

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

RECEIVED
JUN 02 1998
PAUL H. KING

HONORABLE WILLIAM L. DWYER
MAGISTRATE JUDGE PHILIP K. SWEIGERT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WILLIAM A. SHEEHAN III,

Plaintiff,

v.

KING COUNTY, EXPERIAN aka TRW, a
corporation registered in the State of Ohio,
TRANS UNION, a corporation in the State of
Delaware, CBI/EQUIFAX is a corporation
registered in the State of Georgia, EXECUTIVE
REPORTING SERVICES CORPORATION
registered in the State of Washington, SCA
CREDIT, UNITED COLLECTIONS,
NATIONWIDE CREDIT, CATHY GEHRING
and her husband JOHN DOE GEHRING, King
County, Bellevue Police Officers JAMES
LINDQUIST and his wife JANE DOE
LINDQUIST, RAYMOND LOFINK and his
wife JANE DOE LOFINK, Detective RAJH
JOHAL and his wife JANE DOE JOHAL,

Defendants.

NO. C97-1360 WD

TEMPORARY RESTRAINING ORDER

THIS MATTER came before the Court for hearing on Defendant and Counter-
Plaintiff Experian Information Solution, Inc.'s ("Experian") motion for a temporary restraining
order against Plaintiff and Counter-Defendant William A. Sheehan III. Now, the Court having

TEMPORARY RESTRAINING ORDER - 1
[27576-0001 SL981530 066]

PERKINS COIE LLP
1201 Third Avenue, 40th Floor
Seattle, Washington 98101-3099
(206) 583-8888

1
2 considered Experian's motion, the declarations filed in support thereof and other evidence
3
4 provided in support of the motion, the Verified Complaint and arguments of counsel, the
5
6 Court hereby makes the following Findings of Fact and Conclusions of Law.
7
8
9

10 FINDINGS OF FACT

11 1. Experian has provided both oral and written notice to Counter-Defendant
12 William A. Sheehan III of its intent to file for a temporary restraining order.
13

14 2. Experian also contacted Counter-Defendant William A. Sheehan III through
15 his attorney in an effort to work out an amicable resolution of the issues which form the basis
16 for its requested injunctive relief.
17
18
19

20 3. Counter-Defendant has refused to cease and desist from the offending conduct
21 sought to be enjoined.
22
23

24 4. One of Experian's significant businesses is issuing consumer credit reports.
25 Experian is one of three major credit reporting agencies in the United States.
26
27

28 5. As part of its business, Experian has in place reasonable procedures as required
29 by law to assure that the information it reports about consumers is accurate. The accuracy of
30 the information Experian reports is essential to Experian's business because Experian's
31 subscribers must be able to rely on that information in deciding whether to extend credit.
32
33
34

35 6. Counter-Defendant has a web site on the Internet at <http://billsheehan.com>,
36 which he created, maintains and continually updates.
37
38

39 7. Counter-Defendant has maintained his web site since at least February of 1997.
40

41 8. Counter-Defendant's web site contains defamatory statements about Experian,
42 its employees and lawyers and disparaging statements about Experian's credit reports.
43
44
45
46
47

1
2 9. Under the heading, Experian Information Solutions, the web site states: "We'll
3
4 Fuck Up Your Credit Just for Fun." The site refers to Experian as a "criminally insane
5
6 corporation." The site uses profanity to refer to Experian's CEO and counsel.
7

8 10. The web site includes a map showing the location of Experian's chief executive
9
10 officer's home, along with his home phone number.
11

12 11. Since at least February 1997, Plaintiff has admitted that the statements he
13
14 places on his web site have led him to believe that the individuals who visit his web site and
15
16 read his statements may be incited to engage in violent acts against those individuals who are
17
18 the subject of the web site. Thus, Plaintiff has been on notice since at least February of 1997,
19
20 if not before, that his web site had the real potential to cause and, in fact was causing, others
21
22 to attack or engage in other acts of violence, intimidation or harassment against those
23
24 individuals whose information was posted on the web site. Plaintiff also admittedly recognizes
25
26 the threat that his web site poses to those individuals whose personal information is listed on
27
28 the site.
29

30 12. The tone of the web site maintained and created by Plaintiff invites others to
31
32 harass, threaten or attack those individuals whose personal information is posted on the web
33
34 site or its links.
35

36 13. Plaintiff has published the information on his web site to thousands of readers.
37
38 As of May 31, 1998, Plaintiff's web site had received 49,346 hits according to a box on the
39
40 site itself. The web site indicates that it has last been updated on June 1, 1998.
41

42 14. Plaintiff's actions in placing defamatory, disparaging and personal information
43
44 about Experian, its agents and employees on his web site are without justification.
45
46
47

1
2 15. No amount of monetary damages can remedy the ongoing harm caused by the
3 information on Plaintiff's web site.
4

5
6 16. A temporary restraining order against Plaintiff and Counter-Defendant
7 William A. Sheehan III, as provided below, is necessary until a hearing can be held on
8 Experian's motion for a preliminary injunction.
9

10
11
12
13
14 **CONCLUSIONS OF LAW**

15 1. The Court has jurisdiction over Counter-Defendant William A. Sheehan III and
16 the subject matter of this action.
17

18
19 2. Experian's efforts to contact Counter-Defendant were reasonable and
20 substantially complied with the requirements of Federal Rule of Civil Procedure 65.
21

22
23 3. Under the traditional formulation utilized by the Ninth Circuit, the Court
24 should consider
25

26
27 (1) the likelihood of the moving party's success on the merits; (2) the
28 possibility of irreparable harm to the moving party if relief is not
29 granted; (3) the extent to which the balance of hardships favors the
30 respective parties; and (4) in certain cases, whether the public interest
31 will be advanced by granting the preliminary relief.
32

33
34 Miller ex rel. NLRB v. California Pacific Medical Center, 19 F.3d 449, 456 (9th Cir. 1994)
35 (en banc).
36

37
38 4. Based on the Findings of Fact set forth above, there is a strong likelihood that
39 Experian will succeed on the merits of its claim.
40

41
42 5. Experian will suffer irreparable harm if Counter-Defendant is not enjoined.
43

44 6. The balance of hardships tips sharply in favor of issuing the requested
45 injunction.
46
47

1
2 7. Granting the requested Temporary Restraining Order would advance the public
3
4 interest.

5
6 8. None of the requested relief in any way violates Counter-Defendant's
7
8 constitutional rights because the harassing and threatening nature of his speech is dedicated to
9
10 inciting lawless conduct and, thus, falls outside the protection of the First Amendment.
11
12

13 **TEMPORARY RESTRAINING ORDER**
14

15 Now, therefore, it is hereby ORDERED as follows:
16

17 1. Counter-Defendant William A. Sheehan III and all of his officers, agents,
18
19 servants, employees and attorneys, and persons in active concert or participation with them
20
21 who receive actual notice of this order, are hereby enjoined until _____m. on the
22
23 ____ day of _____, 1998 or until such other time as may be ordered by the
24
25 Court, from posting on the web site found at <http://billsheehan.com>, or any other web site, any
26
27 false or defamatory statements about Experian, its employees or agents, or any other language
28
29 specifically calculated to induce others to harass, threaten or attack Experian, its employees or
30
31 agents, including, but not limited to, their social security numbers, home phone numbers and
32
33 maps to their homes.
34

35 2. A hearing on Experian's motion for preliminary injunction shall be scheduled
36
37 for the ____ day of _____, 1998 at ____m.
38
39
40
41
42
43
44
45
46
47

1
2 3. _____ Bond is hereby waived.
3
4 _____ Experian shall promptly post a bond of \$ _____ with the
5
6 Clerk of the Court.
7

8 Dated this _____ day of _____, 1998.
9
10

11
12
13 Presented by:

United States District Judge

14
15
16 **PERKINS COIE**
17

18
19 By _____
20

21 Joe Silvernale, WSBA #22001

22 Attorneys for Experian Information Solutions, Inc.
23

24 **OF COUNSEL**

25 **JONES, DAY, REAVIS & POGUE**

26 Anne C. Auten, Esq., *admitted pro hac vice*

27 77 West Wacker

28 Chicago, Illinois 60601-1692

29 Attorneys for Experian Information Solutions, Inc.
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

TEMPORARY RESTRAINING ORDER - 6

[27576-0001/SL981530.066]

PERKINS COIE LLP
1201 Third Avenue, 40th Floor
Seattle, Washington 98101-3099
(206) 583-8888