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Michael M. Edelstein
PO Box 811043
Los Angeles, CA 90081
818-897-5494
Plaintiff In Pro Per

2010 MAY 24 PM 3:25
CLERK, U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY 

**United States District Court
Central District of California**

MICHAEL M. EDELSTEIN,)
) PLAINTIFF,)
))
) vs.)
))
GOOGLE INC.,)
) DEFENDANT(S).)
_____)

Case No: CV10 - 01847 DMG (SHx)

**EX PARTE APPLICATION FOR TRO AND
PRELIMINARY INJUNCTION STAYING
ENFORCEMENT OF GOOGLE INC.:
michaeledelsteinsslandercampaigns.blogspot.com
UNTIL FURTHER ORDER OF THIS COURT**

Plaintiff Michael M. Edelstein applies to the Court ex parte for a Temporary Restraining Order and Preliminary Injunction prohibiting Google Inc. from displaying on the world wide web Michael M. Edelstein's copyrighted image and Plaintiffs name on:
www.michaeledelsteinsslandercampaigns.blogspot.com and www.google.com.

The undersigned Plaintiff has advised counsel for Defendant that such an ex parte request on 5.17.2010 will be made in this court. Counsel for defendant has objected to the motion (see Declaration of Plaintiff In Pro Per Michael M. Edelstein.)

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MEMORANDUM IN SUPPORT

I. Introduction

This Court should immediately issue a Temporary Restraining Order and Preliminary Injunction staying Google Inc. a California corporation working in collusion and partnership with anonymous parties cyberstalking website on:

www.michaeledelsteinsslandercampaigns.blogspot.com and www.google.com (search engine) post Michael Edelstein's professional name and copyrighted image, with malicious intent, employing false copyright management information, with false law enforcement identification, concealing valid copyright information with authors copyrighted image. See Chris Gregerso v. Vilana Financial, Inc., a Minnesota Corporation; and Vilana Realty, Inc., a Minnesota Corporation, No.: 06-cv-01164 (ADM/AJB), and Michaels v. Internet Entertainment Group, Inc., et al., Pamela Anderson Lee, Intervenor, v. Internet Entertainment Group, Inc., et al. Case No. CV 98-0583 DDP (CWx) Filed September 14, 1998. Aeroground, Inc. v. City & County of San Francisco (ND Cal 2001) 170 F Supp2d 950, 954. El Pollo Loco, Inc v. Hashim (9th Cir 2003) 316 f3d 1032, 1038.

Plaintiff seeks a Temporary Restraining Order and Preliminary Injunction (1) direct copyright infringement in violation of Title 17 U.S.C. § 502 (a), (j), (1), (i), (iii), § 1203 (1). (2) violation of California Civil Code § 980 a. (1). (3) California Code Civ. Proc. §527.6. (a), (b), (4) 15 U.S.C. §1125, (5) Federal Anti-Cyber-Stalking Law 47 U.S.C. § 223. Plaintiff seeks removal of author Michael M. Edelstein's copyrighted image and name from Google Inc., www.google.com (search engines); www.blogspot.com websites, posting or maintaining on the Internet and World Wide Web, any web page, directly or indirectly, that includes, in its file name, URLs, Metags or text, all Internet search engines, registers or other persons, wherever located, in concert with them associated links at: michaeledelsteinsslandercampaigns.blogspot.com.

1 To grant a preliminary injunction, the court examines these factors: (1) whether there is
2 a substantial likelihood that plaintiff will prevail on the merits; (2) whether the plaintiff will
3 suffer immediate irreparable injury if the injunction is not granted; (3) balance of hardship, a
4 comparison of the harm to defendant in issuing an injunction versus the harm to plaintiff in
5 withholding it, which on balance favors the plaintiff; (4) an inadequate remedy at law; (5) no
6 third parties will be unjustly injured and the public interest served.

7
8 **II. Petitioner is likely to succeed on the merits**

9 Michael M. Edelstein is a member of the Screen Actors Guild and uses his name
10 professionally as an actor, private contractor. The name Michael M. Edelstein is duly registered
11 with the guild. The website www.michaeledelsteinsslandercampaigns.blogspot.com and
12 www.Google.com (search engines) applies titles with Plaintiffs name and altered,
13 modified image with titles such as:
14

15 “THINKING OF EMPLOYING MICHAEL EDELSTEIN, THE HIDEOUS FACE OF AN
16 INTERNET SLANDERER - MICHAEL EDELSTEIN, MICHAEL EDELSTEIN’S LATEST
17 DISGUISE, YOU MIGHT BE THE NEXT VICTIM.” The website
18 www.michaeledelsteinsslandercampaigns.blogspot.com infringes on plaintiffs name on Internet
19 searches to deliberately damage, annoy, hinder and harass plaintiff finding gainful employment,
20 and cause plaintiff public shame and disgrace. See Polich v. Nahmod, \No. CC2008-149566
21 (Ariz. Just. Ct., North Valley filed July 11, 2008). Preliminary injunction issued (Sept. 26,
22 2008). Cornwell v. Sachs, 99 F.Supp. 2d 695, 2000 U.S. Dist. LEXIS 10823 (E.D.Va. 2000).
23 See Exhibit “E” Plaintiffs SAG card.
24
25

1 In the Patricia Cornwell case, Leslie Sachs, the author of *The Virginia Ghost Murders*
2 (1998), claimed there were similarities between his novel and Cornwell's *The Last Precinct*. In
3 2000, he sent letters to Cornwell's publisher, started a web page, and placed stickers on copies of
4 his novel alleging that Cornwell was committing plagiarism. The United States District Court of
5 Eastern Virginia granted Cornwell a preliminary injunction against Sachs, opining that his claims
6 were likely to be found baseless. The court shut down his web site, ordered him to stop affixing
7 the stickers and required booksellers to remove the stickers already on their copies. *Sachs fled to*
8 *Belgium to escape the injunction*. In May 2007, testifying in a Virginia court in her libel suit
9 against Sachs, Cornwell stated that Sachs had accused her in online postings of being a "Jew
10 hater" and "neo-Nazi" who bribed judges, conspired to have him killed, and was under
11 investigation by U.S. authorities.

12 Cornwell asked the court to enforce a broader injunction to stop his online accusations,
13 charging he was engaging in libel and cyberstalking. Sachs chose not to participate in the
14 proceedings. In June 2007 the federal judge, finding actual malice in forty-five false statements by
15 Sachs, ordered the removal of Sachs' defamatory postings until the case was resolved. In
16 December 2007 the court awarded Cornwell \$37,780 in damages to cover the costs of defending
17 against Sachs's internet attacks. It also permanently enjoined Sachs from making the defamatory
18 accusations against Cornwell. Sachs again chose not to participate in the proceedings.

1 Internet cases involving "on-line" injuries, such as copyright infringement, and defamation,
2 have proliferated as the popularity of the Internet for communications and commerce has expanded.
3 In *Shannon Zelma v Market U.S.A.*, 343 N.J. Super 356, decided August 2, 2001, Judge Cuff was
4 presented with an alleged right of state court action arising from the Federal Telephone Consumer
5 Protection Act (47 USCA 227). Likewise, the claim hereunder arises, in part, through the new
6 Federal Anticybersquatting Consumer Protection Act (15 U.S.C. §1125) that makes a person liable
7 in a civil action for trafficking in or using the domain name (URL), *personal name* or famous mark
8 of another, resulting in dilution of the trade name. In this case, Plaintiffs name are the same and are
9 used, exactly, as the URL identifier of a web page that points to the Defendants Google Inc.
10 damaging and infringing website:
11 <http://michaeledelsteinsslandercampaigns.blogspot.com>.
12
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14
15 The www.google.com search engines carry the infringing images, defamatory titles and
16 statements with Plaintiffs professional name throughout the world. The way Internet search
17 engines work is, in part, to respond to queries from the public by returning the location (URL) of
18 web pages that include, in their names, the phrase searched. In this case, if someone searches
19 www.google.com for the Plaintiff's name Michael Edelstein, they will find many links directing the
20 search to Defendant Google Inc. web page: www.michaeledelsteinsslandercampaigns.blogspot.com.
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1 **III. Plaintiff Will Suffer Immediate Irreparable Injury**

2 Stalkers harness the tremendous power of the Web to learn about their prey and to broadcast
3 false information about the people they target. And the Internet - is the same tool they use to
4 investigate and spread terror. One major difference from off-line stalking is that cyberstalkers can
5 also dupe other Internet users into harassing or threatening victims. For example, a cyberstalker
6 may post an inflammatory message to a bulletin board using the name, phone number, or image
7 of the victim. Each subsequent response to the victim, whether from the actual cyberstalker
8 or others, will have the intended effect on the victim, but the cyberstalker's effort is minimal.
9

10
11 California Code Civ. Proc. §527.6. (a) A person who has suffered harassment as defined in
12 subdivision (b) may seek a temporary restraining order and an injunction prohibiting harassment as
13 provided in this section. For the purposes of this section, "harassment" is unlawful violence, a
14 credible threat of violence, or a knowing and willful course of conduct directed at a specific person
15 that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The
16 course of conduct must be such as would cause a reasonable person to suffer substantial emotional
17 distress, and must actually cause substantial emotional distress to the plaintiff.
18

19
20 In the United States, California was the first state to adopt stalking laws, most often identified
21 as a result of the murder of actress Rebecca Schaeffer by Robert Bardo in 1989. Legislation was
22 subsequently passed in 1990, and the nation's first anti-stalking law was passed (Zona, Palarea &
23 Lane, 1998; Coleman, 1997; National Victim Center, 1998b). New York enacted Penal Code
24 240.25 in 1992, which was amended in 1994 (National Victim Center, 1998a)
25

1 Google Inc. via Blogspot.com and google.com working in collusion and partnership with
2 anonymous parties have committed copyright infringement by altering authors copyrighted
3 image, using Plaintiffs name, posting defamatory, libelous statements on www.blogspot.com and
4 www.google.com impugning plaintiffs' character and competence and hindering Plaintiffs efforts
5 to find employment. Further, parties have hacked Plaintiffs email accounts, using confidential
6 and privileged information and posted it online.

7
8 **Cyberstalking** is the use of the Internet or other electronic means to stalk or harass an
9 individual, a group of individuals, or an organization. It may include false accusations,
10 monitoring, making threats, identity theft, damage to data or equipment, or gathering information
11 in order to harass. The definition of "harassment" must meet the criterion that a reasonable
12 person, in possession of the same information, would regard it as sufficient to cause another
13 reasonable person distress.

14
15 A number of key factors of cyberstalking have been identified for this case:

16
17 **False accusations.** Many cyberstalkers try to damage the reputation of their victim and turn
18 other people against them. They post false information about them on websites. They may set up
19 their own websites, blogs or user pages for this purpose. They post allegations about the victim to
20 newsgroups, chat rooms or other sites that allow public contributions.

21
22 **Attempts to gather information about the victim.** Cyberstalkers may approach
23 their victim's friends, family and work colleagues to obtain personal information. They may
24 advertise for information on the Internet. They often will monitor the victim's online activities and
25 attempt to trace their IP address in an effort to gather more information about their victims.

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Encouraging others to harass the victim. Many cyberstalkers try to involve third parties in the harassment. They may claim the victim has harmed the stalker or his/her family in some way, or may post the victim's name and telephone number in order to encourage others to join the pursuit.

False victimization. The cyberstalker will claim that the victim is harassing him/her. Bocij writes that this phenomenon has been noted in a number of well-known cases.

Cal Pen Code 646.9: Stalking

(e) For the purposes of this section, 'harasses' means a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments, or terrorizes the person, and that serves no legitimate purpose. This course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the person.

(f) For purposes of this section, 'course of conduct' means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.

Constitutionally protected activity is not included within the meaning of 'course of conduct.'

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A true cyberstalker's intent is to harm their intended victim using the anonymity and untraceable distance of technology. Cyberstalking is a technologically-based "attack" on one person who has been targeted specifically for that attack for reasons of anger, revenge or control.

Cyberstalking can take many forms, including:

- 1. harassment, embarrassment and humiliation of the victim
- 2. emptying bank accounts or other economic control such as ruining the victim's credit score
- 3. harassing family, friends and employers to isolate the victim
- 4. scare tactics to instill fear

Cyberstalking, which is simply an extension of the physical form of stalking, the electronic mediums such as the Internet are used to pursue, harass. Given the vast distances that the Internet spans, this behavior will never manifest itself in the physical sense but this does not mean that the pursuit is any less distressing. There are a wide variety of means by which individuals may seek out and harass individuals even though they may not share the same geographic borders, and this may present a range of physical, emotional, and psychological consequences to Plaintiff.

1 Lisa Rosier, of the Queensland Police Service who was trained by the Los Angeles Police
2 Department states: "If a person is making these threats from the US, then there is little chance that
3 the threat can be carried out" (The Australian, 1998). Rosier also points out that the psychological
4 torment may still be very real, even in the absence of a distinct physical threat It has been
5 estimated that approximately 20,000 Americans are being stalked at the moment
6 (D'Amico, 1997), with somewhat more liberal estimates ranging as high as 200,000 (Jenson,
7 1996). Further estimates suggest that as many as one in 20 adults will be stalked in their lifetime
8 and that up to 200,000 exhibit a stalkers traits (Tharp, 1992). deliverance of their threat. The
9 Centre for Disease Control conducted an extensive telephone survey, funded by the National
10 Institute of Justice, of 8000 men and 8000 women inquiring about their experiences with stalking.
11 Their results indicate that approximately 8% of [US] women and 2% of [US] men have been
12 stalked at some time in their life.
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1 **VI. Balance of Hardship**

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3 Google Inc. posts authors, copyrighted image, along with Plaintiffs name with
4 no legitimate or valid reason other than to damage, injure, annoy, harass plaintiff, from finding
5 gainful employment, injuring plaintiffs reputation, causing plaintiff damage and distress on the
6 Internet with a viewership of millions daily with such statements as:

7 “We have an overwhelming response to our warnings about employing mentally unstable
8 Michael Edelstein. It turns out that when he applies for work (remember he does so only to
9 later either extort money from his employers or steal from them or both). Michael Edelstein has
10 been released from his latest stretch in prison, Michael Edelstein has served time for lewd
11 conduct, attempting sexual battery, transmitting harmful materials to a minor, An Internet
12 Fraudster and Vicious Lunatic, Michael Edelstein is wanted by Interpol in Germany.”

13 See STAR PUBLISHING CO. an Arizona Corporation v. DAVID STINE, ARRON
14 PHILLSBURY, DAMON PILLSBURY, JAMES RAPP, and NICK FREYTAG, No. CIV-09-90-
15 TUC-DCB TEMPORARY RESTRAINING ORDER granted March 9, 2009.

16
17 Defendant Google Inc., by using Plaintiffs name Michael Edelstein, (1) engaged in
18 misrepresentation to harass and injure; (2) surely knew of that falsity; and (3) by using the name
19 “michael edelstein” web page to direct traffic to the blogspot.com site and Google search engines,
20 intended others to rely on the misrepresentation; (4) such reliance would be reasonable, as the
21 search engines act in concert. Further, at the bottom of the Google search engines, page links are
22 provided for recent searches with Plaintiffs name Michael Edelstein, Michael M. Edelstein, Mike
23 Edelstein, Michael M which will produce and provide the link:
24 www.michaeledelsteinsslandercampaigns.blogspot.com.
25

1 **VII. No Third Parties Will Be Unjustly Injured and The Public Interest Served**

2 I am coming to the court for relief from the constant attacks of the listed site, propelled
3 further with www.google.com search engines. No one will be injured or harmed if
4 this Court removes Plaintiffs copyrighted image and professional name from the listed website
5 nor will it effect site content. It would be in the publics interest to remove this damaging,
6 cyberstalking hate site, that's only true intention is to injure, annoy, and harass Plaintiff and
7 hindering Plaintiffs attempts to find employment. It would cost Google Inc. nothing to delete
8 Plaintiffs copyrighted image and professional name on the websites:

9
10 www.michaeledelsteinslandercampaigns.blogspot.com and www.google.com.

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13 **VIII. Inadequate Remedy at Law**

14 In an eight month period a constant and continuous battle has ensued with Google Inc.'s
15 www.google.com search engine and website blogspot.com to remove authors/Plaintiffs
16 images and Plaintiffs name via both federal and state privacy laws, copyright laws, cybersquatting,
17 cyberstalking and a host of other laws pertinent to harassment and copyright. When Plaintiff
18 files online notifications and email communications regarding one copyrighted image, images
19 are removed. After a period of weeks or months, the site in question simply reposts
20 other images and damaging postings. Google Inc. have refused my repeated demands
21 claiming First Amendment issues and statutes under federal law, limiting Defendants
22 liability regarding site content. Google Inc. further claims that if I want the
23 listed image, name and links removed I will have to file a lawsuit and obtain an injunction.
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1 Reviewing Google Inc. listed service terms and conditions for blogspot.com regarding
2 Google account holders:

3
4 *"Many Google Services do not have account holders or subscribers. For Services that do,*
5 *such as Blogger, Google will, in appropriate circumstances, terminate repeat infringers. If*
6 *you believe that an account holder or subscriber is a repeat infringer, please follow the*
7 *instructions above to contact Google's DMCA agent and provide information sufficient for us*
8 *to verify that the account holder or subscriber is a repeat infringer."*

9
10 Plaintiff is stunned and outraged with Google Inc.'s corporate arrogance and immaturity, even
11 ignoring and defying there own guidelines as listed for blogspot.com. Plaintiff only avenue for relief
12 with the disputed infringement and the use of Plaintiffs professional name is the Federal Court
13 system against Google Inc. Judicial intervention is necessary in an era where the Internet has
14 become an important and effective medium for communicating information - or, as in this case,
15 false and misleading information tantamount to counterfeiting the identity of Plaintiff and solely to
16 damage and injure Plaintiff.

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19 **VIII. Only a Minimal or No Security Bond Should Be Required**

20
21 Upon the issuance of a temporary restraining order or preliminary injunction in this matter,
22 Plaintiff should only be required to provide a minimal security bond. While the Rules of Civil
23 Procedure provides that security must be given upon the issuance of a temporary restraining order or
24 preliminary injunction is at the discretion of the court. The fact that Plaintiff is indigent and filed In
25 Forma Pauperis, since the action does not involve any monetary issues, real estate, personnel property
but simply a free blogging website that is damaging Plaintiff, I am asking that the bond be waived.

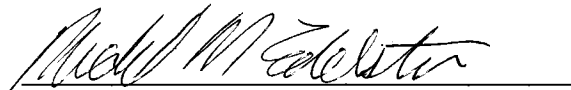
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2 **X. Conclusion**
3

4 In conclusion, the Plaintiff asks the Court to grant a temporary restraining order and
5 preliminary injunction against Defendant, Google Inc. to stop publishing infringing images
6 and Plaintiffs name on the Internet by way of misleading websites (URLs):

7 www.michaeledelesteinsslandercampaigns.blogspot.com and www.google.com
8

9 search engines. Furthermore, the nature of the issues in this case, cyberstalking, harassment,
10 infringement call for immediate judicial intervention, due to the vastness of the Internet, the
11 potential dilution of Plaintiff's name and reputation, and the complex issue of stopping such abuse
12 on the Internet. There is no adequate remedy at law and only an injunction, running to the
13 Defendant Google Inc. will adequately protect the rights asserted herein.
14

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16 DATED: 5-20-2010
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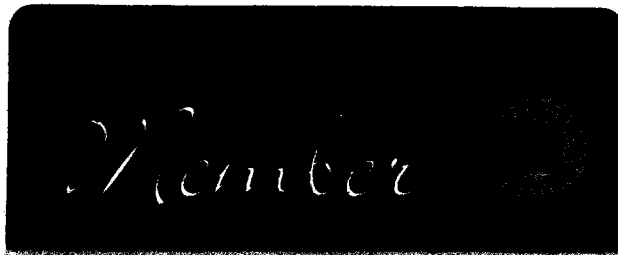
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21 (signature)

22
23 MICHAEL M EDELSTEIN
24

25 (name)

Plaintiff In Pro P



ASSOCIATED ACTORS & ARTISTS OF AMERICA/AFL CIO

MEMBER NAME
Michael M Edelstein
MEMBER SINCE
2009

MEMBER NUMBER
01012625
EXPIRES
October 31, 2010

EXHIBIT "E"