

JUL 05 2017

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8 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**
9 **CENTRAL DISTRICT**

10 SEAN RICHARD WEBER,)

11 Petitioner,)

12 vs.)

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14 BRETT HADDOCK,)

15 Respondent.)

Case No.: BS168929

**PETITIONER'S REPLY TO
RESPONDENT'S OPPOSITION TO
REQUEST FOR CIVIL HARASSMENT
RESTRAINING ORDER**

Date: Jul 11, 2017

Time: 8:30 a.m.

Place: Dept. 2C

Complaint filed on: May 9, 2017

1 SUMMARY OF ARGUMENT

2 Respondent characterizes his conduct directed at Mr. Weber as ordinary political
3 discourse and analysis. Respondent, however, posted Mr. Weber’s home address, he posted Mr.
4 Weber’s date of birth, he posted Mr. Weber’s phone number, he posted a photograph of Mr.
5 Weber’s license plate, he refers to Mr. Weber as his target, and he posted incompletely redacted
6 court records containing Mr. Weber’s parents’ address and phone number. Respondent also has a
7 history of self-righteous, over-the-top crusades using his website as the primary medium for
8 delivering his attacks.

9 On top of Mr. Weber’s worry about being the subject of Respondent’s newest obsession,
10 Mr. Weber’s alarm only grew upon learning Respondent has two open Worker's Compensation
11 law suits for psychological injury and he has not treated for them – untreated psychiatric injuries
12 that are so debilitating that he cannot work. Moreover, Respondent’s social media profiles refer
13 to Mr. Weber as his “target” and contain posts with violent images and language including
14 discussions of murderous rampages, suicide by self-inflicted gunshot wound, and postings about
15 self-immolation. Never mind all that, Respondent argues, such conduct is nothing more than
16 “political speech and requests for comment.” Petitioner begs to differ.

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18 ARGUMENT

19 **I. Respondent Has Engaged In A Course Of Willful Conduct That Harassed,**
20 **Annoyed And Alarmed Petitioner And Petitioner’s Family**

21 Perhaps the best judge of whether this conduct falls within the purview of ordinary
22 politics is Respondent himself. In Exhibit 3 to Respondent’s Opposition, Respondent expresses
23 the motivations for attacks directed at Petitioner writing, “the last thing I wanted was for this to
24 be seen as a mere political squabble, or as typical mudslinging” and “I am morally obligated to
25 bring this to light.” (Exh. 3, Respondent’s Opposition.) Respondent’s own statements make clear
26 that this conduct towards Mr. Weber goes beyond ordinary politics and is motivated by personal
27 animus. Respondent further concedes in the Opposition that his crusade against Mr. Weber has
28 been carried out with a zealotry that is “perhaps” unfair. (Respondent’s Opposition, p. 5:1-2.)

1 With that in mind, consider what Respondent has actually done.

2 Although Respondent declares under penalty of perjury to the contrary (Declaration of
3 Brett Haddock, 2:15-17, 4:28-5:1) and opposing counsel asserts otherwise (Opposition, p. 6:1-4)
4 his website shows court documents with Mr. Weber's unredacted home address. (Exh. 3,
5 Respondent's Opposition, p. 10.) Since the filing of this Petition, Respondent has gone through
6 in an attempt to clean up his "mistakes." (*Compare* Petitioner's Exhibit A, p. 17 to Respondent's
7 Exhibit 3, p. 25.) It is notable that Respondent attempted to pass off this "corrected" version as
8 the only version ever posted to his website.

9 Prior to his attempts to clean up after his purportedly accidental inclusion of names,
10 phone numbers, dates of birth and addresses, Respondent's woefully incomplete redactions did
11 little to shield the privacy of Petitioner's parents—who are completely unrelated to the
12 interactions giving rise to Respondent's obsessive persecution of Mr. Weber. (Exhibit A.) As
13 was asserted in Petition and will be shown by testimony at the hearing, Petitioner's parents have
14 been subject to harassing phone calls and other alarming conduct due to Respondent's public
15 disclosure of their phone number and address. Respondent, even after attempts to correct his
16 errors by redacting more completely, leaves the cities and zip codes of residence unaltered. (*See*
17 *e.g.*, Exh. 3, Respondent's Opposition, p. 10.) While it is certainly better than posting the actual
18 street address, this still subjects Petitioner and his family to constant fear of being tracked down.

19 Respondent also posted online a photograph of Petitioner's license plate and claims that it
20 was posted with someone's apparent consent—it is not clear whether Respondent is referring to
21 having consent from Mr. Weber or the person who took the photo—but provides no support for
22 that assertion. That "consent" appears to be outside Respondent's personal knowledge giving rise
23 to questions of how he can credibly declare it to be true. (Declaration of Brett Haddock, 5:1-4.)

24 Turning to the legal framework at issue, Respondent's interpretation of section
25 527.6(b)(3) does not make sense. The Opposition argues that for a course of conduct to fall
26 within the definition of "directed at" under section 527.6(b)(3) it must involve personal messages
27 exchanged between a petitioner and a respondent or some other direct contact. (Opposition, p.
28 11:16-20.) Neither paragraph (3) nor subdivision (b) contains any such requirement. In essence,

1 Respondent attempts to re-write the statute to read that the course of conduct must be “directed
2 to” to the petitioner. “Directed at” is not the same as “directed to.” For example, Mr. Haddock
3 referred to Mr. Weber as his “target” on Respondent’s Twitter feed. (Exhibit A, p. 13-14.) This
4 was not a statement directed *to* Mr. Weber in personal communication between Petitioner and
5 Respondent but it surely was directed *at* him. Of course, this must be read in conjunction with
6 the other language of the statute at issue. Paragraph (3) defines harassment as conduct that
7 “seriously alarms, annoys, or harasses the person.” Plenty of conduct falls within the domain of
8 alarming, annoying or harassing conduct that is not addressed directly to someone. Consider an
9 extreme hypothetical: we can imagine a disgruntled employee posting a false claim on the
10 internet that his boss is a pedophile, posting his boss’s address and phone number, telling his co-
11 workers about the web posting and engaging in confrontational messages directly to the boss.
12 The internet posts and rumor mongering are not, strictly speaking, directed *to* the boss. After all,
13 why would the boss need to know his or her own address? Nevertheless, we can certainly discern
14 that the entire course of conduct is, in fact, directed *at* the boss. It is this important facet—
15 considering all the conduct in totality—that Respondent misses.

16 To that end, Respondent argues that it Mr. Weber was not afraid, should not be afraid and
17 could not have suffered emotional distress due to Respondent’s actions because each individual
18 act by the Respondent may seem innocent enough. The totality of the conduct is what the Court
19 must treat with here and the Court need not even hear directly from Petitioner on the matter of
20 emotional distress where the evidence is clear that such distress would follow from the conduct
21 at issue. (*Ensworth v. Mullvain* (1990) 224 Cal App 3d 1105.) For example, Respondent declares
22 that it “strains credulity” that someone would fear him simply because of his claims of
23 psychological injury. (Opposition, p. 7:19-20.) Petitioner’s fears are based, *in part*, on two
24 untreated psych WC claims.¹

25 These concerns regarding claimed psychological injury only serve to enhance Mr.
26 Weber’s fear when combined with Respondent’s other postings to social media and comments
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28 ¹ A brief aside: to borrow a phrase from Respondent’s Opposition, curious that he only provides information about one of the two claims and such sparing information at that. Respondent never actually addresses Petitioner’s contention that these psych injuries have gone untreated.

1 about Mr. Weber. Respondent refers to topics typically associated with individuals who are
2 disposed to erratic (and possibly violent) behavior. To wit, “I’m thoroughly convinced that I’m
3 locked into a system designed to make me go on a murderous rampage.” (Exhibit A.) The only
4 way Respondent felt he could deal with a bureaucracy was through self-immolation. (Exhibit A.)
5 Respondent, at one point, also expressed disappointment that he had not antagonized anyone
6 enough to have been threatened with a lawsuit. (Exhibit A.) Contrary to Respondent’s attempts
7 to imply otherwise, this question involves a consideration of the totality of the circumstances;
8 such is the nature of analyzing a *course* of conduct. Each of these acts individually may not rise
9 to a level causing a reasonable person to fear for his or her safety or suffer emotional distress but
10 all of them, *taken together*, surely do. The question before the court is whether, based on
11 Respondent’s actions and what Petitioner knows about Respondent, is it reasonable to be
12 alarmed and suffer emotional distress? Reasonableness has never required that there be no
13 alternative explanations, only that the conclusion reached be supported by some facts such that it
14 would reasonable to reach the same conclusion.

15 A reasonable person, upon learning that he is the “target” of someone with untreated
16 psychological injuries who has posted comments online about murderous rampages and showed
17 his and his parents’ addresses for all the world to see, would be right to be afraid and alarmed.

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19 **II. Legally Inaccurate Statements About Petitioner’s Criminal Record *vel non***
20 **Serve No Legitimate Purpose**

21 Respondent claims that the phrase “serves no legitimate purpose” in § 537.6(b)(3) dooms
22 this Petition because of Mr. Weber’s “criminal past.” (Opposition, p. 5:15-16.) As an initial
23 matter, Mr. Weber does not have a conviction. According to Respondent’s own exhibits, the
24 “plea, verdict or finding of guilt” that Respondent claims as fact was “set aside and vacated.”
25 (Exh. 3, Opposition, p. 10.) The complaint was then dismissed pursuant to section 1203.4 of the
26 Penal Code.² (Exh. 3, Opposition, p. 10.) Accordingly, legally speaking, Respondent’s
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28 ² There are, of course, limited exceptions to the relief granted to Mr. Weber under section 1203.4 but the only one that might apply is that the “order does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office.” Cal. Pen. C. § 1203.4(a)(1).

1 statements are factually incorrect. Petitioner makes this claim not, as opposing counsel suggests,
2 to circumvent a defamation lawsuit but rather to show that there is no legitimate purpose to
3 Respondent's conduct; especially as it relates to posting incorrect statements and court
4 documents with names and addresses from a case that was legally dismissed. Civil harassment
5 restraining orders do not violate the First Amendment when the restrained person's written
6 communications were false, defamatory, and served no legitimate purpose. (*Parisi v. Mazzafarro*
7 (2016) 5 Cal.App.4th 1219.)

8 What legitimate purpose is served by posting Mr. Weber's and Mr. Weber's family's
9 home addresses and phone numbers? What purpose is served by posting a photograph of Mr.
10 Weber's license plate? None. The most plausible explanation is that Respondent wished to
11 enervate and intimidate the Petitioner by showing revealing such personal information; hoping
12 that forcing Mr. Weber to constantly be on the lookout would somehow win the argument.

13 **III. Petitioner Is Not Seeking A Restraint On Protected Speech**

14 Respondent's opposition contains many correct but irrelevant statements of law about the
15 First Amendment and prior restraints. Petitioner does seek to enjoin all or even a lot of
16 Respondent's speech. Respondent is free to obsess over, fret about and attack Mr. Weber about
17 politics and his opinions of Mr. Weber's fitness for office. That is not in dispute. But the crusade
18 against Mr. Weber ought to be confined to public matters and include neither Mr. Weber's
19 personal information nor that of his family.

20 Petitioner, instead, seeks to enjoin the Respondent from posting private information about
21 Petitioner and Petitioner's family. Respondent has not provided any authority stating that posting
22 someone's home address and the address of uninvolved family members constitutes
23 constitutionally protected activity. Although Respondent has corrected *some* of the offending
24 online posts, Mr. Weber's alarm and fear that Respondent may simply un-correct them with a
25 few click is entirely legitimate. All that is necessary is that the possibility of future harassment be
26 reasonably probable. (*Harris v. Stampolis* (2016) 248 Cal.App.4th 484, 499.) Petitioner concedes
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Thus far, Respondent has yet to establish that he controls the application process for any public office and, therefore,
would be in a position to assert that this portion of section 1203.4(a)(1) applies to this case.

1 that since the filing of this petition, Respondent has altered portions of the offending content of
2 his website (and tried to pass them off as the only version posted). While Petitioner appreciates
3 these subsequent remedial measures, without this Court intervening there is nothing preventing
4 Respondent from undoing those remedial measures and re-posting private information again
5 when his vitriolic infatuation with Petitioner consumes him anew. An injunction is proper where
6 the enjoined party has abused the right in question before. (*Parisi, supra*, 5 Cal.App. at 1231.)

7 Respondent has shown a willingness to engage in this type of inappropriate conduct
8 before and has failed to completely correct his error. While the Court must exercise great caution
9 in when issuing orders that prohibit speech, the Court can satisfy its duty by tailoring the
10 injunction as precisely as possible. (*Id.*) What Petitioner asks here is simple, specific and
11 narrowly tailored: Respondent may not post online or publish to the public the phone number,
12 license plate, address, zip code of residence, or date of birth of Petitioner or Petitioner's family.

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14 Respectfully Submitted,

15 **FLOYD, SKEREN & KELLY, LLP**
16 A Professional Corporation

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18 **TROY SLATEN**
19 Attorney for Petitioner

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Date: July 3, 2017

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DECLARATION OF TROY W. SLATEN

I, TROY SLATEN, declare:

1. I am the attorney for Petitioner, SEAN WEBER, in the above-entitled action.
2. I am licensed to practice law in the State of California
4. The Petitioner requested and was granted a temporary restraining order in this matter.
5. The case is now set for a trial on the merits as to whether a permanent order shall issue.
6. As to all the information in this motion, it is true and correct for matters that are within my personal knowledge and for all other matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct for matters that are within my personal knowledge and for all other matters I believe them to be true.

Respectfully Submitted,

Dated: 7-3-17



TROY SLATEN, S.B.N. 237468
Attorney for Defendant