

WILLIAM A. BOOTHE, M.D., and  
WILLIAM A. BOOTHE, M.D., P.A.,

Plaintiffs,

v.

BRETT HANSON,

Defendant.

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IN THE DISTRICT COURT OF

COLLIN COUNTY, TEXAS

219th JUDICIAL DISTRICT

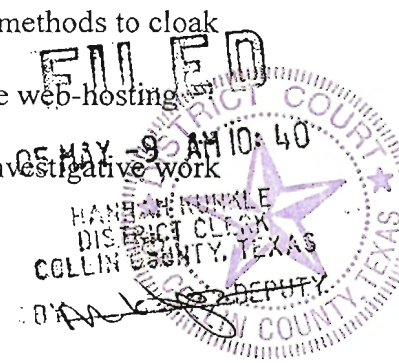
**MOTION FOR ORDER TO SHOW CAUSE WHETHER DEFENDANT  
BRETT HANSON SHOULD BE PUNISHED FOR HIS  
CIVIL AND CRIMINAL CONTEMPT OF COURT**

Plaintiffs William A. Boothe, M.D. and William A. Boothe, M.D., P.A. (collectively “Dr. Boothe”) hereby move this Court for an Order to Show Cause against Defendant Brett Hanson for his civil and criminal constructive contempts of this Court’s Orders.

**I. INTRODUCTION**

On February 2, 2005 this Court entered an Agreed Judgment and Permanent Injunction, (the “Permanent Injunction”), which was later Amended and entered on March 4, 2005 (the “Amended Permanent Injunction”). Both the Permanent Injunction and the Amended Permanent Injunction prohibited Hanson from, inter alia, setting up any further Internet websites that even mentioned Dr. Boothe or his medical practice.

Contrary to this Court’s rulings – and only days after entry of the Permanent Injunction – Mr. Hanson set out upon a covert scheme to create and publish several additional websites for the purpose of destroying Dr. Boothe’s medical practice. He employed several methods to cloak his involvement with the websites, including the use of an anonymous, off-shore web-hosting company paid for by “E-gold,” an anonymous online currency. However, the investigative work



of Plaintiffs' forensics expert, Bryan F. Thornton, CISSP, EnCE, now conclusively shows Mr. Hanson's involvement with the sites and, ultimately, his contempt of this Court's Permanent Injunction and Amended Permanent Injunction.

Based on Mr. Hanson's past and present violations of this Court's rulings, Plaintiffs request that the Court issue an Order requiring Mr. Hanson to show cause why he should not be held in contempt of court.

## II. FACTUAL BACKGROUND

Dr. Boothe, a noted cornea specialist, is a well-known provider of Laser in-situ Keratomileusis (Lasik) surgery in Collin County, Texas. He owns and operates the Boothe Eye Care and Laser Center.

### A. The Original Basis For Suit

The initial dispute with Mr. Hanson arose during the fall of 2004, when Mr. Hanson began a threatening course of communication with co-Defendant Dan Morikawa. By mid-December 2004 Mr. Hanson and Mr. Morikawa began copying Dr. Boothe on emails between them containing threats of physical violence against Dr. Boothe. For instance, on December 14, 2004, Mr. Hanson wrote, "Speaking of patients with guns, I recall that one of Dr. Boothe's patient[s] had mentioned to me that he was so inclined to commit such an act that you described." (Malin Aff. Ex. 1.) Even more disturbing, Mr. Hanson sent an e-mail on December 31, 2004 stating, "Dan, please remove the map from your site showing how to get to Boothe's home, because an angry surgeon or patient might decide to try out one of Bausch & Lomb's aiming devices on Boothe, as is described here," followed by a link to a picture of a rifle scope. (Malin Aff. Ex. 2.)



Mr. Hanson then expanded these threats to the Internet by republishing the most violent content from Mr. Morikawa's websites onto the "Refractive Surgery News" web-log (or "blog") on Hanson's own website, [www.LasikFraud.com](http://www.LasikFraud.com). For example, Mr. Hanson published Defendant Morikawa's statement that "Frankly, I'm surprised nobody has gone postal at the clinic – anybody working there should be afraid to work there – very afraid – patients are killing their physicians". (Malin Aff. Ex. 3.) As another example, on January 15, 2005, Mr. Hanson stated on a Google newsgroup that "I would certainly not be at all surprised if someone WERE to kill a refractive surgeon, as I have heard many dissatisfied patients discuss this strategy." (Malin Aff. Ex. 4.)

Mr. Hanson also falsely disparaged Dr. Boothe's reputation as a surgeon. For example, on December 16 and 19, 2004, Mr. Hanson falsely listed "sleazy advertising tactics" by Dr. Boothe. (Malin Aff. Ex. 5.) On December 11, 2004, LasikFraud also republished false content from Mr. Morikawa's websites, which stated that Dr. Boothe had "ruined lives" and was the subject of twelve malpractice suits. (Malin Aff. Ex. 6.)

This intentional, tortious conduct was consistent with Mr. Hanson's history of attempting to make money by threatening and defaming refractive surgeons. Mr. Hanson engaged in a multi-year struggle with the TLC Laser Center in Canada and created a website critical of its surgeons. (Malin Aff. Ex. 7.) On information and belief Mr. Hanson has demanded money to remove that site and his contemporaneous web postings in 2002 refer to the "extortion" TLC suffered. Here, Mr. Hanson's motivation was the same—to extort substantial money from Dr. Boothe by threatening him and defaming him. As Mr. Hanson stated to Dr. Boothe's counsel: "I intend to settle my differences with TLC early next year. If I am successful, I intend to spend 100% of my energy on Dr. Boothe and you." (Malin Aff. Ex. 8).



These actions resulted in Dr. Boothe filing a lawsuit against Mr. Morikawa and Mr. Hanson. In each action, this Court issued temporary restraining orders prohibiting further harassment of Dr. Boothe by Morikawa and Hanson. Ultimately, agreed permanent injunctions were entered in both cases.

B. Facts Underlying the Contempt

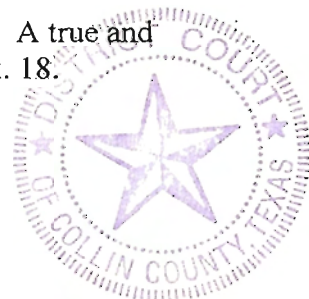
Three days after the entry of the Permanent Injunction against Hanson on February 2, 2005, Brent Hanson set up an account with [www.E-gold.com](http://www.E-gold.com) for the purpose of covertly funding further false and defamatory websites: [www.LasikQuack.com](http://www.LasikQuack.com), [www.LasikQuack.net](http://www.LasikQuack.net), and [www.LasikQuack.org](http://www.LasikQuack.org).<sup>1</sup>

Mr. Hanson took many elaborate steps to preserve his anonymity in creating these websites, such as the use of Katz Global Media (an “anonymous” offshore webhosting company), Anonymizer (a company that will cloak your IP address when surfing the web), Hushmail (a company that will cloak your return e-mail address), and E-gold (an Internet currency company used by individuals not wanting to divulge identifying credit card information). Fortunately, Hanson was not diligent enough in shielding his identity in this fraudulent scheme: Dr. Boothe’s computer forensics expert has been able to unmask this clandestine activity and unequivocally tie Hanson to these websites, as he explains in his attached Affidavit (“Thornton Aff.”).

The first key break came with the discovery of web access and payment logs from Katz Global Media, the company Hanson secretly hired to obtain and host [www.LasikQuack.com](http://www.LasikQuack.com). (Malin Aff. Ex. 9). These web hosting records indicate that payment for

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<sup>1</sup> A true and correct copy of [www.LasikQuack.com](http://www.LasikQuack.com) is provided at Malin Aff. Ex. 17. A true and correct copy of the home page of [www.LasikQuack.org](http://www.LasikQuack.org) is provided at Malin Aff. Ex. 18.



www.LasikQuack.com's registration was made via a specific E-gold account, identified by its unique number. (Thornton Aff.; Malin Aff. Ex. 11.) The second key break was the discovery of E-gold records of Hanson's account activity and ownership. Tracing the E-gold account number used to set up www.LasikQuack.com leads to an account created by "Brent Hanson 1687 Whitehall Court, Wheeling, Illinois." (*Id.*) The E-gold account access logs also demonstrate that the account was accessed by a computer from the offices of "Endeavor Information Systems" in Des Plaines, Illinois – Mr. Hanson's employer. (Thornton Aff.; Malin Aff. Ex. 11.) This evidence conclusively shows that Hanson owned and controlled www.LasikQuack.com.

On April 19, 2005, the webhosting company took down the www.LasikQuack.com website.<sup>2</sup> However, since that time, the sites www.LasikQuack.net and www.LasikQuack.org have been registered, and the latter went live with Internet content on May 5, 2005. The content on www.LasikQuack.org is identical to that on www.LasikQuack.com, except that the former has additional entries. Once again, the evidence conclusively shows that Mr. Hanson controls these new sites. For example, Mr. Hanson's E-gold account paid for the registration and hosting of both www.LasikQuack.com and www.LasikQuack.net. (Thornton Aff.; Malin Aff. Ex. 11.) Additionally, a "WhoIs" query of the ownership of Hanson's LasikQuack.net site reveals that it is controlled by the e-mail address lasikmalpractice@hushmail.com. (Thornton Aff.; Malin Aff. Ex. 13.) This same e-mail address controls www.LasikQuack.org. (Thornton Aff.; Malin Aff. Ex. 14.)

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<sup>2</sup> Interestingly, the day after Katz Global Media took down the www.LasikQuack.com website, the ownership information for the E-gold account used to set up that site changed from "Brent Hanson, 1687 Whitehall Court, Wheeling, IL brent@brenthanson.com" to "Lasik Consumer Trust, 1234 Consumer Avenue, Lasik Drive, Texas boothe\_malpractice@yahoo.com." (Thornton Aff.; Malin Aff. Ex. 12.)



Aside from this conclusive direct evidence showing Hanson's intentional violation of the Permanent Injunction and Amended Permanent Injunction, there also is other corroborating evidence linking him to these sites. For example, the Katz hosting records indicate that www.LasikQuack.com was created -- and its content uploaded -- from a computer accessing the Comcast network via a server *in Chicago*. (Thornton Aff.; Malin Aff. Ex. 9.) Although Comcast has not yet been able to provide log files because of an apparent error in their system, (Malin Aff. Ex. 10.), there is only one person in the Chicago area with enough animosity toward Dr. Boothe to register an offshore website and upload defamatory content -- Brent Hanson.

Given the direct links with the e-Gold account and the other evidence, there is no doubt that Mr. Hanson paid for, created, controlled and continues to control all three websites.<sup>3</sup>

### III. ARGUMENT

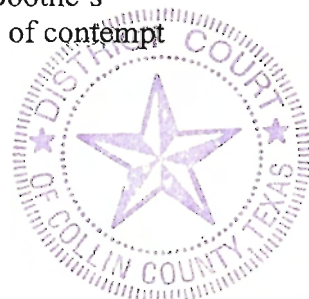
#### A. Mr. Hanson Is In Criminal Contempt Of Court

Mr. Hanson has directly defied this Court's Permanent Injunction and Amended Permanent Injunction. He has done so knowingly and willfully, and has attempted to conceal his actions, thereby demonstrating his knowledge that he is acting outside the law. This pattern of intentional, premeditated, and repeated violations of this Court's Permanent Injunction and Amended Permanent Injunction is criminal constructive contempt.<sup>4</sup>

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<sup>3</sup> Discovery is proceeding to ascertain whether others were also involved with these websites in conspiracy with Mr. Hanson in a related civil action. Plaintiffs intend to make appropriate amendments to that petition and to request consolidation.

<sup>4</sup> The Court's orders bar mention of both Dr. Boothe and his agents and attorneys. Mr. Hanson's websites mention not only Dr. Boothe but also his marketing person and six of Dr. Boothe's attorneys from various cases. Each website, has daily, committed at least seven acts of contempt since late February for the ".com" site and since the end of April for the ".org" site.

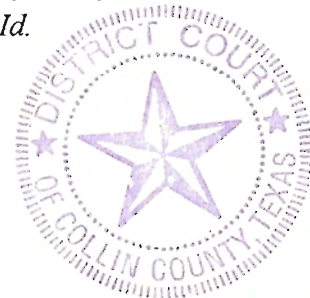


Mr. Hanson has committed multiple acts of contempt by disobeying this Court and acting in opposition to its authority when he posted the LasikQuack websites in direct and flagrant violation of the permanent injunctions. Contempt is “broadly defined as disobedience to or disrespect of a court by acting in opposition to its authority,” *Ex parte Chambers*, 898 S.W.2d 257, 259 (Tex. 1995); *see also Ex parte Norton*, 191 S.W.2d 713, 714 (Tex. 1946) (“The statutes of this State do not define contempt of court, nor do they state the circumstances under which the courts exercise jurisdiction over contempt proceedings.”) Because Mr. Hanson’s disobedience and disrespect is a “completed act,” *Ex parte Werblud*, 536 S.W.2d 542, 545 (Tex. 1976) (distinguishing criminal from civil contempt), that “occurr[ed] outside the court’s presence,” *Ex parte Chambers*, 898 S.W.2d at 259 (distinguishing constructive from direct contempt), his contempts are both criminal and constructive.<sup>5</sup>

Convictions for criminal constructive contempt require proof beyond a reasonable doubt of “(1) a reasonably specific order; (2) a violation of the order; and (3) the willful intent to violate the order.” *Ex parte Chambers*, 898 S.W.2d at 259. Here, all three elements are supported by proof beyond a reasonable doubt.

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<sup>5</sup> Texas distinguishes direct from constructive contempt, *Ex parte Chambers*, 898 S.W.2d at 259, and civil from criminal contempt, *Ex parte Werblud*, 536 S.W.2d 542, 545 (Tex. 1976). Direct contempt “occurs within the presence of the court.” *Ex parte Chambers*, 898 S.W.2d at 259. Constructive contempt “occurs outside the court’s presence.” *Id.* Specifically, “violation of a written court order, outside the presence of the court, is constructive contempt.” *Id.* Civil contempt serves “remedial and coercive” goals by punishment when future conditions are not met. *Id.* Criminal contempt serves “punitive” goals by punishing “completed act.” *Id.*



1: *The Conduct Prohibited By The Injunctions Is Clear*

Both the Permanent Injunction and the Amended Permanent Injunction were specific orders. (Malin Aff. Exs. 15-16.) With reference to the Amended Permanent Injunction, (Malin Aff. Ex. 16.), three provisions are particularly relevant:

First, Mr. Hanson was “enjoined and prohibited from making any comment, statement, assertion, claim, allegation, mention, or other communication whatsoever—in any medium; context or forum—regarding or referring to the other party in this proceeding, directly or indirectly, other than in the context of proceedings before governmental authorities.” (Malin Aff. Ex. 16.) This clause – agreed to by Hanson -- was drafted as broadly as possible to avoid any dispute as to what might or might not be considered defamatory. It clearly bars all public comments by Hanson regarding Dr. Boothe outside of the context of governmental proceedings.

Second, Mr. Hanson was “permanently enjoined to delete all files, postings, messages, sites, search results, search indices, or e-mails containing any reference to Dr. William Boothe made by Mr. Brent Hanson . . . from all computer systems, the Internet, newsgroups, websites, message boards, search engines, and any other electronic or computer systems of any kind, expressly including but not limited to the deletion of all cached copies of such files, postings, messages or e-mails as well as the deletion of all message strings containing such files, postings, messages or e-mails.” (Malin Aff. Ex. 16.) Thus, the Amended Permanent Injunction prevented Hanson from collecting (and publishing) further computer data regarding Dr. Boothe.

Third, Mr. Hanson was also ordered “to refrain from repeating elsewhere, verbatim or in substance, any text or images which threaten or defame any of the Plaintiffs.” (Malin Aff. Ex. 16.) These orders were “reasonably specific” and left no doubt that Mr. Hanson would have “readily know[n]” that the LasikQuack Websites were forbidden. *See Ex parte Slavin*, 412



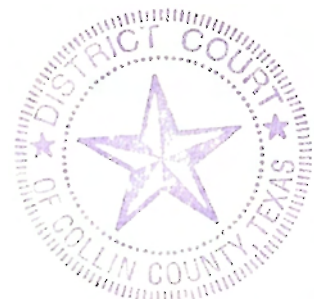
S.W.2d 43, 44 (Tex. 1967) (holding the order “must spell out the details of compliance in clear, specific and unambiguous terms so that such person will readily know exactly what duties or obligations are imposed upon him”). For example, the LasikQuack sites describe Dr. Boothe as the “most likely to sleaze” advertiser. This false and damaging language is identical to language which was barred by this Court’s temporary restraining order, ultimately incorporated into the injunctions. Moreover, Mr. Hanson unmistakably knew he was violating these orders; indeed his elaborate attempts to conceal his actions demonstrate his guilty conscience.

2. *The Evidence Unequivocally Shows Hanson’s Multiple Violations Of The Permanent Injunction and Amended Permanent Injunction*

As described in this Motion, Mr. Hanson violated both injunctions by posting the LasikQuack websites because it (1) repeated verbatim and in substance both text and images that mentioned, referred to, discussed, commented upon, and defamed Plaintiffs and his attorneys, (2) made comments, statements, assertions, claims, and allegations on the Internet regarding or referring to Plaintiffs and his attorneys, and (3) demonstrated he had not deleted all files containing reference to Dr. Boothe and his attorneys.

3. *Hanson Knowingly And Intentionally Committed Contempt*

Mr. Hanson acted with willful intent to violate these orders. He plotted, planned, and executed an intricate plan to defame Dr. Boothe and Dr. Boothe’s attorneys behind a veil of anonymity. As the testimony of Mr. Thornton explains, the electronic machinations required to achieve the near-anonymity that Mr. Hanson achieved were elaborate. Fortunately, they were simply not good enough. There is overwhelming proof upon which this Court can find intentional conduct and convict Mr. Hanson of criminal constructive contempt. Tex. Gov’t Code Ann. § 21.002.



B. Mr. Hanson Is Also In Civil Constructive Contempt Of Court And Should Be Punished Daily Until He Removes The Offending Websites.

Given that the [www.LasikQuack.org](http://www.LasikQuack.org) website is operational and continues to damage Dr. Boothe on a daily basis, Mr. Hanson is also in civil contempt. In civil constructive contempt situations, this Court has inherent authority “to confine a party for contempt until he obeys the order for which he has been held in contempt for disobeying.” *Ex parte Proctor*, 398 S.W.2d 917, 918 (Tex. 1966) (citation omitted). Additionally, daily fines of \$500 are also permissible. *See Cadle Co. v. Lobingier*, 50 S.W.3d 662, 666-68 (Tex. Ct. App. 2001). So long as Mr. Hanson’s additional websites [www.LasikQuack.org](http://www.LasikQuack.org) (or [www.LasikQuack.net](http://www.LasikQuack.net)) remain visible, Mr. Hanson should be subject to civil contempt until he removes the offending websites.

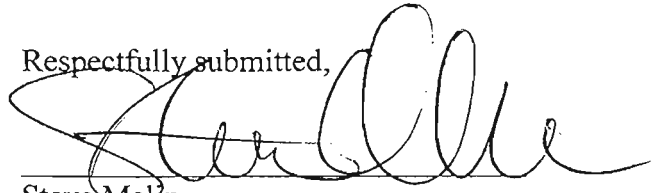
WHEREFORE, PREMISES CONSIDERED, Plaintiffs William A. Boothe, M.D. and William A. Boothe, M.D., P.A. request that this Court issue an order to show cause regarding Mr. Hanson’s criminal and civil constructive contempt of Court as discussed herein, and that, upon final trial, that Defendant Brent Hanson be incarcerated until he purges himself of the contempt and, further, that the Court punish Defendant Brent Hanson with incarceration for his past acts of contempt. The Plaintiffs additionally pray for general relief.



Dated: May 9, 2005

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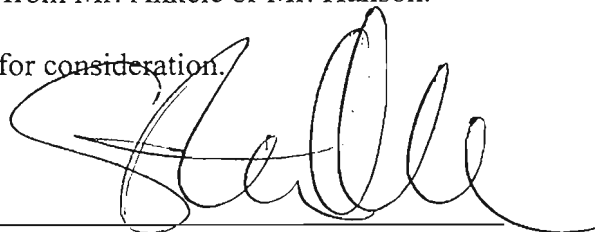
*ATTORNEYS FOR PLAINTIFFS*  
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*WILLIAM A. BOOTHE, M.D., P.A.*



**CERTIFICATE OF CONFERENCE**

On Thursday, May 5, 2005, I, along with my colleague Edward McNicholas, Esq., left Jason Ankele, Esq., counsel for Brent Hanson, a voice-mail regarding this case in order to discuss this motion. The receptionist had informed us that he was in the office at the time and on another call. On that same day, we sent an e-mail regarding this motion along with a notice required under an agreement between the parties. Consistent with the agreement of the parties, that e-mail was also sent directly to Mr. Hanson.

We have not received any response from Mr. Ankele or Mr. Hanson. Accordingly, the Motion is presented to the Court for consideration.



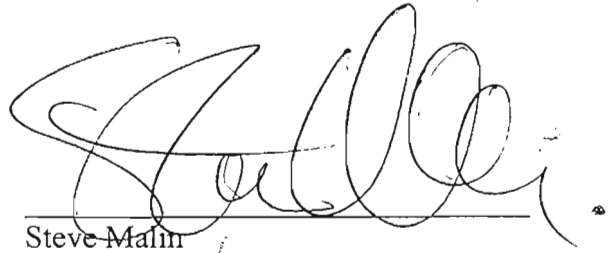
Steve Malin



**CERTIFICATE OF SERVICE**

The undersigned certifies that on May 9, 2005, a true and correct copy of the foregoing document was served by hand delivery as follows:

Mr. Jason Ankele, Esq.  
SULLIVAN, PARK & Cook LLC  
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Steve Malm

