

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

WILLIAM M. WINDSOR,)	
Plaintiff)	
)	
v.)	CIVIL ACTION NO.
)	
JUDGE WILLIAM S. DUFFEY,)	2011CV200857
MAID OF THE MIST)	
CORPORATION, MAID OF THE)	
MIST STEAMBOAT COMPANY,)	
LTD., JUDGE ORINDA D. EVANS,)	
JUDGE JULIE E. CARNES, JUDGE)	
JOEL F. DUBINA, JOHN LEY, AND)	
JAMES N. HATTEN,)	
Defendants.)	

MOTION FOR TEMPORARY RESTRAINING ORDER AND HEARING

William M. Windsor ("Windsor or "Plaintiff") hereby files this MOTION FOR TEMPORARY RESTRAINING ORDER AND HEARING. As grounds for this Motion, the Plaintiff shows that immediate and irreparable injury and damage will result to him unless the Defendants are temporarily restrained and preliminarily enjoined, all as more fully shown by the Plaintiff's Verified Complaint filed on May 19, 2011 to commence this Civil Action. Windsor needs a hearing to present the facts and his arguments. Windsor shows the Court as follows:



FACTUAL BACKGROUND

1. On May 19, 2011, Windsor filed the Verified Complaint in this action. The Verified Complaint is referenced and incorporated herein as if attached hereto.

2. MLQ was retained to provide service of process. Most of the Defendants have been served.

3. Windsor notified the Defendants of the filing of the lawsuit and the request for a TRO Hearing. This was done by mail and by courier.

4. Windsor requested a hearing on the TRO by fax and mail on May 22 and May 29, 2011. (Exhibits A and B.)

5. In addition, Windsor has sent each Defendant a copy of this motion.

6. Federal court employees in Fulton County, Georgia continue to conspire to damage Windsor, and Windsor is in peril of one or more of the Defendants taking improper and/or illegal action against Windsor that will cause irreparable injury.

INJUNCTIVE RELIEF

7. Unless Defendants are enjoined from violating Georgia law, Windsor will suffer immediate and irreparable harm.

8. The harm suffered by Windsor far exceeds any inconvenience that would be caused on these Defendants.

9. The equities clearly balance in Windsor's favor.

10. Windsor has no adequate remedy at law.

11. Georgia law provides that this and all courts must consider requests for temporary relief either, with or without notice to the other parties, when justified by the facts. Windsor has given notice, and he will suffer irreparable harm if the Defendants are allowed to commit the acts complained of. Windsor needs protection now.

“A motion for interlocutory injunction or a TRO is an extraordinary motion, which is time sensitive, unlike other motions, because it seeks to preserve the status quo until a full hearing can be held to avoid irreparable harm.” *Focus Entertainment International, Inc., v. Partridge Greene, Inc.* (253 Ga. App. 121) (558 SE2d 440) (2001).

12. This Court should grant Windsor an immediate hearing on this request for a temporary restraining order.

13. Plaintiff has no adequate remedy at law and will suffer immediate and irreparable harm if interlocutory relief is not granted restraining the Defendants from denying Windsor the ability to act for Barbara Windsor (“BGW”) pursuant to the Power of Attorney. Judge Duffey could schedule a hearing at any time and attempt to find Windsor guilty of forgery and unauthorized practice of law despite affording Windsor no criminal due process rights. This Court's TRO as to the validity of the Power of Attorney would simplify matters and put Judge Duffey on

notice. BGW is in no mental or physical condition to participate in a hearing, and this Court's TRO will protect her.

14. Plaintiff prays for the entry of an Order temporarily restraining Defendants from denying Windsor the ability to act for BGW pursuant to the Power of Attorney until a hearing is held regarding whether Plaintiff is entitled to declaratory relief and such other relief as the Court deems just and appropriate.

CITATION OF AUTHORITY

15. The legislative intent and purpose of the Declaratory Judgment Act is to settle and relieve against uncertainty and insecurity with respect to rights, status, and other legal relations between the parties. O.C.G.A. § 9-4-1 (CGA § 110-1111).

16. Pursuant to O.C.G.A. § 9-4-2(b) (GCA § 110-1101) the Superior Courts are charged with the responsibility to "determine and settle by declaration any justiciable controversy of a civil nature where it appears to the court that the ends of justice require that such should be made for the guidance and protection of the petitioner, and when such a declaration will relieve the petitioner from uncertainty and insecurity with respect to his rights, status, and legal relations."

17. Relief by Declaratory Judgment shall be available, notwithstanding the fact that the complaining party has any other adequate legal or equitable remedy or remedies. O.C.G.A. § 9-4-2(c) (CGA § 110-1101).

18. While Windsor has provided notice to all Defendants of this request for a TRO, O.C.G.A. § 9-11-65 allows the Court to grant such Orders without notice to opposition in certain circumstances:

“A temporary restraining order may be granted without written or oral notice to the adverse party or his attorney only if: (1) It clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or his attorney can be heard in opposition; and (2) ... certifies to the court, in writing, the efforts, if any, which have been made to give the notice and the reasons supporting the party's claim that notice should not be required.”

IRREPARABLE INJURY WILL BE SUFFERED

19. Defendants' refusal to recognize the Georgia statute regarding powers of attorney will cause irreparable harm to Windsor.

20. The continued actions of Judge Duffey will be devastating to the Plaintiff.

21. The Plaintiff has no adequate remedy at law, and has, and is continuing to suffer, irreparable harm.

22. Such imminent harm is impossible to quantify and, thus, would cause irreparable injury and establishes that there is no adequate remedy at law.

NO BURDEN TO THE DEFENDANTS

23. Being prohibited from illegal activities will be no burden at all to the Defendants.

24. The balance of equities is an important factor in a court's decision as to whether it should grant a temporary injunction. When, through the issuance of an injunction, the moving party will avoid greater harm than the non-moving party will suffer, the balance of equities will be found to rest with the moving party.

(*Metropolitan Atlanta Rapid Transit Authority v. Wallace*, 243 Ga. 491, 493, 254 S.E. 2d 822, 823 (1979). It is a device "to keep the parties in order, and prevent one from hurting the other whilst their respective rights are under adjudication." *Lee v. Environmental Pest & Termite Control, Inc.*, 271 Ga. 371, 373, 516 S.E. 2d 76 (1999) (quoting *Price v. Empire Land Co.*, 218 Ga. 80, 85, 126 S.E.2d 626 (1962)).)

25. This Court has the power to restrain by injunction acts that are "illegal or contrary to equity and good conscience and or which no adequate remedy is provided at law." See *Lively v. Grinstead*, 210 Ga. 361, 364, 80 S.E. 2d 316, 318 (1954) ("equity by writ of injunction will restrain any act which is . . . contrary to equity in good conscience and for which no adequate remedy at law is provided").

26. Defendants must be temporarily RESTRAINED and preliminarily and permanently enjoined from violating Georgia law regarding powers of attorney. The Defendants are obligated to comply with Georgia law regarding

powers of attorney. This TRO request is merely to require that the Defendants abide by the law in the future.

27. Judge William S. Duffey must be temporarily RESTRAINED and preliminarily and permanently enjoined from further actions that violate Georgia law and Windsor's rights, pending further order of the Court.

28. A Temporary Restraining Order and Interlocutory Injunction will prevent additional harm to the Plaintiff and cause no harm to the Defendants.

THE PLAINTIFF IS HIGHLY LIKELY TO SUCCEED
ON THE MERITS

29. The Plaintiff has proven the facts necessary to be meritorious in this Civil Action. Detailed evidence has been filed in the Verified Complaint.

30. Windsor is being injured; that injury will be irreparable if the injunction does not issue; and Windsor has no adequate remedy at law.

To be entitled to permanent injunctive relief from a constitutional violation, a plaintiff must first establish the fact of the violation. (*Rizzo v. Goode*, 423 U.S. 362, 377, 96 S.Ct. 598, 607, 46 L.Ed.2d 561 (1976).) He must then demonstrate the presence of two elements: continuing irreparable injury if the injunction does not issue, and the lack of an adequate remedy at law. (*Beacon Theatres, Inc. v. Westover*, 359 U.S. 500, 506, 79 S.Ct. 948, 954, 3 L.Ed.2d 988 (1959).)

INJUNCTION WILL NOT BE ADVERSE TO
THE PUBLIC INTEREST

31. The public must be vitally interested that people involved in the judicial process in Georgia must abide by the laws of the state. The public needs to be protected from people like the Defendants. The Public will be well served by restrictions on the acts that the Defendants used to damage the Plaintiff and others. There is nothing in the relief requested that would harm the public interest in any way. It will accomplish just the opposite.

WINDSOR HAS PROVIDED SWORN PROOF
OF NOTICE TO THE DEFENDANTS

32. As required by O.C.G.A. § 9-11-65, Windsor has certified to the court, in writing, by the verification of this motion, the efforts that have been made to give notice to the Defendants.

CONCLUSION

33. The Plaintiff has shown that he will suffer irreparable harm if his Motion is not granted. The Plaintiff has shown that a grant of his Motion will not burden the Defendants, that the Plaintiff is likely to succeed on the merits, and that the public interest is served in a grant of the Motion. For the foregoing reasons, the Plaintiff's Motion must be granted.

34. A proposed order is attached as Exhibit C hereto.

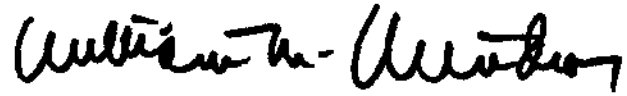
35. Plaintiff has made a showing that without an Emergency Order granting a Temporary Restraining Order or Preliminary Injunction, Plaintiff will be irreparably harmed. Further, Plaintiff's Petition is Verified.

36. For the reasons stated above, the Plaintiff respectfully requests that this Court enter an order restraining or enjoining the Defendants as follows:

WHEREFORE, Windsor respectfully requests:

- a. that a hearing will be immediately scheduled on the Motion for Temporary Restraining Order;
- b. that the Motion for Temporary Restraining Order be GRANTED;
- c. that Defendants be temporarily RESTRAINED and preliminarily and permanently enjoined from violating Georgia law O.C.G.A. § 10-6-5 regarding powers of attorney; and
- d. that Defendant Judge William S. Duffey be temporarily RESTRAINED and preliminarily and permanently enjoined from further actions in Civil Action 1:09-CV-01543-WSD, Civil Action No. 1:09-CV-02027-WSD, or any other matter involving Windsor that violate Georgia law and Windsor's rights regarding powers of attorney, pending further order of the Court.

Respectfully submitted this 10th day of June, 2011.



WILLIAM M. WINDSOR

Pro Se

PO Box 681236

Marietta, GA 30068

Telephone: 770-578-1094

Facsimile: 770-234-4106

Email: williamwindsor@bellsouth.net

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing MOTION to each Defendant by mail addressed with the addresses for service shown in the Verified Complaint.

This 10th day of June, 2011.



WILLIAM M. WINDSOR

Pro Se

PO Box 681236

Marietta, GA 30068

Telephone: 770-578-1094

Facsimile: 770-234-4106

Email: williamwindsor@bellsouth.net

VERIFICATION OF WILLIAM M. WINDSOR

I, William M. Windsor, swear that I am authorized to make this verification and that the facts alleged in the foregoing MOTION are true and correct based upon my personal knowledge, except as to the matters herein stated to be alleged on information and belief, and that as to those matters I believe them to be true.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct based upon my personal knowledge.

This 10th day of June, 2011.

A handwritten signature in black ink, appearing to read "William M. Windsor", written over a horizontal line.

William M. Windsor

Exhibit

A

William M. Windsor

PO Box 681236 * Marietta, GA 30068 * 770-578-1094 * Fax: 770-234-4106

May 22, 2011

Judicial Assistant to Judge Constance C. Russell
185 Central Avenue, SW
Justice Center Tower
Suite T-5705
Atlanta, GA 30303
Fax: 404-332-0335

Re: 2011CV200857

Dear Judicial Assistant:

On Thursday, I filed this declaratory judgment action as to Georgia law on the use of a power of attorney in legal matters in the state.

The Verified Complaint seeks a Temporary Restraining Order. I sent a written notice of the filing and the request for a TRO, so all Defendants should have received notice by Monday, May 23.

When may I see the judge to ask for the TRO?

Sincerely,

William M. Windsor
Cell: 404-606-1885
williamwindsor@bellsouth.net

Exhibit

B

William M. Windsor

PO Box 681236 * Marietta, GA 30068 * 770-578-1094 * Fax: 770-234-4106

May 29, 2011

Mrs. Johnson
Judicial Assistant to Judge Constance C. Russell
185 Central Avenue, SW
Justice Center Tower
Suite T-5705
Atlanta, GA 30303
Fax: 404-335-2814

Re: 2011CV200857

Dear Mrs. Johnson:

On Thursday, May 19, 2011, I filed this declaratory judgment action as to Georgia law on the use of a power of attorney in legal matters in the state.

I sent a fax requesting a TRO Hearing, but I just learned that the fax number on the county's website is incorrect, so I am refaxing this after speaking with you.

The Verified Complaint seeks a Temporary Restraining Order. I sent a written notice of the filing and the request for a TRO, so all Defendants should have received notice.

When may I see the judge to ask for the TRO?

Sincerely,

William M. Windsor
Office: 770-578-1094
Cell: 404-606-1885
williamwindsor@bellsouth.net

Exhibit

C

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

WILLIAM M. WINDSOR,)	
Plaintiff)	
)	
v.)	CIVIL ACTION NO.
)	
JUDGE WILLIAM S. DUFFEY,)	2011CV200857
MAID OF THE MIST)	
CORPORATION, MAID OF THE)	
MIST STEAMBOAT COMPANY,)	
LTD., JUDGE ORINDA D. EVANS,)	
JUDGE JULIE E. CARNES, JUDGE)	
JOEL F. DUBINA, JOHN LEY, AND)	
JAMES N. HATTEN,)	
Defendants.)	
_____)	

TEMPORARY RESTRAINING ORDER

This Civil Action is currently before this Court on Plaintiff's MOTION FOR TEMPORARY RESTRAINING ORDER.

The Plaintiff's MOTION FOR TEMPORARY RESTRAINING ORDER having been read and considered, it appears that the motion should be granted.

The Plaintiff is a party to civil actions in the federal courts located in Fulton County, Georgia.

The Plaintiff has raised serious issues about the actions of the Defendants. The interests of justice require that these issues be considered by this Court.

This Court has an obligation to citizens such as the Plaintiff to “insure justice to all...”

The Plaintiff has presented evidence that indicates he has been denied justice through violation of the Georgia statutes.

The Plaintiff has presented evidence that he filed this Motion for Temporary Restraining Order knowing that Judge Duffey could at any time issue another order that would be extremely damaging financially and unlawful.

The Plaintiff has presented evidence that Defendants continue to conspire to damage him, and he is in peril of one or more of the Defendants taking improper and/or illegal action against him that will cause irreparable injury.

The Plaintiff has no adequate remedy at law and will suffer immediate and irreparable harm if interlocutory relief is not granted restraining the Defendants from denying Windsor the ability to act for Barbara Windsor (“BGW”) pursuant to the Power of Attorney. Judge Duffey could schedule a hearing at any time and attempt to find Windsor guilty of forgery and unauthorized practice of law despite affording Windsor no criminal due process rights. This Court’s TRO as to the validity of the Power of Attorney would simplify matters and put Judge Duffey on notice. BGW is in no mental or physical condition to participate in a hearing, and this Court’s TRO will protect her.

Defendants' refusal to recognize the Georgia statute regarding powers of attorney will cause irreparable harm to Windsor.

The balance of equities is an important factor in a court's decision as to whether it should grant a temporary injunction. When, through the issuance of an injunction, the moving party will avoid greater harm than the non-moving party will suffer, the balance of equities will be found to rest with the moving party.

The Plaintiff has proven the facts necessary to be meritorious in this Civil Action.

The public must be vitally interested that people involved in the judicial process in Georgia must abide by the laws of the state. The public needs to be protected from people like the Defendants. The Public will be well served by restrictions on the acts that the Defendants used to damage the Plaintiff and others. There is nothing in the relief requested that would harm the public interest in any way. It will accomplish just the opposite.

As required by O.C.G.A. § 9-11-65, Windsor has certified to the court, in writing, by the verification of this motion, the efforts that have been made to give notice to the Defendants.

The Plaintiff has presented sufficient facts to satisfy the Court that a Temporary Restraining Order should be issued.

IT IS HEREBY ORDERED that Plaintiff's Motion for Temporary Restraining Order is GRANTED.

IT IS FURTHER ORDERED, pending further order of the Court, that Defendants be temporarily RESTRAINED and preliminarily and permanently enjoined from issuing Writs of Execution in Georgia without proper issuance and notice of judgments.

IT IS FURTHER ORDERED, pending further order of the Court, that Judge William S. Duffey be temporarily RESTRAINED and preliminarily and permanently enjoined from further actions in Civil Action 1:09-CV-01543-WSD, Civil Action No. 1:09-CV-02027-WSD, or any other matter involving Windsor that violate the law and Windsor's rights.

IT IS FURTHER ORDERED, pending further order of the Court, that Defendant Judge William S. Duffey be temporarily RESTRAINED and preliminarily and permanently enjoined from further actions in Civil Action 1:09-CV-01543-WSD, Civil Action No. 1:09-CV-02027-WSD, or any other matter involving Windsor that violate Georgia law and Windsor's rights regarding powers of attorney, pending further order of the Court.

IT IS HEREBY ORDERED that a Preliminary Injunction Hearing will be scheduled by this Court on the ____ day of _____, 2011 at _____.

SO ORDERED this ____ of _____, 2011 at _____.

Judge Constance Russell