

Friday, June 26, 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 Seal Court Documents Filed By Defendant;
Seal All Subsequent Documents Filed by Defendant;
Require Defendant File All Future Documents Under Seal**
Council for Refractive Surgery Quality Assurance v. Brent Hanson
Case: 85-11924

USAeyes.org
ComplicatedEyes.org

Judge Eiler,

8543 Everglade Drive
Sacramento CA
95826-3616

The Council for Refractive Surgery Quality Assurance is the Plaintiff in small claims court case 85-11924. Defendant has submitted to the court documents that include information deemed confidential by the California Superior Court. Plaintiff moves that this court seal all documents in this case filed by Defendant and further moves this court require Defendant make all future filings with the court under seal.

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Introduction

Plaintiff is a California nonprofit patient advocacy organization that publishes a website at usaeyes.org. Defendant maliciously purchased the Internet domains usaeyes.info, usaeyes.net, and usaeyes.biz. Plaintiff successfully gained control of these domains through the Uniform Domain-Name Dispute-Resolution Policy (UDRP), which is an administrative process of the Internet Corporation for Assigned Names and Numbers (ICANN). ICANN is a nongovernmental corporation that controls the purchase, registration, and transfer of all Internet domain names worldwide. In your case 85-11924, Plaintiff seeks from Defendant costs associated with processing the UDRP.

On 23 December 2008 Defendant filed Defendant's Motion to Quash Service of Summons, which was denied by the court. On 08 February 2009 Defendant filed a Counter Claim. 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. The sitting Court found these motions had not been properly served on Plaintiff, however the Court insisted upon ruling on both motions over the strong objections of Plaintiff.

Defendant's Motion to Dismiss for Lack of Jurisdiction was denied. Upon the Court announcing its intent to grant Defendant's Motion to Dismiss for Failure

to State a Claim Upon Which Relief Can Be Granted, Plaintiff moved for and was granted a continuance on this motion.

Plaintiff sought an order to seal all court documents, noting some documents violate an order of restraint against Defendant Brent Hanson by California court by including confidential information. The Court granted only to seal Defendant's Motion to Quash Service of Summons. The court declined to rule on Plaintiff's motion of an order of restraint to require Defendant Brent Hanson make all future filings with this court under seal.

Plaintiff subsequently filed a motion to exclude judge *pro temp*. The Defendant filed an objection. The court has not ruled on this motion.

Defendant Subject to California Protective Order

Defendant in this case Brent Hanson is also a Defendant in California Superior Court, Sacramento County, case 06AS00839, *Hagele v Hanson*, attached as **Exhibit 1**. Glenn Hagele, Plaintiff in *Hagele v Hanson*, is the Executive Director the Plaintiff in this case. In *Hagele v Hanson* it is alleged, in part, that Defendant Brent Hanson invaded Glenn Hagele's privacy by publishing on the Internet confidential information including Mr. Hagele's Social Security number, bank account numbers, credit card numbers, and medical record numbers.

On 11 December 2007 the California court made confidential all depositions in *Hagele v Hanson* and ordered Defendant Brent Hanson to not publicly disclose the content of those depositions. A conformed copy of the Order of the Court's is attached as **Exhibit 2**.

Defendant Filings Include Information Deemed Confidential by the California Court

Defendant Brent Hanson has made several filings with this court that include content deemed confidential by the California Superior Court. Confidential information can be found in Defendant's Motion to Quash Service of Subpoena and Counter Claim. As Defendant fails to properly serve Plaintiff and thereby Plaintiff has not seen all documents filed with the court, it is possible that additional court documents include information deemed confidential by the California court.

Plaintiff Attempted to Protect Confidential Information

At hearing on 12 February 2009. Plaintiff moved to seal all court documents, however the Court granted only to seal Defendant's Motion to Quash Service of Summons. Upon review of audio tapes of the hearing, it appears the sitting Court was as unaware of Defendant's filing of Counter Claim on 08 February 2009, a document that includes confidential information. Plaintiff had not received Defendant's Counter Claim at the time Plaintiff moved to seal.

Defendant Indicates Need To Seal

Despite Defendant's objection to Plaintiff's motion to seal documents, on documents that include information deemed confidential by the California court, Defendant has added the statement:

Portions of this document are protected from public disclosure by order of the Sacramento Superior Court in California. (original emphasis)

This statement appears to clearly acknowledge Defendant's understanding that he is including confidential information in these documents and at least a tacit agreement the court protect confidential information from public disclosure.

Defendant's Deliberate Malfeasance

Defendant mailed to Plaintiff 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 on 10 February 2009 – one working day before the 12 February 2009 hearing at which the Court was to rule on these motions. Defendant had filed these motions with the court on 29 January 2009.

Furthermore, Defendant mailed these documents **via Parcel Post**. Not only did selecting Parcel Post delay delivery of the documents until 20 February 2009, but the cost to ship the documents Parcel Post was *more* than the cost to ship First Class or Priority Mail.

Plaintiff submits that this was a deliberate act by Defendant that successfully circumvented the court's rules on service, placed Plaintiff at a disadvantage at the 12 February 2009 hearing, hid the fact that Defendant had filed additional documents with confidential information so Plaintiff would be unable to seek appropriate court protection at the 12 February 2009 hearing, and caused general confusion.

Summary


Defendant has filed multiple documents that include information deemed confidential by the Superior Court of California, in apparent violation of a protective order in that court. Defendant deliberately files such documents without seal and at a time and with improper notice so Plaintiff is unable to respond in a timely manner to protect confidential information in each document.

To preserve the confidentiality of information being submitted by Defendant in court filings, the Court must seal these documents. The court must also proactively require all documents filed by Defendant to be sealed upon receipt by the Court as confidential information is being made public and remains publicly accessible until Plaintiff is able to file a motion with the court and the court respond to that motion.

Action Requested

Plaintiff moves that all Defendant's motions, filings, notes, and notices to the court in this case be sealed from public disclosure. Plaintiff further moves that court order Defendant file all future filings, motions, notes, and notices to the court in this case under seal.

Thank you in advance for your consideration.


Glenn Hagele
Executive Director

cc: Brent Hanson, PMB 4737, PO Box 257, Olympia, Washington