

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA -- ATLANTA DIVISION**

WILLIAM M. WINDSOR, Plaintiff	)	
	)	
v.	)	CIVIL ACTION NO.
	)	
JUDGE WILLIAM S. DUFFEY, 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.	)	1:11-CV-01922-TWT
	)	<b>EMERGENCY MOTION</b>
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**EMERGENCY MOTION FOR RECONSIDERATION OF ORDER  
DENYING TEMPORARY RESTRAINING ORDER AND EMERGENCY  
MOTION FOR PRELIMINARY INJUNCTION HEARING**

William M. Windsor (“Windsor or “Plaintiff”) hereby files this EMERGENCY MOTION FOR RECONSIDERATION OF ORDER DENYING TEMPORARY RESTRAINING ORDER AND EMERGENCY MOTION FOR PRELIMINARY INJUNCTION HEARING. As grounds for this Motion, the Plaintiff shows that immediate and irreparable injury and damage will result to him unless the Defendants are 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. Windsor went to the Fulton County Superior Court when this Civil Action was filed, and he asked to see the judge for a Temporary Restraining Order Hearing. The judge's clerk indicated she would respond to Windsor with a time to see the judge, but she never did.
3. Windsor requested a hearing on the TRO by fax and mail on May 22 and May 29, 2011.
4. When the judge's clerk was non-responsive, Windsor filed a Motion for Temporary Restraining Order and a Motion for Hearing on June 10, 2011 in the Fulton County Superior Court. (Docket #2.)
5. On June 15, 2011, this Court denied Windsor's Motion for Temporary Restraining Order without affording Windsor the opportunity to be heard. (Exhibit A.)

**THIS COURT MUST RECONSIDER ITS JUNE 15, 2011 ORDER AS  
WINDSOR WAS DENIED THE RIGHT OF DUE PROCESS.**

6. When attorney's file actions seeking temporary restraining orders, they are given the opportunity to present their arguments to the judge. Windsor is pro se, and he has been denied this right of due process. He has been treated as a different class of litigant, and he has been denied equal protection. Windsor has a Constitutional guarantee that he will not be denied protections under the law that are enjoyed by attorneys, but this Court has violated Windsor's Constitutional rights. This Court has also denied due process.

If due process is to be secured, the laws must operate alike upon all and not subject the individual to the arbitrary exercise of governmental power unrestrained by established principles of private rights and distributive justice. (*Marchant v. Pennsylvania R.R.*, 153 U.S. 380, 386 (1894).)

In 1934, the United States Supreme Court held that due process is violated "if a practice or rule offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental." (*Snyder v. Massachusetts*, 291 U.S. 97, 105 (1934).)

As construed by the courts, due process includes... the opportunity to be heard ... and that the person or panel making the final decision over the proceedings be impartial in regards to the matter before them. (*Goldberg v. Kelly*, 397 U.S. 254, 267 (1970).) (See also *Palko v. Connecticut*, 302 U.S. 319 (1937).)

**THIS COURT MUST RECONSIDER ITS JUNE 15, 2011 ORDER AS THE COURT SEEMS CONFUSED ABOUT THIS CIVIL ACTION.**

7. In this Court's July 15, 2011 Order, the Court denied the Motion for TRO solely on the basis that "it is highly unlikely for the Plaintiff to succeed on his claim that he must be allowed to engage in the unauthorized practice of law...."

8. This Civil Action does not seek to engage in the unauthorized practice of law. There is no such request in the Civil Action.

9. This Civil Action seeks an order restraining Judge Duffey from violating O.C.G.A. § 10-6-5. O.C.G.A. § 10-6-5 is the law in the State of Georgia, and it does not authorize anyone to commit the unauthorized practice of law.

10. This Civil Action seeks simply to protect the rights that the State of Georgia has given its citizens through O.C.G.A. § 10-6-5. O.C.G.A. § 10-6-5 is a statute that authorizes Powers of Attorney to be granted to citizens of the State of Georgia. All Windsor seeks are to require Judge Duffey to honor Georgia law that he is supposed to be duty-bound to uphold. Unfortunately, Windsor's experience is that Judge Duffey is a criminal masquerading as a judge, and he violates civil and criminal statutes and rules of civil procedure intentionally to damage Windsor.

11. Unless Defendants are enjoined from violating Georgia law, Windsor will suffer immediate and irreparable harm. This is detailed in the MOTION FOR TEMPORARY RESTRAINING ORDER AND HEARING (Docket #2), referenced and incorporated herein as if attached hereto.

**WINDSOR REQUESTS AN IMMEDIATE  
PRELIMINARY INJUNCTION HEARING.**

12. Georgia law provides that this and all courts must consider requests for temporary relief, with or without notice to the other parties, when justified by the facts. Windsor was denied his right to present his arguments to this Court. Windsor needs protection now.

13. When a motion for TRO is granted, FRCP Rule 65 requires that a preliminary injunction hearing must be scheduled within 14 days because of the concern over harm to the movant and/or the restrained party. The same concern over harm exists when a court denies a TRO. Windsor remains in a position where irreparable harm is imminent. Windsor must be given a hearing within 14 days where he can present evidence and testimony that will establish his rights under O.C.G.A. § 10-6-5. A full hearing must be held so Windsor may have his right to due process in an attempt to avoid irreparable harm.

“...the Court has also stressed the dignitary importance of procedural rights, the worth of being able to defend one's interests even if one cannot change the result. (Fuentes v. Shevin, 407 U.S. 67, 81 (1972).) (*Carey v. Piphus*, 435 U.S. 247, 266 -67 (1978); *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980).)

“...wherever it is necessary for the protection of the parties, it must give them an opportunity to be heard respecting the justice of the judgment sought.” (*Hagar v. Reclamation District*, 111 U.S. 701, 708.)

"The constitutional right to be heard is a basic aspect of the duty of government to follow a fair process of decision making when it acts to deprive a person of his possessions. The purpose of this requirement is not only to ensure abstract fair play to the individual. Its purpose, more particularly, is to protect his use and possession of property from arbitrary encroachment. . . ." (*Fuentes v. Shevin*, 407 U.S. 67, 80 -81 (1972).)

"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).

14. Windsor 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.

WHEREFORE, Windsor respectfully requests:

- a. that this MOTION be granted;
- b. that a TRO 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;
- 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; and

e. that a hearing will be immediately scheduled on the Motion for Preliminary Injunction;

Respectfully submitted this 17th day of June, 2011.



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WILLIAM M. WINDSOR  
Pro Se

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**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 17th day of June, 2011.

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

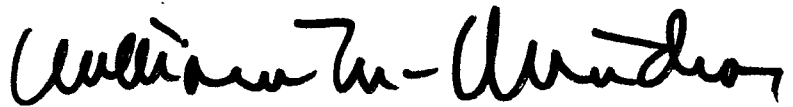
William M. Windsor



**CERTIFICATE OF COMPLIANCE**

As required by Local Rule 7.1D, N.D. Ga., I hereby certify that this pleading has been prepared in Times New Roman 14-point font, one of the font and point selections approved by this Court in Local Rule 5.1B, N.D. Ga.

This 17th day of June, 2011.



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**WILLIAM M. WINDSOR**  
Pro Se

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 17<sup>th</sup> day of June 2011, I served this MOTION by depositing in the United States Mail with sufficient postage addressed to each Defendant and by mail and fax to:

CHRISTOPHER J. HUBER  
ASSISTANT U.S. ATTORNEY  
Georgia Bar No. 545627  
600 Richard B. Russell Federal Bldg.  
75 Spring Street, S.W. -- Atlanta, Georgia 30303  
Telephone: (404) 581-6292 -- Facsimile: (404) 581-6181  
Email: chris.huber@usdoj.gov

This 17th day of June, 2011.



\_\_\_\_\_  
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# **Exhibit**

# **A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

WILLIAM M. WINDSOR,

Plaintiff,

v.

JUDGE WILLIAM S. DUFFEY, et al.,

Defendants.

CIVIL ACTION FILE  
NO. 1:11-CV-1922-TWT

ORDER

This is a pro se civil action. It is before the Court on the Plaintiff's Motion for Temporary Restraining Order [Doc. 2]. The Plaintiff is seeking an order restraining Judge Duffey of this Court from violating O.C.G.A. § 10-6-5. It is highly unlikely for the Plaintiff to succeed on his claim that he must be allowed to engage in the unauthorized practice of law before Judge Duffey. The Plaintiff's Motion for Temporary Restraining Order [Doc. 2] is DENIED.

SO ORDERED, this 15 day of June, 2011.

/s/Thomas W. Thrash  
THOMAS W. THRASH, JR.  
United States District Judge