detective Daniels knowingly and intentionally injected his direct testimony into this case, he waived any protection from this court’s subpoena power. He cannot now retreat back behind a specious claim that to disclose whatever information exists in the file that might jeopardize the investigation.
9. The criminal investigation may not be used as both a sword and a shield. Detective Daniels cannot testify to his opinion as if it were fact, then retreat behind a claim of protection from subpoena power when asked what, if any, facts, documents or other materials support it.

**III. Brad Cooper has the Right to Address Meaningfully
Daniels’ Unsupported Claim that Statements Were Somehow Inconsistent**

10. In his affidavit, by which he waives any protection from the subpoena power of the court, Detective Daniels claims that Brad Cooper’s testimony was somehow inconsistent with statements that he had previously made during his initial interviews with the police, as well as with other evidence gathered during the police investigation. However, Daniels provides no actual explanation as to how that testimony may have been inconsistent. Without further information, one cannot possibly rebut the accusation.
11. Mr. Cooper has spoken extensively with the Cary Police Department. From July 12th through July 14th, Mr. Cooper was interviewed at his house each day for hour upon hour. Detective Daniels cites these interviews as the source of some as yet unknown inconsistency with Mr. Cooper’s testimony at his deposition. Without access to the audio and video record of those initial interviews as well as to any extant notes of those interviews, Mr. Cooper is unable to even begin to address Detective Daniels unsupported and prejudicial comments.
12. It is unknown whether the discrepancies of Detective Daniels speaks are of material significance or whether they are benign (the equivalent of describing a glass as half empty during on one occasion and half full the next). The characterization of the statements as “inconsistent” is itself entirely subjective and subject to bias. Detective Daniels and Plaintiffs apparently expect Mr. Cooper to idly stand aside and allow such statements to be treated as fact in this matter with no chance to challenge or prepare to challenge the assertion.
13. It is beyond human capacity to describe events and recollections that occurred over a span of months or years in precisely the same way each time they are recounted, let alone to describe them the same way in multi-hour interviews that are separated in time by months. Only by having access to those original statements can an intelligent and informed determination be made as to whether there are any actual, significant and material inconsistencies.

14. There can be no question that the Cary Police Department understands the importance of consistency among statements. The CPD was so intent on ensuring consistency in testimony that it provided this information to a witness scheduled for deposition in this matter. In fact, Jessica Adam testified under oath at her deposition that in preparation to testify, she contacted the Cary Police Department to have them provide times to her from her phone records. In fact, Jessica Adam testified as follows:
- a. Question: And the next time you called was what time?
 - b. Answer: I'll look at what the police gave me as well. (Reviews document)
 - c. Question: May I see that?
 - d. Answer: No. Yes? OK. This is the – (hands document to counsel)
 - e. Question: There's nothing in here about an 8: something call.
 - f. Answer: I'm sorry?
 - g. Question: You said you called at 8:30. There's nothing on here about that.
 - h. Answer: That's because I didn't have my—that's true. I didn't as—this is what was given to me over the phone by the police as per my request of that morning.
 - i. Question: When did you request this from the police?
 - j. Answer: This past weekend. Adam p. 50-51.
 - k. Question: When's the last time you spoke with them?
 - l. Answer: The police?
 - m. Question: Yes.
 - n. Answer: This weekend when I called to see if they would be able to give me a copy of my records specific to the timing of the calls on Saturday.
 - o. Question: A copy of what records?
 - p. Answer: The ones that you—the handwritten note that I took about when—what calls occurred on Saturday, because I had my own memory, but I thought for everybody's sake that it didn't hurt for us to have exact times, because that's going to be there at some point for everybody to have.
 - q. Question: And had you given those exact times to the police officers?
 - r. Answer: No. They have court ordered my phone records. That's why I was asking for them. I can't get a copy of my home phone records. Adam p. 95-96.
 - s. Question: And the police didn't tell you about that when you called them this weekend?
 - t. Answer: They said that her cell phone was essentially turned off and there were no records that they could find. Adam p. 96.

IV. Brad Cooper Has Been Extremely Cooperative

15. Without specifying the extent to which Mr. Cooper *has* been cooperative, Detective Daniels makes the naked assertion that Brad Cooper has not been *fully* cooperative with the police investigation. (emphasis added).
16. Detective Daniels simply ignored the many hours of interviews that he held with Mr. Cooper on July 12 through 14 at Mr. Cooper's home in the days immediately following Mrs.

Cooper's disappearance. He makes no mention of the fact that Mr. Cooper opened his home to the Cary Police allowing them access during this time to any and all items in which they were interested.

17. Detective Daniels also seems to forget that at his request on August 12, 2008, Mr. Cooper allowed the Cary Police to return to his home to go through Nancy's clothing and to take, without requiring a search warrant, any of her clothing they thought might help with the investigation. Upon information and belief, Cary Police Department removed several articles of athletic clothing.
18. Detective Daniels also failed to disclose to the court that as recently as last week, Mr. Cooper provided him with two typed pages of written responses to 14 questions which the detective had asked of him (See Exhibit 4).
19. Similarly, there is no mention in Detective Daniels affidavit as to the timing of his recent request for Mr. Cooper go to the police station for an interview. Detective Daniels fails to disclose that Mr. Cooper was already scheduled to attend a series of full-day depositions in this case during the specific and limited times that Detective Daniels requested Mr. Cooper go to the police station for the interview. Mr. Cooper did, in fact attend deposition during those times.
20. Moreover, Detective Daniels fails to disclose the cooperation provided to him by Mr. Cooper with respect to information on witnesses and potential suspects that was developed through independent investigation.
21. Information from this independent investigation has been passed on to law enforcement for further inquiry.
22. On October 14, 2008, Mr. Cooper's counsel provided to Detective Daniels information regarding one of plaintiff's affiants that might be of relevance to CPD's criminal investigation (said information has been omitted from this pleading in an effort to protect the integrity of the investigation).
23. On October 12, 2008, information from Rosemary Zednick, a neighbor of the Coopers' was relayed to law enforcement. Per Ms. Zednick, she had called Cary Police on multiple occasions and left messages the week Ms. Cooper disappeared. She told them that she had seen Nancy Cooper jogging on July 12, 2008. She reported this before Nancy Cooper's body was even found (See Exhibit 5).

V. Mr. Cooper has a Right to Discover Information

24. While Defendant is aware of the status of the law that exculpatory evidence within the framework of a criminal investigation is not discoverable absent a charge, Detective Daniels, in filing his affidavit brought this squarely into the civil realm and thereby made it discoverable. Defendant has reason to believe that there is material in the CPD that is

discoverable and should be discovered by Defendant.

25. Ms. Zednick called Mr. Cooper's attorneys on her own in October, 2008, and disclosed her information. Cary Police has never provided her information to Mr. Cooper. Instead, they have simply allowed the public and This Court to believe that there was never information provided to law enforcement by any witnesses who saw Nancy Cooper jogging on July 12, 2008, as Brad Cooper reported.
26. During the police investigation, Ms. Zednick was stopped at two roadblocks where she again told officers that she had seen Nancy and identified her in photographs. However, the police never followed up with her to do an interview. In fact, they did not contact her again until October 14, 2008, when Cooper's attorneys told them about her.
27. When attorneys for Mr. Cooper told Detective Daniels about this witness, his response was telling; he repeated her name inquisitively and said he had not heard of her.
28. A written statement from this witness was sent to Detective Daniels on October 14, 2008. Detective Daniels called Mr. Cooper's attorneys' back and asked to whom this witness spoke within his own police department. Mr. Cooper's attorneys provided the name of the officer whose name appeared on the business card handed to the witness. At this time, the question as to why CPD had not followed up was posed and Detective Daniels claimed her story to be inconsistent because she had not mentioned an iPod in her statement and because she was originally uncertain as to the exact location where she saw Nancy (See Exhibit 5).
29. Detective Daniels notes that Nancy and Brad Cooper's computers are in FBI custody for evaluation. The only possible relevance of this statement is to cast a shadow of suspicion by investigation. It is uncertain what other reasoning led to the inclusion of this otherwise entirely irrelevant fact.
30. As Detective Daniels has specifically made them an issue in the custody matter, Mr. Cooper is entitled to discovery of either the original hard drives or full images of them.
31. Plaintiffs' counsel's own argument make the files, documents and other materials sought through a lawfully issued subpoena from Cary Police Department entirely relevant and necessary for Mr. Cooper's trial preparation. Plaintiffs and Cary Police Department may not use the law as a sword and a shield.
32. On October 13, 2008, in open court, Plaintiffs' counsel clearly stated, "it is clear that they know what this case is about. We are going to try and prove that Brad Cooper was involved in the murder of Nancy Cooper." Plaintiffs' counsel's own argument make the files, documents and other things sought through a lawfully issued subpoena to Cary Police Department entirely relevant and necessary for Mr. Cooper's trial preparation, especially given the fact that Cary Police Department's willful and open assistance to Plaintiffs and their counsel in this action as discussed herein. Plaintiffs and Cary Police Department may not use the law as a sword and a shield.

33. It is unknown what, if any, the extent of plaintiff's information regarding Nancy Cooper's death. Other than Plaintiffs' blanket, unsupported assertion, accompanied by Mrs. Cooper's friends' "gut feeling" that Mr. Cooper was somehow involved in the death of his wife, there are no specific allegations that would support any findings of fact that Mr. Cooper is somehow unfit or acted contrary to his constitutionally protected right as a parent.
34. It has been alleged that Mr. Cooper is "on a fishing expedition." Discovery is not a fishing expedition if it leads to relevant information. Defendant sat through hours of deposition in which he was asked about high school friends, emergency visits from years ago and other extraneous and irrelevant questions. He produced financial documents, retirement statements, telephone records, monthly bills and many other documents which are likely irrelevant or inadmissible, however This Court held that these documents might lead to admissible evidence. Therefore the same standard must apply for the Cary Police Department file. With respect to information that Detective Daniels' claims that Mr. Cooper's statements to them are inconsistent with his deposition, it is quite clear that we are seeking whatever he claims those inconsistencies to be.
35. The State further claims that Detective Daniels and the CPD have not been given adequate time to comply with the subpoena. Detective Daniels gave his affidavit to Plaintiffs and it was filed on October 9, 2008 and served on Defendant in the afternoon. Defendant served his subpoena as soon as practical thereafter. The subpoena was served at approximately 8:30 p.m. on October 10, 2008. Defendant did not serve any subpoena on CPD until the affidavit was filed. The timing of Defendant's affidavit is more than appropriate under the circumstances. Defendant acted as quickly as he possibly could given the circumstances at the time.
36. The State cites *U.S. v. Nixon* as authority for their position. However, that very case stands for the proposition that, "Neither the doctrine of separation of powers nor the generalized need for confidentiality of high-level communications, without more, can sustain an absolute unqualified presidential privilege of immunity from judicial process under all circumstances. See, e.g., "*Marbury v. Madison*", 1 Cranch 137, 177, 2 L.Ed. 60; *Baker v. Carr*, 369 U.S. 186, 211, 82 S.Ct. 691, 706, 7 L.Ed.2d 663. Absent a claim of need to protect military, diplomatic, or sensitive national security secrets, the confidentiality of presidential communications is not significantly diminished by producing material for a criminal trial under the protected conditions of in camera inspection, and any absolute executive privilege under Art. II of the Constitution would plainly conflict with the function of the courts under the Constitution. Pp. 3105-3107." Surely if presidential communications are subject to discovery, the Cary Police Department is subject to subpoena power.


Wherefore Defendant respectfully requests the Court to:

1. Compel Detective George Daniels to comply with the October 10, 2008 subpoena, subject to the agreed upon limitations as set forth herein or in the alternative strike Detective Daniels'

affidavit.

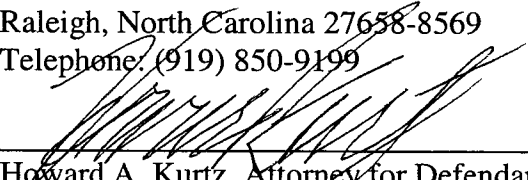
2. Award Defendant reasonable attorneys' fees for the prosecution of this motion.
3. Grant him any other relief that is just and proper.

This the 15th day of October 2008.

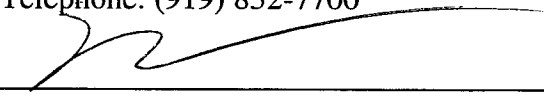


For Deborah Sandlin

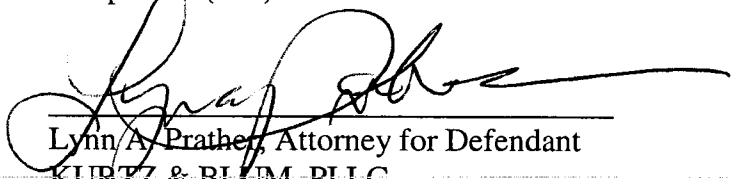
Deborah Sandlin, Attorney for Defendant
SANDLIN & DAVIDIAN, PA
5617 Departure Drive, Suite 109
Post Office Box 58569
Raleigh, North Carolina 27658-8569
Telephone: (919) 850-9199



Howard A. Kurtz, Attorney for Defendant
KURTZ & BLUM, PLLC
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Raleigh, North Carolina 27601
Telephone: (919) 832-7700



Seth A. Blum, Attorney for Defendant
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Lynn A. Prather, Attorney for Defendant
KURTZ & BLUM, PLLC
16 West Martin Street, 10th Floor
Raleigh, North Carolina 27601
Telephone: (919) 832-7700

Exhibit 1

FILED

NORTH CAROLINA

WAKE COUNTY

2508 OCT 9 10:51 AM IN THE GENERAL COURT OF JUSTICE DISTRICT COURT DIVISION WAKE COUNTY, N.C. 08 CVD 12310

GARRY D. RENTZ AND DONNA A. RENTZ AND KRISTA C. LISTER, Plaintiffs, v. BRADLEY COOPER, Defendant.

AFFIDAVIT OF DETECTIVE GEORGE G. DANIELS

Detective George G. Daniels, being duly sworn, deposes and says:

1. I am over eighteen years of age and competent to testify to the matters set forth in this Affidavit.

2. I have been with the Cary Police Department for the past 17.5 years and in the Investigations Department with the Cary Police Department for the past 16 years. I am the lead detective investigating the murder of Nancy Cooper. Prior to that I was in investigations in the Army.

3. To date, Defendant, Bradley Cooper has not fully cooperated with our investigation into the murder of Nancy Cooper and has not been willing to come to the police department to assist in the investigation and provide information despite formal requests from the Cary Police Department that he do so.

4. I have reviewed Bradley Cooper's video deposition, which was taken on October 2, 2008 at Tharrington Smith, LLP. A copy of Bradley Cooper's video deposition is attached hereto as Exhibit A. The testimony given under oath by Bradley Cooper during his video deposition is inconsistent with the statements made by Bradley Cooper to the Cary Police Department at his residence on July 12, 13 and 14, 2008 and evidence that we have gathered during the investigation of Nancy Cooper's murder.

5. The Federal Bureau of Investigation currently has custody and control of Bradley Cooper's computers and a Computer Forensic Exam is being performed on those computers. The exams are not yet complete.

6. A copy of the search warrant authorizing the search of Bradley Cooper, Bradley Cooper's residence and Bradley Cooper's car is attached hereto as Exhibit B. A copy of Nancy Cooper's autopsy report is attached hereto as Exhibit C.

This the 9th day of October, 2008.

[Signature] (Seal) DETECTIVE GEORGE G. DANIELS

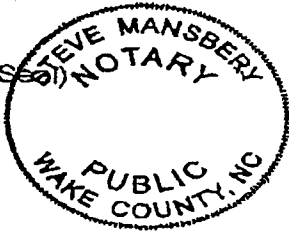
STATE OF NORTH CAROLINA

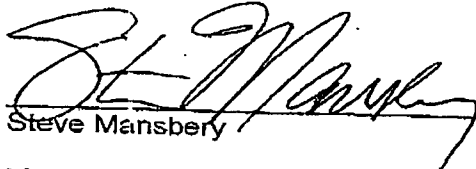
WAKE COUNTY

Sworn to and subscribed before me this day by Detective George G. Daniels.

Date: October 9, 2008

(Official Seal)



 Steve Mansbery, Notary Public

My commission expires: October 25, 2011

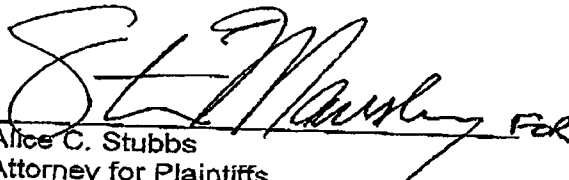
CERTIFICATE OF SERVICE

I hereby certify that the foregoing Affidavit of Detective George G. Daniels was served upon Defendant by hand delivery to the following attorneys of record:

Ms. Lynn A. Prather
Kurtz and Bloom
16 West Martin Street
10th Floor
Raleigh, North Carolina 27601
(919) 832-2740
Attorney for Defendant

Ms. Debbie Sandlin
Sandlin and Davidian, PA
5617 Departure Drive
Suite 109
Raleigh, North Carolina 27616
(919) 850-9699
Attorney for Defendant

This the 9th day of October, 2008.



Alice C. Stubbs
Attorney for Plaintiffs
NC State Bar # 19294
Tharrington, Smith LLP
Post Office Box 1151
Raleigh, North Carolina 27602-1151
Telephone: (919) 821-4711

STATE OF NORTH CAROLINA		SINGLE MOTION		File No.	
WAKE COUNTY		EXHIBIT A		08 CVD 12310	
GARRY D. RENTZ AND DONNA A. RENTZ AND KRISTA C. LISTER			Additional File Numbers		
VERSUS			SUBPOENA DUCES TECUM		
BRADLEY COOPER			G.S. 1A-1, Rule 45		
Party Requesting Subpoena <input type="checkbox"/> State/Plaintiff <input checked="" type="checkbox"/> Defendant		NOTE TO PARTIES NOT REPRESENTED BY COUNSEL: Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge.			
Name and Address of Person Subpoenaed		Alternate Address			
TO	George Daniels Cary Police Department 120 Wilkinson Avenue Cary, NC 27513				
	Telephone No. 469-4012	Telephone No.			
YOU ARE COMMANDED TO: (check all that apply)					
<input type="checkbox"/> appear and testify, in the above entitled action, before the court at the place, date and time indicated below.					
<input type="checkbox"/> appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below.					
<input checked="" type="checkbox"/> produce and permit inspection and copying of the following items listed on Exhibit A, which is attached hereto and incorporated by reference herein, at the place, date and time indicated below.					
1. Produce any and all documents and other things including but not limited to memorandums, notes or recorded statements relied upon by you in preparing your affidavit filed in this action (08 CVD 12310).					
2. Produce any and all video and/or recordings of any interview conducted with Bradley Cooper regarding the murder of Nancy Cooper.					
Name and Location of Court/Place of Deposition/Place to Produce			Date to Appear/Produce		
Sandlin & Davidian, PA 5617 Departure Drive, Suite 109 Raleigh, North Carolina 27616			October 14, 2008		
			Time to Appear/Produce		
			10:00 A.M.		
Name and Address of Applicant or Applicant's Attorney			Date		
Deborah Sandlin SANDLIN & DAVIDIAN, PA 5617 Departure Drive, Suite 109 Post Office Box 58569 Raleigh, North Carolina 27658-8569			October 14, 2008		
Telephone No. (919) 850-9199			Signature Deborah Sandlin		
<input type="checkbox"/> Deputy CSC		<input type="checkbox"/> Assistant CSC		<input type="checkbox"/> Clerk of Superior Court	
<input type="checkbox"/> Magistrate		<input checked="" type="checkbox"/> Attorney/DA		<input type="checkbox"/> District Court Judge	
<input type="checkbox"/> Superior Court Judge					
RETURN OF SERVICE					
I certify this subpoena was received and served on the person subpoenaed as follows:					
By <input checked="" type="checkbox"/> personal delivery.					
<input type="checkbox"/> registered or certified mail, receipt requested and attached.					
<input type="checkbox"/> telephone communication (For use only by the sheriff's office for witness subpoenaed to appear and testify).					
<input type="checkbox"/> I was unable to serve this subpoena.					
Service Fee		Date Served		Signature of Authorized Server	
<input type="checkbox"/> Paid \$		<input type="checkbox"/> Due		Title	
NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases. (Please See Reverse Side)					
AOC-G-100, Rev. 10/03 © 2003 Administrative Office of the Courts					

STATE OF NORTH CAROLINA		File No. 08 CVD 12310
WAKE COUNTY		In the General Court of Justice <input checked="" type="checkbox"/> District <input type="checkbox"/> Superior Court Division
GARRY D. RENTZ AND DONNA A. RENTZ AND KRISTA C. LISTER		Additional File Numbers
VERSUS		SUBPOENA DUCES TECUM
BRADLEY COOPER		G.S. 1A-1, Rule 45
Party Requesting Subpoena <input type="checkbox"/> State/Plaintiff <input checked="" type="checkbox"/> Defendant		NOTE TO PARTIES NOT REPRESENTED BY COUNSEL: Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge.
TO	Name and Address of Person Subpoenaed George Daniels Cary Police Department 120 Wilkinson Avenue Cary, NC 27513	Alternate Address
	Telephone No. 469-4012	Telephone No.
<p>YOU ARE COMMANDED TO: (check all that apply)</p> <p><input type="checkbox"/> appear and testify, in the above entitled action, before the court at the place, date and time indicated below.</p> <p><input type="checkbox"/> appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below.</p> <p><input checked="" type="checkbox"/> produce and permit inspection and copying of the following items listed on Exhibit A, which is attached hereto and incorporated by reference herein, at the place, date and time indicated below.</p> <ol style="list-style-type: none"> 1. Produce any and all evidence in the Nancy Cooper investigation, including but not limited to all notes of interviews, lists of suspects, list of witnesses, copies of witness statements, all exculpatory evidence and statements, physical evidence, personal property of Nancy Cooper, notes of any and all investigation officers (including those officers, and their notes, who testified at the ex parte emergency custody hearing in front of Judge Debra Sasser). 2. Produce any and all testimonial evidence used in any custodial proceeding relating to this file number. 		
Name and Location of Court/Place of Deposition/Place to Produce Sandlin & Davidian, PA 5617 Departure Drive, Suite 109 Raleigh, North Carolina 27616		Date to Appear/Produce October 14, 2008
		Time to Appear/Produce 10:00 A.M.
Name and Address of Applicant or Applicant's Attorney Deborah Sandlin SANDLIN & DAVIDIAN, PA 5617 Departure Drive, Suite 109 Post Office Box 58569 Raleigh, North Carolina 27658-8569		Date October 10, 2008
		Signature <i>Deborah Sandlin</i>
Telephone No. (919) 850-9199	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk of Superior Court <input type="checkbox"/> Superior Court Judge <input type="checkbox"/> Magistrate <input checked="" type="checkbox"/> Attorney/DA <input type="checkbox"/> District Court Judge	
RETURN OF SERVICE		
I certify this subpoena was received and served on the person subpoenaed as follows: By <input checked="" type="checkbox"/> personal delivery. <input type="checkbox"/> registered or certified mail, receipt requested and attached. <input type="checkbox"/> telephone communication (For use only by the sheriff's office for witness subpoenaed to appear and testify). <input type="checkbox"/> I was unable to serve this subpoena.		
Service Fee \$	<input type="checkbox"/> Paid <input type="checkbox"/> Due	Date Served
Signature of Authorized Server		Title
<p>NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases. (Please See Reverse Side)</p> <p>AOC-G-100, Rev. 10/03 © 2003 Administrative Office of the Courts</p>		

STATE OF NORTH CAROLINA STATES MATION EXHIBIT C		File No. 08 CVD 12310
WAKE COUNTY		In the General Court of Justice <input checked="" type="checkbox"/> District <input type="checkbox"/> Superior Court Division
GARRY D. RENTZ AND DONNA A. RENTZ AND KRISTA C. LISTER		Additional File Numbers
VERSUS		SUBPOENA DUCES TECUM
BRADLEY COOPER		G.S. 1A-1, Rule 45
Party Requesting Subpoena <input type="checkbox"/> State/Plaintiff <input checked="" type="checkbox"/> Defendant		NOTE TO PARTIES NOT REPRESENTED BY COUNSEL: Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge.
Name and Address of Person Subpoenaed TO George Daniels Cary Police Department 120 Wilkinson Avenue Cary, NC 27513		Alternate Address
Telephone No. 469-4012		Telephone No.
<p>YOU ARE COMMANDED TO: (check all that apply)</p> <p><input type="checkbox"/> appear and testify, in the above entitled action, before the court at the place, date and time indicated below.</p> <p><input type="checkbox"/> appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below.</p> <p><input checked="" type="checkbox"/> produce and permit inspection and copying of the following items listed on Exhibit A, which is attached hereto and incorporated by reference herein, at the place, date and time indicated below.</p> <p>1. Produce any and all original hard drives in your possession which were obtained for the purpose of investigating the death of Nancy Cooper including, but not limited to, the original laptop of Brad Cooper, or any Cooper family computers or any computers of Nancy Cooper; or, in the alternative, produce imaged copies of any and all original hard drives which were obtained for the purpose of investigating the death of Nancy Cooper including, but not limited to, imaged copies of Brad Cooper's laptop hard drive(s), or any Cooper family computers hard drive(s) or any computers hard drive(s) of Nancy Cooper.</p>		
Name and Location of Court/Place of Deposition/Place to Produce Sandlin & Davidian, PA 5617 Departure Drive, Suite 109 Raleigh, North Carolina 27616		Date to Appear/Produce October 14, 2008
		Time to Appear/Produce 10:00 A.M.
Name and Address of Applicant or Applicant's Attorney Deborah Sandlin SANDLIN & DAVIDIAN, PA 5617 Departure Drive, Suite 109 Post Office Box 58569 Raleigh, North Carolina 27658-8569		Date October 10, 2008
Telephone No. (919) 850-9199		Signature <i>Deborah Sandlin</i>
		<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk of Superior Court <input type="checkbox"/> Superior Court Judge <input type="checkbox"/> Magistrate <input checked="" type="checkbox"/> Attorney/DA <input type="checkbox"/> District Court Judge
RETURN OF SERVICE		
I certify this subpoena was received and served on the person subpoenaed as follows: By <input checked="" type="checkbox"/> personal delivery. <input type="checkbox"/> registered or certified mail, receipt requested and attached. <input type="checkbox"/> telephone communication (For use only by the sheriff's office for witness subpoenaed to appear and testify). <input type="checkbox"/> I was unable to serve this subpoena.		
Service Fee \$	<input type="checkbox"/> Paid <input type="checkbox"/> Due	Date Served
Signature of Authorized Server		Title
NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases. (Please See Reverse Side)		
AOC-G-100, Rev. 10/03 © 2003 Administrative Office of the Courts		

Exhibit 3

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
08CVD 12310

GARY D. RENTZ and)
DONNA RENTZ and)
KRISTA C. LISTER)
v.)
BRADLEY COOPER)

MOTION TO QUASH
SUBPOENA, N.C.G.S. 1A-A
RULE 45 (c) (5) and
MOTION FOR PROTECTIVE
ORDER, N.C.G.S. 132-1.5(e)

FILED
2008 OCT 14 PM 5:11
COURT CLERK

Now comes the State of North Carolina, by and through the undersigned Assistant District Attorney, and respectfully moves the Court to quash certain subpoenas and enter protective order, and in support thereof alleges:

1. That on July 12, 2008, the Cary Police Department initiated an investigation into the disappearance of Nancy Cooper, a resident of Cary, North Carolina.
2. That Nancy Cooper's remains were found near Cary on July 14, 2008.
3. That Nancy Cooper's death is believed to be a homicide and is being investigated as such by the Cary Police Department.
4. That said investigation is ongoing, and no one has been charged with the death of Nancy Cooper.
5. That on or about July 16, 2008, plaintiffs herein commenced this action seeking custody of the minor children of Nancy Cooper, deceased, and Bradley Cooper, defendant herein.
6. That on July 16, 2008, the Court entered an emergency ex-parte order providing that the plaintiffs should share joint legal and physical custody of the minor children.
7. That on July 25, 2008, the Court entered a consent order which provided that the ex-parte order described above should remain in effect for seventy-five days, and that the hearing previously set for July 25, 2008, should be continued.
8. That, upon information and belief, the hearing is now scheduled for October 16, 2008.
9. That on October 10, 2008, at approximately 8:30 p.m., George Daniels, a detective employed by the Cary Police Department, was served with three

subpoenas duces tecum, copies of which are attached hereto as Exhibits A, B, and C.


10. That the subpoena duces tecum attached as Exhibit "A" commands the production of:
 - A. Any and all documents and other things including, but not limited to memorandums, notes or recorded statements relied upon by you in preparing your affidavit filed in this action (08CVD 12310).
 - B. Any and all video and/or recordings or any interview conducted with Bradley Cooper regarding the murder of Nancy Cooper.
11. That the subpoena duces tecum attached as Exhibit "B" commands the production of:
 - A. Any and all evidence in the Nancy Cooper investigation, including, but not limited to, all notes of interviews, lists of suspects, list of witnesses, all exculpatory evidence and statements, physical evidence, personal property of Nancy Cooper, notes of any and all investigation officers (including those officers, and their notes, who testified at the ex-parte emergency custody hearing in front of Judge Sasser).
 - B. Any and all testimonial evidence used in any custody proceeding relating to this file number.
12. That the subpoena duces tecum attached as Exhibit "C" commands the production of any and all original hard drives in your possession which were obtained for the purpose of investigating the death of Nancy Cooper, including, but not limited to, the original laptop of Brad Cooper, or any Cooper family computers or any computers of Nancy Cooper, or, in the alternative, produce imaged copies of any and all original hard drives which were obtained for the purpose of investigating the death of Nancy Cooper, including, but not limited to, imaged copies of Brad Cooper's laptop hard drive(s), or any Cooper family computers hard drive(s) or any computers hard drive(s) of Nancy Cooper.
13. That these subpoena duces tecums, served on October 10, 2008, at 8:30 p.m., command the production of the afore described items on October 14, 2008, at 10:00 a.m.
14. That these subpoenas fail to allow a reasonable time for compliance.
15. That these subpoenas subject George Daniels and the Cary Police Department to an undue burden.

16. That these subpoenas are otherwise unreasonable and oppressive.
17. That the disclosure of the requested information and items will jeopardize the right of the State to prosecute a defendant.
18. That the disclosure of the requested information and items will jeopardize the right of a defendant to receive a fair trial.
19. That the disclosure of the requested information and items will undermine an ongoing investigation.
20. That these disclosures of the requested information and items will interfere with and jeopardize an ongoing murder investigation by prematurely disclosing investigative leads and confidential information to unauthorized persons
21. That Brad Cooper was last interviewed by the Cary Police Department on July 15, 2008, at his home.
22. That since that time, despite repeated requests by Cary Police Department, Brad Cooper has refused to be interviewed by, or cooperate with, the Cary Police Department in the investigation of the death of his wife.
23. That lawyers on behalf of Brad Cooper have compelled witnesses in the murder investigation to sit for depositions in an effort to learn what information these witnesses divulged to police.
24. That, upon information and belief, efforts by lawyers on behalf of Brad Cooper to gain information about the pending investigation of Nancy Cooper's death are attempts to prepare a defense for Brad Cooper should he be charged in connection with her death.
25. That attempts to access and review the investigative file in an unsolved active murder investigation is a fishing expedition being done as an attempt to assist Brad Cooper in his defense to a potential criminal charge and are not for the purpose of showing his fitness and suitability as a custodial parent of his minor children.
26. That in order to require production of documents, the moving party must show that
 - (1) The documents are evidentiary and relevant.
 - (2) The documents are not otherwise procurable.
 - (3) That the party cannot properly prepare for trial without the production and inspection of the document and,
 - (4) It is not a fishing expedition
U.S. vs. Nixon, 418 U.S. 683

29. That the purpose of the subpoena duces tecum is to require the production of items that are patently material to the inquiry. Discovery is not a proper purpose for a subpoena duces tecum and anything in the nature of a fishing expedition will not be allowed. A party is not entitled to have brought in a mass of books and papers in order that he may search them through to gather evidence. The trial judge should consider the relevancy and materiality of the items called for, the right of the subpoenaed person to withhold production on other grounds, such as privilege, and, also, the policy against fishing expeditions. State vs. Newell, 82 N.C. App. 707.

WHEREFORE, the undersigned respectfully moves the Court to quash the attached subpoenas duces tecum and enter a protective order preventing the disclosure of the requested information and items, or in the alternative, for the Judge to make an in camera inspection of these items before ruling on the motion.

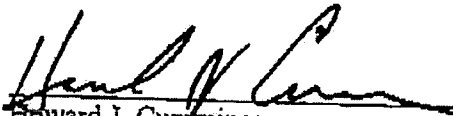
This, the 14th day of October, 2008

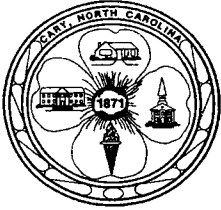

Howard Cummings
Assistant District Attorney
Post Office Box 31
Raleigh, North Carolina 27602

THIS IS TO CERTIFY that a copy of the foregoing motion was served upon:

Deborah Sandlin
Attorney for the Defendant
Sandlin & Davidian, P.A.
5617 Departure Drive, Suite 109
Post Office Box 58569
Raleigh, North Carolina 27658-8569
FAX: 919-850-9199

This, the 14th day of October, 2008.


Howard J. Cummings
Assistant District Attorney



POLICE DEPARTMENT

Seth Blum
Kurtz and Blum, Attorneys at Law
16 West Martin Street
10th Floor
Raleigh, North Carolina 27601

September 24, 2008

Reference: Questions for Brad Cooper regarding the Nancy Cooper Homicide Investigation

Dear Mr. Blum:

In speaking with you and your law firm, and in reference to the statements you have made recently to the media that Mr. Cooper is more than willing to assist the Cary Police in the investigation of his wife's death, we would like to submit several questions to Mr. Cooper for his response.

In a telephone conversation with you in mid August 2008, Mr. Cooper was asked to meet with this department for further interviewing, which through you, he declined, stating that any questions we had could be sent to your office for his reply. The following questions are general questions that have come up during the investigation that Mr. Cooper may have in fact answered during the initial phase of the investigation, but we would ask that he answer again. I respectfully submit the list of questions on the attached page and ask that you return to it me once Mr. Cooper completes the questionnaire.

Thank you for your cooperation in this matter. Please feel free to contact me at 919-621-6642 with any questions or concerns.

Sincerely,



Detective George Daniels
Cary Police Department

Gd/bf

TOWN of CARY

120 Wilkinson Ave • Cary, NC 27513 • PO Box 8005 • Cary, NC 27512-8005
tel 919-469-4021 • fax 919-460-4904 • www.townofcary.org

September 24, 2008

Questions for Brad Cooper

1. When Nancy came home at midnight and you had been sleeping for hours when she came in, did you notice what she was wearing when she looked in on you and the children?
2. When you met Nancy in the hallway at 0400 hrs the morning in question (July 12, 2008), was she only wearing a tee shirt?
3. While you were downstairs with Nancy, did she talk about her running schedule at all?
4. When Nancy ran in the summer, did she run occasionally with only the two sports bras on or did she always wear a tee shirt over the two bras?
5. Did you recall getting Nancy's cell phone out of her car or was it in the house with her keys?
6. Did you hear the door close when Nancy went out the door?
7. Did Nancy have any type of routine when she went to run, such as stretching beforehand, energy drink, coffee, pinning her hair up, etc.?
8. When Nancy called you when you were in route to the Harris Teeter, where were you when you answered the phone (parking lot, Kildaire Farm Rd. etc.)?
9. Were you going to take the children with you when you were going to play tennis with Mr. Hiller on the morning of July 12, 2008?
10. Did Nancy run with MP3 player or any other devices that you know of?
11. While both you and Nancy were trying to settle Bella on July 12, 2008, did she say anything to you about what she was going to be doing the rest of the day?
12. What did you wear to the dinner party at the Duncan's on July 11, 2008?
13. Which route did you take to Harris Teeter on both trips?
14. As we understand it, you and Nancy were up and awake and in the downstairs area from about 0400 until about 0615, July 12, 2008, correct?

ATTORNEYS AT LAW

Howard A. Kurtz
Seth A. Blum
Meredith S. Nicholson
Timothy E. Wiperman
Adam P. Soltys
Lynn A. Prather
Reginald D. O'Rourke, II

Office Manager
Byron Jennings

Detective George Daniels
Cary Police Department
PO Box 8005
Cary, NC 27512

October 7, 2008

Reference: Questions for Brad Cooper dated 9/24/08

Dear Detective Daniels:

Per your request, below are Mr. Cooper's responses to the questions you submitted:

Question #1

Sub-part 1: No.
Sub-part 2: No.

Question #2

Nancy did not come downstairs until approximately 4:30 a.m. but when she did, she was only wearing a t-shirt.

Question #3

No. She merely stated that she was going for a run.

Question #4

It depended on the weather.

Question #5

Her cell phone and keys were in the house.

RALEIGH:

16 West Martin Street
10th Floor
Raleigh, NC 27601
Phone: 919-832-7700
Toll Free: 888-505-7780
Fax: 919-832-2740

DURHAM:

123 West Main Street
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Durham, NC 27701
Phone: 919-956-5555
Toll Free: 888-956-5511
Fax: 919-956-5551

FAYETTEVILLE:

300 Dick Street
Post Office Box 1270
Fayetteville, NC 28302
Phone: 910-437-9500
Toll Free: 877-925-9500
Fax: 910-437-9653

GREENSBORO:

101 South Elm Street
Suite 125
Greensboro, NC 27401
Phone: 336-273-8693
Toll Free: 877-278-8693
Fax: 336-273-8669

Question #6

No specific memory.

Question #7

She had no "set routine".

Question #8

Best recollection is near the intersection of Tryon and Kildaire.

Question #9

No.

Question #10

She usually ran without an mp3 player but she has in the past.

Question #11

It was Katie who was awake, not Bella. No.

Question #12

Shorts and t-shirt.

Question #13

Best recollection is :

First trip- South on Lochmere Dr., North on Kildaire

Second trip- North on Lochmere Dr., Tryon to Kildaire

Question #14

Incorrect. Brad awoke around 4:00 a.m. Nancy awoke around 4:30 a.m. Brad was downstairs and awake until he left to go to Harris Teeter. To the best of Brad's knowledge, Nancy was downstairs and awake from around 4:30 a.m. until around 7:00 a.m. when she went jogging.

Sincerely,



Howard A. Kurtz

NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO: 08CvD 12310

GARRY D. RENTZ,)
DONNA A. RENTZ, &)
KRISTA C. LISTER,)
Plaintiffs,)
v.)
BRADLEY COOPER,)
Defendant,)

**AFFIDAVIT OF
ROSEMARY ZEDNICK**

NOW COMES the undersigned Affiant, ROSEMARY ZEDNICK, being first duly sworn, and says the following:

1. My name is Rosemary Zednick. I am over eighteen years old, and I am competent to testify to the matters set forth herein.
2. I live at 224 Lochwood Drive West, Cary, NC 27518.
3. I am employed as an executive assistant for the vice president of business solutions at Alltel Communications. I have been employed in the same position going on twelve years though the company has changed names several times throughout the years.
4. I do not know either Brad or Nancy Cooper.
5. I was walking my dog on Saturday July 12, 2008, as I do almost every weekend.
6. I left my house at 7:00 a.m., walking toward Lochmere Drive. I walked across Lochmere Drive into the Lochmere Pool parking lot, made a left onto the path onto the sidewalk.
7. At approximately 7:10 a.m., I saw Nancy Cooper running on Lochmere Drive in the bicycle path traveling toward Kildaire Farm Road. I noticed her because I was stopped. I was not moving when she passed me. I had just pulled my dog's leash and untangled it. As she ran past me, we made eye contact (I was facing Lochmere Drive). I said hi, she turned her head and said hi back to me. She continued down Lochmere Drive. I continued toward walking toward Cary Parkway.
8. Nancy Cooper ran past facing me on Lochmere Road. She was running in the bicycle lane while I was on the sidewalk. We were almost close enough to

touch. ~~I was walking North on Lochmere Road and Nancy was headed South toward Lilly Atkins Road.~~

9. I know it was approximately 7:10 a.m. because it takes me approximately ten minutes to reach the place we passed each other when I take this route walking from my house.
10. We passed facing each other, and I looked directly at her to say hello.
11. Nancy was wearing shorts and a light colored top. She had brownish hair pulled back in a ponytail and a long face. She wasn't wearing sunglasses and I could see her face. It did not appear that she had been running very long as I did not notice any sweating.
12. I am positive that the woman I saw was Nancy Cooper because I saw her picture on a flier either that very day or the next. It was a photocopied picture, but I could clearly tell that it was the woman I saw jogging. She had a longish face.
13. I did not meet or pass any other person on the morning of July 12, 2008.
14. On Sunday I saw the people searching the lake behind our house. I told my husband about seeing Nancy Cooper on Sunday, July 13, 2008 and he told me I should call the police to tell them that I had seen her. I called the police and left a voice message on a voice mail. Sometime later, a police officer called and left a message on my home phone. I called the police back and finally talked with someone. I left my statement with the police. To date, no officer has come to speak with me.
15. On several subsequent ~~Saturdays~~^{Weekends}, the police were stationed on Lochmere Drive. They were stopping people to ask if they knew anything about the missing jogger. They were also handing out fliers. I told them about having seen Nancy running at approximately 7:10 a.m. on July 12, 2008 and told them that I had already made a statement and to please review it.
16. At one point after her body was discovered during a weekday, I was coming home for lunch and the police had ~~another~~ road block and again I explained to them that I had seen Nancy running at approximately 7:10 a.m. on July 12, 2008. I spoke with a detective. He gave me his business card and said that they would be getting back to me. I still haven't heard from them.
17. After approximately three months with no contact with the Cary Police Department, I recently left a message at the office of Kurtz and Blum saying that I had seen Nancy Cooper on the morning of July 12, 2008 at 7:10 a.m. I left my cell phone number and my home number with the man who answered the phone at Kurtz and Blum. It took a few days for their investigator and me to be able to connect. When we finally connected, I told him what I had seen. He wanted to interview me personally and I agreed to do so. I met with him at

my house and we walked the route taken by me on the morning of July 12th. We took the dog so we could have as similar circumstances as possible. It took ten minutes to take the same route. We left at 4:00 p.m. and arrived at the same spot where I saw Nancy at 4:10 p.m. I showed him where I had seen Nancy Cooper on July 12, 2008 at 7:10 a.m. He took pictures and we both looked at our watch.

18. Brad Cooper's investigator was the first person to ask me detailed questions about how and when I saw Nancy. He is the only person with whom I have walked the route.
19. I wear contact lenses all the time. With them, I have 20/20 vision. I was wearing my contacts when I saw Nancy and could clearly see her. She was no more than ten feet away from me.
20. There is no question in my mind. I saw Nancy Cooper jogging at 7:10 a.m. on July 12, 2008 on Lochmere Road heading towards Lilly Adkins Road.

FURTHER AFFIANT SAYETH NAUGHT:

Rosemary Zednick October 9, 2008
Rosemary Zednick

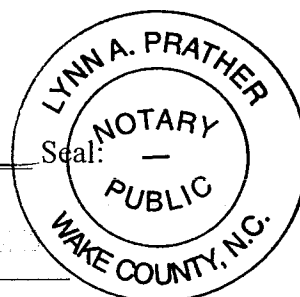
State of North Carolina
County of Wake

I, Lynn A. Prather, a Notary Public in and for the County of Wake, State of North Carolina, do hereby affirm that Rosemary Zednick did appear before me on this day and did under oath affirm that the contents of this affidavit were true and accurate and based on her personal knowledge.

This is the 9 day of October, 2008.

Witness my hand and notarial seal:

Lynn A. Prather



My commission expires: _____