

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

Plaintiffs,

v.

BRENT HANSON,

Defendant.

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IN THE DISTRICT COURT OF

COLLIN COUNTY, TEXAS

219th JUDICIAL DISTRICT

MOTION FOR ANCILLARY RELIEF IN ENFORCEMENT OF JUDGMENT

Currently set for hearing on Monday, June 27, 2005 is the Court's order to Defendant Hanson to show cause why he should not be held in contempt of court due to violations of the Amended Agreed Permanent Injunction entered in this case on March 3, 2005 (the "Amended Injunction"). The evidence adduced in support of the motion shows an orchestrated scheme by Hanson to set up websites attacking Dr. Boothe despite this Court's orders prohibiting such conduct. Based on the foregoing, Dr. Boothe requests that this Court impose additional conditions to fully remedy the contempt, to aid in the execution of the Court's judgment, and to enhance the likelihood that Hanson will in fact comply with the Amended Injunction so that this matter can be fully resolved without the need for further judicial proceedings.

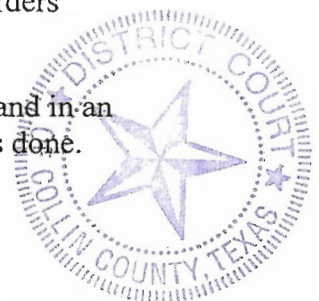
I.

The Texas Legislature has recognized and codified a court's inherent power in section 21.001 of the Texas Government Code. The statute states in pertinent part:

(a) A court has all powers necessary for the exercise of its jurisdiction and the enforcement of its lawful orders, including authority to issue the writs and orders necessary or proper in aid of its jurisdiction.

(b) A court shall require that proceedings be conducted with dignity and in an orderly and expeditious manner and control the proceedings so that justice is done.

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Tex. Gov't Code Ann. § 21.001(a), (b).

Inherent judicial power also derives independently of the Government Code, from the very fact that the court has been created and charged by the constitution with certain duties and responsibilities. *Travelers Indem. Co. v. Mayfield*, 923 S.W.2d 590, 594 (Tex. 1996). “The inherent powers of a court are those which it may call upon to aid in the exercise of its jurisdiction, in the administration of justice, and in the preservation of its independence and integrity.... This power exists to enable our courts to effectively perform their judicial functions and to protect their dignity, independence and integrity.” *Eichelberger v. Eichelberger*, 582 S.W.2d 395, 398; *see also Ex parte Hughes*, 759 S.W.2d 118, 120 (Tex. 1988)(“It is important that the trial court be vested with such powers as may be reasonably required to perform its judicial functions, protect its dignity and integrity, and make its lawful actions effective.”)

The power to punish for contempt is an inherent power of a court and an essential element of judicial independence and authority. *Ex parte Gorena*, 595 S.W.2d 841, 843 (Tex. 1979). Texas courts have recognized that this power enables courts to persuade parties to obey an order or decree of the court so that the order will not be rendered ineffectual by recalcitrant litigants. *Ex parte Pryor*, 800 S.W.2d 511, 512 (Tex. 1990); *see also Ex parte Gorena*, 595 S.W.2d at 845 (describing inherent power as "essential element of judicial independence and authority").

II.

As detailed in the motion for contempt and as will be shown through oral testimony and written evidence at the June 27 hearing, the threat of incarceration has not proven effective to deter Hanson's improper conduct. Based on the Court's inherent authority as described above,



Dr. Boothe requests that the Court issue the following ancillary orders in aid of its authority to so that the Amended Injunction “will not be rendered ineffectual.” These measures are directly related to the acts of contempt related to the LasikQuack sites. They are:

1. Ordering the transfer of the domain names www.LasikQuack.com, wwwLasikQuack.net and www.LasikQuack.org to Dr. Boothe;
2. Requiring all sites, message boards, news groups, etc. posting links to www.LasikQuack.com, www.LasikQuack.net, and www.LasikQuack.org to remove such links, including messages that include such links;
3. Authorizing Dr. Boothe and his attorneys to communicate freely with third parties, including web site operators, message boards, news groups, etc., for the purpose of taking down or otherwise removing any and all links or postings provided by Hanson that refer to Dr. Boothe in violation of the Amended Injunction.

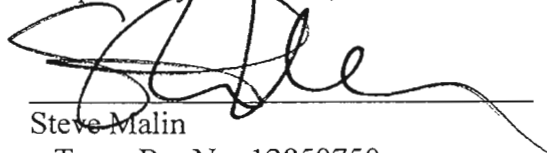
WHEREFORE, PREMISES CONSIDERED, Plaintiffs request that this Motion be in all things granted, and for general relief.



Dated: June 23, 2005

Alan Charles Raul, *pro hac vice*
Edward R. McNicholas, *pro hac vice*
SIDLEY AUSTIN BROWN & WOOD LLP
1501 K Street, N.W.
Washington, D.C. 20005
202-736-8477
202-736-8411 (facsimile)

Respectfully submitted,



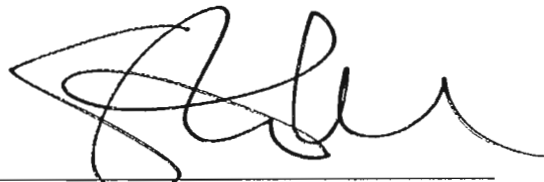
Steve Malin
Texas Bar No. 12859750
SIDLEY AUSTIN BROWN & WOOD LLP
717 North Harwood, Suite 3300
Dallas, Texas 75201
214.981.3300
214.981.3400 (facsimile)

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

CERTIFICATE OF SERVICE

The undersigned certifies that on June 23, 2005, a true and correct copy of the foregoing document was served by email as follows:

brent@lasikfraud.com



Steve Malin

