

COMMONWEALTH OF MASSACHUSETTS

NOTICE

SUFFOLK, ss.

SUPERIOR COURT
NO. 05-5469

Notice SENT
10. 22. 08

DERRICK GILLENWATER

R.G.

vs.

J.E.N.

JEFFREY DENNER and
KEVIN BARRON

D.R.O.

J.E.N + ASSOC. PC

G.C.R.

M.C.C.

MEMORANDUM OF DECISION AND ORDER ON DEFENDANT'S MOTION

W.E.M.E + D.L.P

FOR A PRELIMINARY INJUNCTION

R.M.G.

Plaintiff Derrick Gillenwater filed a complaint against defendants Jeffrey Denner

D.O.

R.S.S.

and Kevin Barron on December 30, 2005. Gillenwater claimed that the defendants

D.P.L.P

committed malpractice when they represented him in a criminal matter arising from drug

(md)

charges commenced against Gillenwater on March 5, 2001. Gillenwater was found guilty

on January 6, 2003. About three weeks later, Gillenwater terminated the defendants from

his representation. He later succeeded on a motion for a new trial, which was granted on

September 10, 2003 by Judge Moriarty. This decision found that the conduct of Attorney

Barrone fell below what was expected of an attorney.

Gillenwater was originally represented by Christopher Carbone in the action

against the defendants, however Carbone withdrew on August 29, 2007. Gillenwater's

complaint was subsequently dismissed with prejudice for his failure to appear before

court on September 7, 2007. He filed a motion to vacate entry of dismissal, which was

denied on January 17, 2008; his motion for reconsideration of the motion to vacate entry

of dismissal was allowed on June 25, 2008.

On October 9, 2008, Gillenwater sent a threatening e-mail to the defendants,

stating that he would send his blog posting out to the media and that he would increase

his demand to \$1 million if he had “to send a 93A letter.” The defendants responded to this by filing an emergency motion to dismiss or in the alternative, for preliminary injunction.

On October 10, 2008 Judge Lauriat issued a temporary restraining order enjoining Derrick Gillenwater from using the words “Jeffrey” and/or “Denner” and/or “Jeffrey Denner” in any blogspot prior to a hearing scheduled for the defendant’s Motion to Dismiss or Alternatively for Preliminary Injunction on October 14, 2008. Gillenwater was also restrained from filing with the court or otherwise publishing a document captioned “Motion of Plaintiff Gillenwater for Summary Judgment,” or the contents of that document. Gillenwater was further prohibited from having any contact with either defendant.

Gillenwater violated the restraining order when he continued to publish his blog, <http://jeffreydenner.blogspot.com>, and to refer to the defendant Jeffrey Denner.¹ Although Gillenwater removed correct spelling of Jeffrey Denner’s name, he still referred to the defendant as “Geoffrey Dinnir” and left the substantive content of his blog intact. This was an intentional violation of Judge Lauriat’s order, as the purpose was to prevent Gillenwater² from using any references to the defendant Jeffrey Denner.

ORDER

Based on Gillenwater’s conduct in direct contravention of the order, this Court orders that the order entered on October 10, 2008 remains in effect and further, **The**

¹ At the time of this memo, the URL of <http://jeffreydenner.blogspot.com> does not lead to the web site at issue here. However, evidence does exist on the record that on the date of October 13, 2008, the web site was available and contained the alterations so indicated.

² The plaintiff is presently proceeding pro se his attorneys having withdrawn from the case on October 14, 2008.

plaintiff is hereby enjoined from using any depiction in his blogspot that could be reasonably interpreted as referring to Jeffrey Denner or Kevin Barron. The plaintiff is further enjoined from filing the motion for summary judgment or any other pleading unless he receives prior permission from this court.

So Ordered,

Charles T. Spurlock

Charles T. Spurlock

Justice of the Superior Court

Oct. 21, 2008