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NOV 17 2003
CIVIL ADMINISTRATION

STEIN & SILVERMAN, P.C.
BY: Andrew Lapat, Esquire
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230 South Broad Street, 18TH Floor
Philadelphia, PA. 19102
(215) 985-0255

Attorney for Plaintiffs Dr. Herbert Nevyas
And Dr. Anita Nevyas-Wallace

HERBERT J. NEVYAS, M.D.,
ANITA NEVYAS-WALLACE, M.D.,
and
NEVYAS EYE ASSOCIATES, P.C.,
Plaintiffs
vs.
DOMINIC MORGAN
Defendant.

COURT OF COMMON PLEAS
Philadelphia County

NOVEMBER TERM, 2003
NO.: NOVEMBER 2003

000946

110609

TEMPORARY RESTRAINING ORDER

AND NOW, this 17th day of November, 2003, upon consideration of Plaintiffs'

Verified Complaint, Plaintiffs' Petition for Temporary Restraining Order and for Preliminary

Injunction, ~~in~~ response thereto.

defendants **it is ORDERED + DECREED that**
these Petitions for T.R.O and for Prelim. Injunction are

1. Plaintiffs will suffer irreparable harm and loss if Defendant is permitted to continue to post and maintain a website, "lasiksucks4u.com" that contains substantial defamatory material; and

DENIED.

Ch. Justice

2. Plaintiffs do not have an adequate remedy at law.; and
3. Greater injury will be inflicted upon Plaintiffs by the denial of the temporary injunctive relief than would be inflicted upon Defendant by the granting of such relief, it is hereby **ORDERED** that Plaintiffs' Motion is **GRANTED**. It is further ordered as follows:

- (a) Defendant will immediately remove any reference to Plaintiffs or their medical practice from the website "lasiksucks4u.com"; and

COPIES SENT
RSUANT TO Pa. R.C.P. 236(b)
NOV 18 2003
First Judicial District of Pa.
Jser I.D.: *KG*

DOCKETED

NOV 18 2003

K. GALLAGHER

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HERBERT J. NEVYAS, M.D., :
ANITA NEVYAS-WALLACE, M.D., :
and :
NEVYAS EYE ASSOCIATES, P.C., :
Plaintiffs :
vs. :
DOMINIC MORGAN :
Defendant. :

COURT OF COMMON PLEAS
Philadelphia County
NOVEMBER TERM, 2003
NO.:00946

RECEIVED

FEB 06 2004

CIVIL ADMINISTRATION

ORDER

AND NOW, this 2 day of Feb, 2004, it is hereby ORDERED and

DECREED that Defendant's Cross Motion for Sanctions is DENIED and Plaintiffs' Motion for Reconsideration is **DENIED.**

1. The Order entered by this Court on November 17, 2003 is rescinded.
2. Plaintiffs' Motion for a Temporary Restraining Order is GRANTED.
3. Plaintiffs will suffer irreparable harm and loss if Defendant is permitted to continue to post and maintain a website, "lasiksucks4u.com" that contains substantial defamatory material; and
4. Plaintiffs do not have an adequate remedy at law; and
5. Greater injury will be inflicted upon Plaintiffs by the denial of the temporary injunctive relief than would be inflicted upon Defendant by the granting of such relief.
6. Defendant will comply with the terms of the contract reached in August, 2003, in that Defendant will remove any reference to the Plaintiffs and their medical practice from the website "lasiksucks4u.com"; and
7. Defendant will immediately remove all defamatory statements from the website; and
8. Defendant will stop referring to Plaintiffs in defamatory terms; and

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PURSUANT TO Pa. R.C.P. 236(b)
FEB 10 2004
First Judicial District of Pa.
Case I.D.:

**DEFENDANT'S
EXHIBIT**
C

Chylvestor J

PHILADELPHIA COURT OF COMMON PLEAS
MOTION COVER SHEET

FILED

Control Number:

110609

NOV 07 2003

Civil Administration

(RESPONDING PARTIES MUST INCLUDE
THIS NUMBER ON ALL FILINGS)

NOVEMBER 2003

Month

Term,

Year

No. 000946

FOR COURT USE ONLY

ACTION ASSIGNED TO JUDGE:

Do not telephone Judge for status.
Do not send Judge courtesy copies.

Herbert Nevyas, M.D., Anita Nevyas-Wallace, et al.

Name of Filing Party:

vs.

Plaintiffs

Dominic Morgan

(Check one)

Plaintiff

Defendant

(Check one)

Movant

Respondent

Type of Motion: Plfs' Temporary Restraining Order

Response due:

OR

Response to:

Has another motion been decided in this case?

Yes

No

Is another motion pending?

Yes

No

If the answer to any of the above questions is yes, you must identify the judge, and the relationship of the motion(s) to the present motion, including the status of the motion(s).

Please attach a separate sheet with your statement.

CASE STATUS (answer all questions)

I. Is this case:

A. COMMERCE PROGRAM

Name of Judicial Team Leader:

Applicable Motion Deadline:

Has deadline been previously extended by the Court?

Yes

No

B. DAY FORWARD/MAJOR JURY (Jury Demand & Fee Paid)

Name of Judicial Team Leader:

Applicable Motion Deadline:

Has deadline been previously extended by the Court?

Yes

No

C. NON JURY

Date Listed:

D. ARBITRATION

Arbitration Date:

E. ARBITRATION APPEAL

Listed on:

F. OTHER:

Date Listed:

II.

OTHER PARTIES

(Name, address and telephone number of all counsel of record and unrepresented parties. Attach a stamped addressed envelope for each attorney of record and unrepresented party.)

Andrew Lapat

Stein & Silverman, P.C.

230 S. Broad Street, 18th Fl.

Philadelphia, PA 19102

(215) 985-0255

Mr. Domnic Morgan

3360 Chichester Avenue

#M-11

Boothwyn, PA 19061

M. CORNAGLIA
PRO. PROTHY

NOV - 7 2003

ATTEST

(If needed, use separate sheet to answer)

By filing this document and signing below, the moving or responding party certifies that this motion/petition/response, along with all documents filed in the Motions Program, will be immediately served upon all counsel and unrepresented parties in accordance with Phila. Civil Rule *206.1(C). Furthermore, the moving or responding party verifies that the answers made herein are true and correct and understands that sanctions may be imposed for inaccurate or incomplete answers.

Signature (Attorney/Unrepresented party)

Andrew Lapat 55673

(Print Name)

(Attorney I.D. No.)

This Motion will be forwarded to the Court after the Response Date. No extension of the Response Date will be granted even if the parties so stipulate.

STEIN & SILVERMAN, P.C.
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Attorney for Plaintiffs Dr. Herbert Nevyas
And Dr. Anita Nevyas-Wallace

HERBERT J. NEVYAS, M.D.,	:	COURT OF COMMON PLEAS
ANITA NEVYAS-WALLACE, M.D.,	:	Philadelphia County
and	:	
NEVYAS EYE ASSOCIATES, P.C.,	:	NOVEMBER TERM, 2003
Plaintiffs	:	NO.:
vs.	:	
DOMINIC MORGAN	:	
Defendant.	:	
	:	

RULE TO SHOW CAUSE WHY PRELIMINARY INJUNCTION SHOULD NOT ISSUE

Upon consideration of Plaintiffs' Verified Complaint, Plaintiffs' Petition for Temporary Restraining Order and for Preliminary Injunction, any response thereto,

IT IS ORDERED that Defendant show cause before this Court on the _____ day of November, 2003 at _____ in Courtroom ____, or as soon thereafter as counsel can be heard, why a Preliminary Injunction providing the relief sought in the accompanying Petition should not be entered; and

IT IS FURTHER ORDERED that Plaintiff shall cause a copy of this Rule, along with a copy of the Complaint and the aforesaid Petition and accompanying papers, to be served upon Defendant at least five (5) days before the day of the hearing.

BY THE COURT:

J.

STEIN & SILVERMAN, P.C.
BY: Andrew Lapat, Esquire
Attorney Identification No. 55673
230 South Broad Street, 18TH Floor
Philadelphia, PA. 19102
(215) 985-0255

Attorney for Plaintiffs Dr. Herbert Nevyas
And Dr. Anita Nevyas-Wallace

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ANITA NEVYAS-WALLACE, M.D.,	:	Philadelphia County
and	:	
NEVYAS EYE ASSOCIATES, P.C.,	:	NOVEMBER TERM, 2003
Plaintiffs	:	NO.:
vs.	:	
DOMINIC MORGAN	:	
Defendant.	:	
	:	

TEMPORARY RESTRAINING ORDER

AND NOW, this ___ th day of November, 2003, upon consideration of Plaintiffs' Verified Complaint, Plaintiffs' Petition for Temporary Restraining Order and for Preliminary Injunction, any response thereto, and having determined that:

1. Plaintiffs will suffer irreparable harm and loss if Defendant is permitted to continue to post and maintain a website, "lasiksucks4u.com" that contains substantial defamatory material; and
2. Plaintiffs do not have an adequate remedy at law.; and
3. Greater injury will be inflicted upon Plaintiffs by the denial of the temporary injunctive relief than would be inflicted upon Defendant by the granting of such relief, it is hereby **ORDERED** that Plaintiffs' Motion is **GRANTED**. It is further ordered as follows:
 - (a) Defendant will immediately remove any reference to Plaintiffs or their medical practice from the website "lasiksucks4u.com"; and

- (b) Defendant will comply with the terms of the contract reached in August, 2003 - Defendant will remove any reference to the Plaintiffs and their medical practice and remove any defamatory statements about the Plaintiffs; and
- (c) Defendant will immediately remove all defamatory statements from the website
- (d) Defendant will stop referring to Plaintiffs in defamatory terms; and
- (e) This Temporary Restraining Order shall continue in effect until further Order of this Court.
- (f) A Rule to Show Cause Why a Preliminary Injunction Should Not be Ordered will issue; and
- (g) This Order will be effective immediately upon presentation to this Court of Plaintiffs' bond in the amount of \$_____.

BY THE COURT:

J.

STEIN & SILVERMAN, P.C.
BY: Andrew Lapat, Esquire
Attorney Identification No. 55673
230 South Broad Street, 18TH Floor
Philadelphia, PA. 19102
(215) 985-0255

Attorney for Plaintiffs Dr. Herbert Nevyas
And Dr. Anita Nevyas-Wallace

<hr/>	:	COURT OF COMMON PLEAS
HERBERT J. NEVYAS, M.D.,	:	Philadelphia County
ANITA NEVYAS-WALLACE, M.D.,	:	
and	:	
NEVYAS EYE ASSOCIATES, P.C.,	:	NOVEMBER TERM, 2003
Plaintiffs	:	NO.:
vs.	:	
DOMINIC MORGAN	:	
Defendant.	:	
<hr/>	:	

PLAINTIFFS' PETITION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Plaintiffs, by their undersigned counsel, respectfully petition this Court for an Order granting a Temporary Restraining Order and for a Preliminary Injunction pursuant to Pennsylvania Rule of Civil Procedure 1531, and in support thereof alleges as follows:

1. As set forth more fully in the Complaint, a copy of which is attached hereto as Exhibit 1, and the Affidavit of Herbert J. Nevyas, M.D., attached hereto as Exhibit 2, Defendant has violated an agreement not to place defamatory material concerning the Plaintiffs and their medical practice on his website, "lasiksucks4u.com." Defendant's defamation has caused and continues to cause substantial harm to Plaintiffs' reputation. Plaintiffs had previously reached an agreement with Defendant in which Defendant would remove all references to the Plaintiffs and their medical practice and all defamatory statements from the website. In return, Plaintiffs agreed to refrain from filing a lawsuit. Defendant has breached his agreement with the Plaintiffs and therefore Plaintiffs need legal redress. Plaintiff learned of the current state of the website from a patient on or about November 3, 2003.

2. On November 7, 2003, Plaintiff caused a copy of the verified Complaint, with exhibits, and this Petition, excluding all exhibits, to be served by email on the Defendant's website upon the Defendant. Further efforts for service and notification of the Defendant are set forth in the Affidavit of Service.

3. On November 7, 2003, Plaintiff filed its verified Complaint with this Court. A true and correct copy is attached hereto as Exhibit A and made a part hereof.

4. Unless the requested Temporary Restraining Order and Preliminary Injunction are granted, Plaintiff will suffer immediate and irreparable harm which cannot be compensated by damages by reason of Defendant's defamatory conduct.

- (a) Defendant was disappointed with the outcome of Lasik surgery performed by Plaintiffs.
- (b) Defendant wanted revenge against Plaintiffs and created the website "lasiksucks4u.com." In the website, Defendant repeatedly defamed Plaintiffs accusing them of professional incompetence, greed, lying, violating the law, a lack of concern for their patients, and being part of a corrupt system that prevent Lasik patients from being successful in court.
- (c) Plaintiffs became aware of the website through an anonymous phone call. After discussions with Defendant's attorney in the malpractice action, it was agreed that Defendant would remove all defamatory material and all references to the instant Plaintiffs. In response, the Plaintiffs agreed not to sue Morgan for his malicious, false and defamatory statements.

- (d) Defendant removed the defamatory material and all references to the Plaintiffs and their medical practice. In return, Plaintiffs did not file suit.
- (e) On or about November 3, Plaintiff was informed by a patient that the website again contained references to Plaintiffs and was replete with defamatory material. Again Defendant accused Plaintiffs of professional incompetence, greed, lying, violating the law, a lack of concern for their patients, and being part of a corrupt system that prevent Lasik patients from being successful in court. Specific examples are set out in the Complaint and accompanying Memorandum of Law.

5. Plaintiff has no adequate remedy at law.

6. Defendant will nor suffer any appreciable injury if this Petition is granted because the status quo will be restored, and defendant will be restrained from making and reference to Plaintiffs and their medical practice on the website and from publishing defamatory statements on the website.

7. Defendant's wrongful conduct is actionable; the rights of the Plaintiff are clear and plaintiff is likely to succeed on the merits of its claims.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter an Order in the form attached hereto.

Date: November 7, 2003

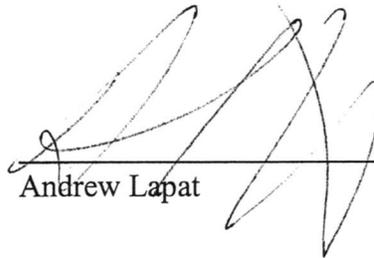
Respectfully Submitted,



Andrew Lapat,
Attorney for Plaintiffs

VERIFICATION

Andrew Lapat hereby states that I am attorney for Plaintiffs in the within matter; I verify that the statements made in the foregoing **Petition for Temporary Restraining Order and Preliminary Injunction** are true and correct to the best of my knowledge, information and belief; I understand these statements made are subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.


Andrew Lapat