



Friday, March 27, 2009

Hon. Judge Judith Eiler
King County District Court – Seattle Division
516 Third Ave., Room E-341
Seattle WA 98104

via: Fax 206-296-0910

re: **Motion to Exclude Pro Tempore Judge**
Council for Refractive Surgery Quality Assurance v. Brent Hanson,
Case: 85-11924

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Judge Eiler,

Plaintiff Council for Refractive Surgery Quality Assurance seeks the exclusion of any *pro tempore* judge for all hearings in this case.

Introduction

Plaintiff Council for Refractive Surgery Quality Assurance is a California nonprofit patient advocacy organization that publishes a website at USAeyes.org. Defendant Brent Hanson maliciously purchased an Internet domain name nearly identical to Plaintiff's domain name. Plaintiff successfully gained control of the nearly identical domain through the Internet Corporation for Assigned Names and Numbers (ICANN) Uniform Domain-Name Dispute-Resolution Policy (UDRP) administrative process. In court case 85-11924, Plaintiff Council for Refractive Surgery Quality Assurance seeks from Defendant costs associated with the UDRP.

On 23 December 2008 Defendant filed *Defendant's Motion to Quash Service of Summons*, which was denied by the court. At hearing on 12 February 2009 Defendant produced *Defendant's Motion to Dismiss for Failure to State a Claim Upon Which Relief Can Be Granted* and *Defendant's Motion to Dismiss for Lack of Jurisdiction*. Defendant's *Motion to Dismiss for Lack of Jurisdiction* was denied. Plaintiff sought an order to seal all court documents, which was granted. A continuance for all other issues was granted upon Plaintiff's request.

Motion to Exclude Pro Tempore Judge

Defendant has submitted to the court at least three pretrial motions, two affidavits, and multiple letters, none of which have been properly served on Plaintiff. I received *Defendant's Motion to Quash Service of Summons* via email. *Defendant's Motion to Dismiss for Failure to State a Claim Upon Which Relief Can Be Granted* and *Defendant's Motion to Dismiss for Lack of Jurisdiction* were first received when Defendant handed them to me at the moment we reached the table for the 12 February 2009 hearing. It should be noted that both Defendant and I waited in the courtroom for over three hours for our case to be called and at no time did Defendant offer to provide these

motions to me. It should also be noted that Defendant signed the motions on 1 February 2009 and filed them with the court on 6 February 2009.

Despite lack of service and despite my strong objections, at the 12 February 2009 hearing *pro tempore* Judge Schlotzhauer elected to rule on these motions. This decision meant I was required to immediately respond to two motions never before seen. Upon notice by the *pro tempore* judge that he intended to rule against us on *Defendant's Motion to Dismiss for Failure to State a Claim Upon Which Relief Can Be Granted*, I sought and was granted a continuance.

In open court Judge Schlotzhauer acknowledged one, if not more, *ex parte* conferences between Defendant and the court had occurred.

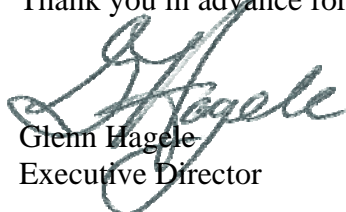
Defendant has provided several addresses, all of which are Post Office boxes or mail drop services. During the 12 February 2009 hearing the Defendant provided to the court a photocopy of an identification card issued by the Washington State Secretary of State under an Address Confidentiality Program (ACP) as evidence of a new address for service of process. Under the ACP program, the Secretary of State will accept personal service of process on behalf of Defendant. I requested a copy of this identification card, which was denied by the court. I requested the address on the identification card submitted by Defendant for personal service of process. My request was denied.

The Plaintiff is a California nonprofit corporation and, as its representative, I must travel to Seattle for each hearing at significant expense and inconvenience to the organization. I arrived at the 12 February 2009 hearing prepared to respond to all issues properly filed and served, but was required to respond to multiple motions that had not been properly served and two that had not even been seen until the moment of the hearing. The content of any *ex parte* conferences with the Defendant and the court are not known to me, however any *ex parte* conference by the court with the Defendant is of concern. I currently do not have an address where personal service of process can be made on the Defendant.

The case before the court requires the utmost diligence, expertise, and compliance with court rules. The issues before the court are of sufficient complexity that the Plaintiff requests to exclude any *pro tempore* judge.

Cataract Free America is the plaintiff in small claims court case #85-13855. I am the Executive Director of both organizations and I represent the plaintiffs in both actions. The defendant in both actions is the same person, Brent Hanson. A duplicate of this Motion to Exclude Pro Tempore Judge is being provided by Cataract Free America.

Thank you in advance for your consideration.



Glenn Hagele
Executive Director

cc: Brent Hanson via email