

1 EDWARD J. MCINTYRE [SBN 80402]
emcintyre@swsslaw.com
2 SOLOMON WARD SEIDENWURM & SMITH, LLP
401 B Street, Suite 1200
3 San Diego, California 92101
Telephone: (619) 231-0303
4 Facsimile: (619) 231-4755

5 Attorneys for Pacific Law Center and Solomon
Ward Seidenwurm & Smith, LLP
6
7

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10

11 PACIFIC LAW CENTER, a Professional Law
Corporation; and SOLOMON WARD
12 SEIDENWURM & SMITH, LLP,

13 Plaintiffs,

14 v.

15 SHAHROKH SAADAT-NEJAD, an
individual,

16 Defendant.
17

CASE NO. 07-CV-00460 LAB (POR)

**MEMORANDUM IN SUPPORT OF ORDER
TO SHOW CAUSE RE SAADAT-NEJAD'S
CONTEMPT OF THIS COURT'S APRIL 26,
2007 PRELIMINARY INJUNCTION ORDER**

Date: July 12, 2007
Time: 12:00 noon
Courtroom: 9

Hon. Larry Alan Burns

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

I
INTRODUCTION

It was predictable; indeed, perhaps it was inevitable. This Court, however, gave Saadat-Nejad every fair warning that, if he violated this Court's injunction order, there would be consequences. He pushed the limit and crossed the line the Court drew. Now he faces those consequences.

II
BRIEF CHRONOLOGY OF SIGNIFICANT EVENTS

On March 29, 2007, this Court entered a temporary restraining order against Saadat-Nejad.¹ In addition, the Court patiently explained to Saadat-Nejad what he could, and could not, do.²

On April 26, 2007, this Court converted its temporary restraining order to a preliminary injunction.³ At that hearing, this Court again carefully explained what Saadat-Nejad could not do and what would happen if he disobeyed this Court's order.⁴

III
THE MARCH 29 HEARING

At the temporary restraining order hearing, the Court admonished Saadat-Nejad what the Court's order prohibited:

So its that kind of pushing-the-limit stuff that I read between the lines here. That's what the gist of this case is ... But as I said, what you can't do is cross the line and try to capitalize on confusion that's generated by registering website domain names that are real close to the ones they already have registered.⁵

* * *

¹ For the Court's convenience, Pacific Law Center and Solomon Ward attach a copy of that temporary restraining order as Exhibit 1 to their notice of lodgment. McIntyre Declaration, ¶ 2.

² The transcript of that hearing is 42 pages, much of it an extended colloquy between the Court and Saadat-Nejad. Pacific Law Center and Solomon Ward attach it as Exhibit 2. McIntyre Declaration, ¶ 3.

³ A copy of this Court's preliminary injunction, issued April 27, 2007, is Exhibit 3. McIntyre Declaration, ¶ 3.

⁴ The transcript of that hearing is 48 pages. Pacific Law Center and Solomon Ward attach it as Exhibit 4. McIntyre Declaration, ¶ 4.

⁵ Transcript, March 29, 11:25-12:11.

1 The registration of a domain name with a slightly different suffice or prefix is
2 designed, as I said, to capture the people that might be confused or to come
3 up on a search engine when somebody is legitimately looking for them. I
4 don't want you to do that. That's what's prohibited.⁶

5 * * *

6 In the meantime, my suggestion to you is don't get chalk on your shoes by
7 coming close to the line. Because if you do that, then I'm going to get
8 annoyed. I'm going to lose patience, and I'm going to think you're playing
9 games in the interim until we have a full-blown hearing on this and I can listen
10 to your position and that of Mr. McIntyre and issue a ruling that is right and
11 legal in my judgment.⁷

12 * * *

13 I am talking about some deliberate attempt, as I said, to jumble the words in
14 such a way that it comes up when somebody is looking for either Mr.
15 McIntyre's firm or Pacific Law Center.⁸

16 The March 29 transcript makes abundantly clear that the Court told Saadat-Nejad
17 what he could not do without violating that order.

18 **IV** 19 **THE APRIL 26 HEARING**

20 Pacific Law Center and Solomon Ward not only sought a preliminary injunction but
21 also an order to show cause for contempt.⁹ This Court issued the preliminary injunction but
22 declined, at that time, to issue an order to show cause. The Court, however, warned Saadat-
23 Nejad:

24 I'm going to give you the benefit of the doubt, but I want to remind you again.
25 I issued a preliminary injunction against you now and the injunction is in
26 effect. I've had two conversations with you where I've delineated what is
27 permissible and what's not, and I think you and I both know, and everybody
28 here, even those that aren't Internet savvy, understand where the line is, what
you can and can't do. If it comes back to me, not through a cache engine, but
there's a new registration of a domain name that involves one of these law
firms such that I look at it and say, hmm, I think what Mr. Saadat is doing is
playing games again. I think he's trying to create a domain name here that's
so similar that if somebody is looking for Solomon Ward or Pacific Law
Center, that they may click on his, and then they're going to be exposed to all
this negative information that he has about them. If that happens, you are
going to be in violation of the injunction, and having spent time with you now

⁶ Transcript, March 29, 22:8-13.

⁷ Transcript, March 29, 27:3-9.

⁸ Transcript, March 29, 27:20-23.

⁹ Saadat-Nejad claimed that the postings then at issue were made before the TRO issued.

1 twice, patiently listened to you, I'm not going to tolerate a violation of the
2 rule. You're going to go to jail, and I say that not to threaten you, but I want
3 you to understand that there's consequences to violating court orders.¹⁰

4 * * *

5 But the difference here is, the examples that I got at our first hearing were
6 registrations that you made— ... —that were, in my judgment, designed to
7 confuse people. They were designed to catch the people that didn't have the
8 precise web addresses for Pacific Law Center and for Solomon Ward, and then
9 they pull up a page and all of the sudden the message would be something
10 quite different from what they were looking for, what they expected, and you
11 were trading on that. I think you were doing that deliberately. I'll accept now
12 that you are not doing that any more.¹¹

13 * * *

14 Anything like that that takes the name of one of these firms and morphs it in a
15 slight way, but it still comes up if I were to, for example, put a plural in there,
16 if I would just put Solomon Ward in there and that would come up.¹²

17 * * *

18 If you come back here having crossed the line or even having chalk on your
19 shoes, you know, from walking close to the line and I get the impression that
20 you're trying to defy the court order deliberately, you're trying to do
21 something that's pushing the envelope, then there's going to be problems. If
22 you violate the court order, then I will schedule an order to show cause, and if
23 you're found in violation after a hearing, you'll be in contempt, and one of the
24 penalties for contempt is going to jail. I don't want to put you in jail, but I
25 want the order to be followed. I don't do this for my health, and it's costing
26 Solomon Ward, it's costing Pacific Law Center, and it's costing you.¹³

27 V

28 THE COURT'S WARNING ABOUT SAADAT-NEJAD'S RACIST RANT

At the April 26 hearing, the Court also addressed the racist content of the papers
Saadat-Nejad filed.

You're a smart fellow. You're a smart fellow. You understood it, and I
understood that you understood it. I mean, I looked you right in the eye and
we chatted for a long time last time, and so, as you can imagine, I'm
disappointed, you know, particularly when I talked to you about the
conventions of the court and being courteous, not to me so much, but to the

¹⁰ Transcript, April 26, 22:12-23:8.

¹¹ Transcript, April 26, 26:15-27:1.

¹² Transcript, April 26, 28:6-10.

¹³ Transcript, April 26, 31:7-18.

1 opponent. You know, we talked about the baseball-bat incident and I said
2 don't do things like that, and then I get this pleading where you're using all
3 these foul terms and making all of these nasty insinuations. I happen not to be
4 Jewish, but this was very offensive to me, some of the things that you said.

5 * * *

6 Well, some people reading this, Mr. Saadat-Nejad, would look at it differently.
7 I mean, they'd look at it differently and think, boy, this guy's a racist. This
8 isn't just a matter of policy where he disagrees with a government or actions
9 taken by a government. This is personal and racist.¹⁴

10 **VI**
11 **THE RESTRICTIONS THE PRELIMINARY INJUNCTION IMPOSED**

12 This Court's preliminary injunction barred Saadat-Nejad from:

- 13 1. Registering and trafficking in any internet website or domain name that
14 contains the words Pacific, Law and Center, with or without other words or symbols, in any
15 respect whatsoever;
- 16 2. Registering and trafficking in any internet website or domain name that
17 contains the words Solomon and Ward, with our without other words or symbols, in any
18 respect whatsoever;
- 19 3. Registering and trafficking in the service mark or trade name Pacific Law
20 Center in any respect whatsoever; and
- 21 4. Registering and trafficking in the service mark or trade name Solomon Ward or
22 Solomon Ward Seidenwurm & Smith in any respect whatsoever.

23 **VII**
24 **SAADAT-NEJAD'S CONDUCT**

25 Saadat-Nejad has done precisely what this Court told him not to do. He has gotten
26 new domain names. He has altered, but only slightly, Pacific Law Center's and Solomon
27 Ward's registered domain names. And then he loaded those websites with his hate-filled
28 diatribe. He even linked the websites so any viewer, with a click or two, is treated to the
full rush of his venom.

¹⁴ Transcript, April 26, 20:5-24.

1 All one has to do is type "Pacific Law Center" or "Solomon Ward" into the Google
2 search engine to find Saadat-Nejad's new handiworks. One of his new domain names is
3 "pacificlawyerscenter.com"—as opposed to the "pacificlawcenters.com" he used before.
4 How do we know it belongs to Saadat-Nejad? Because on it, the Court will find some of the
5 same racist rant Saadat-Nejad put in papers he filed with this Court.¹⁵

6 Saadat-Nejad also now has "civilcasenumbers.com/2007/05/10/solomonwardswsslaw
7 com.aspx." If the Court clicks on that site, the Court will also be taken to the same
8 unvarnished racism. And then there is "sandiegocriminalattorneys.usgovernmentcourt.com
9 /2007/05/10/solomonwardpacificlawcenter.aspx," and "losangelescountylaws.com/2007/05/
10 11/solomonwardattorneypacificlawcentersandiegoduilawyers.aspx," "unitedstatescentralcom
11 mand.com/categories/Pacific%20Law%20Center.aspx," "unitedstatescentralcommand.com/
12 categories/Solomon%20Ward.aspx," and "unitedstatescentralcommand.com/categories/
13 swsslaw.aspx." Saadat-Nejad also uses "phillipslawphillipsandassociatesphoenixarizona
14 dui.aspx," "solomonwardseidenwurmandsmithsandiegorealestateconstructionlitigation
15 attorneyslawyers.aspx"¹⁶ and the "duisandiegodui.com" where the website makes pejorative
16 reference to Pacific Law Center's registered domain name "pacificlawcenter.com;" it also
17 makes a pejorative reference to one of Solomon Ward's registered domain names,
18 "swsslaw.com."¹⁷

19 Pacific Law Center's counsel has "googled" Pacific Law Center and was taken to,
20 among others, the "pacificlawyerscenter.com" website.¹⁸ One of Pacific Law Center's
21 registered domain names is "pacificlawcenter.com."

22 When Solomon Ward's counsel "googled" Solomon Ward, he quickly found, among
23 other sites, "civilcasenumbers.com/2007/05/01/solomonwardswsslawcom.aspx" and
24

25 ¹⁵ Pacific Law Center attaches pages from that website as Exhibit 5. McIntyre Declaration, ¶¶ 6 and 7.

26 ¹⁶ Pacific Law Center and Solomon Ward attach pages from some of those websites as Exhibits 6, 7, 8 and 9.
McIntyre Declaration, ¶¶ 8, 9, 10 and 11.

27 ¹⁷ Pacific Law Center and Solomon Ward attach pages from that website as Exhibit 10. McIntyre Declaration,
¶ 12.

28 ¹⁸ McIntyre Declaration, ¶¶ 7.

1 "sandiegocriminalattorneys.usgovernmentcourt.com/2007/05/01/solomonwardpacificlawcen
2 ter.aspx."¹⁹ Solomon Ward's registered domain names are "solomonward.com," and
3 "swsslaw.com." A click or two and the searcher confronts Saadat-Nejad diatribe.

4 In spite of this Court's admonition at the April 26 hearing, Saadat-Nejad is back
5 before this Court; he is using new domain names that involve both law firms. And when the
6 Court looks at them, the Court must necessarily conclude that Saadat-Nejad is "playing
7 games again." He has domain names that are similar to pacificlawcenter.com,
8 solomonward.com or swsslaw.com. If somebody is looking for Solomon Ward or Pacific
9 Law Center and clicks on any one of Saadat-Nejad's new domain names, he or she is then
10 exposed to his racist rant and hate-filled lies that he has published about them before.

11 This Court warned him:

12 I'm not going to tolerate a violation of the rule. You're going to jail, and I say
13 that not to threaten you, but I want you to understand that there's
consequences to violating court orders.²⁰

14 **VIII**
15 **PACIFIC LAW CENTER AND SOLOMON WARD HAVE ESTABLISHED THE**
16 **CRITERIA NECESSARY FOR THIS COURT TO FIND SAADAT-NEJAD**
IN CONTEMPT OF ITS PRELIMINARY INJUNCTION ORDER

17 Pacific Law Center and Solomon Ward respectfully submit that this is not even a
18 close case.

19 **This Court's Power.**

20 This Court's power to impose contempt sanctions—whether criminal or civil—is in 18
21 U.S.C. § 401(3). Civil contempt is remedial and intended to coerce compliance with the
22 Court's order; criminal contempt is to "vindicate the authority of the court."²¹

23 For civil contempt, Pacific Law Center and Solomon Ward's burden of proof is clear
24 and convincing evidence; for criminal, evidence beyond a reasonable doubt.²²

25
26 ¹⁹ McIntyre Declaration, ¶ 15.

27 ²⁰ Transcript, April 26, 23:4-8.

28 ²¹ *Madrid v. Woodford*, 204 U.S. Dist. LEXIS 23255 *15 (N.D. Cal. 2004), quoting *United States v. Powers*,
629 F.2d 619, 627 (9th Cir. 1980).

²² *Id.*; *In re Dual-Deck Video Cassette Recorder Anti-Trust Litigation*, 10 F.3d 693, 695 (9th Cir. 1993).

1 While willfulness is **not** required for a finding of civil contempt, civil contempt may,
2 nonetheless, be based on willful behavior. “The same conduct may result in **both** civil and
3 criminal contempt charges.”²³

4 **Saadat-Nejad Knew About the Order.**

5 Not only was Saadat-Nejad served with this Court’s order but he was in court when
6 the Court issued the injunction.²⁴ More importantly, at both the March 29 and April 26
7 hearings, this Court painstakingly told Saadat-Nejad—using example after example—what he
8 could not do. The Court also warned Saadat-Nejad over and over that if he crossed the line
9 he would suffer the consequences.

10 Accordingly, there is no question that Saadat-Nejad knew about the order and what it
11 required.

12 **The Order Was Clear.**

13 There was no ambiguity about the order. It was short and simple and told Saadat-
14 Nejad precisely what he could not do. So did the Court at both the March 29 and April 26
15 hearings.

16 **Saadat-Nejad Violated the order.**

17 The injunction barred Saadat-Nejad from registering and trafficking in any internet
18 website or domain name that contains the words Pacific, Law and Center or the words
19 Solomon and Ward, with or without other words or symbols, in any respect whatsoever.
20 The injunction also barred him from trafficking in either Pacific Law Center or Solomon
21 Ward’s service mark or trade name—service marks and trade names in which both firms
22 have invested for years to establish them as emblems of the highest quality professionalism.

23 At both hearings, this Court warned Saadat-Nejad not to “play games” with the
24 Court’s order. Yet that is precisely what he has done. He has “pacificlawyerscenter.com.”
25 He also uses “civilcasenumbers.com/2007/05/10/solomonwardswsslawcom.aspx,”

26
27 ²³ *United States of America v. Laurins*, 857 F.2d 529, 534 (9th Cir. 1988), quoting *United States v. Rose*, 806
F.2d 931, 933 (9th Cir. 1986) (*per curiam*). [Emphasis added.]

28 ²⁴ Transcript, April 26, 12:24-13:11.

1 "losangelescountylaws.com/2007/05/10/solomonwardpacificlawcentersanddui
2 lawyers.com," "intellegence.com/2007/05/26/solomonwardseidenwurmandsmithsandiego
3 realestateconstructionlitigationattorneyslawyers.aspx;" and "sandiegocriminalattorneysus
4 governmentcourt.com/2007/05/10/solomonwardpacificlawcenter.aspx."²⁵

5 At another of his websites—"socommil.com,"²⁶ he includes the link to "pacificlawyer
6 center.com." In another of his websites—"duisandiegodui.com"—he refers pejoratively to,
7 *inter alia*, "pacificlawcenter.com" and "swsslaw.com."

8 **Saadat-Nejad Conduct Was Deliberate.**

9 This is not a instance of inadvertence. In each case, Saadat-Nejad had to take
10 affirmative steps to register his new domain names. He clearly chose domain names, along
11 with other words and symbols, that contain the words Pacific, Law and Center and Solomon
12 and Ward. Or he came so close that he is daring the Court to punish him.

13 One can only draw a single conclusion—he willfully flouted this Court's order.
14 Pacific Law Center and Solomon Ward respectfully submit that on this point, as with all the
15 others, the evidence is overwhelming.

16 Pacific Law Center and Solomon Ward have, at a minimum, met the clear and
17 convincing evidence standard; indeed, they respectfully submit that the evidence is beyond
18 a reasonable doubt.

19 **IX** 20 **RELIEF REQUESTED**

21 Pacific Law Center and Solomon Ward simply want Saadat-Nejad to leave them
22 alone. Thus far, they have spent a lot of money and effort to try to achieve that goal. The
23 Court's two extended colloquies were clearly insufficient to get Saadat-Nejad's attention or
24 to convince him that his conduct was unlawful and would not be tolerated.

25
26 _____
27 ²⁵ Pacific Law Center and Solomon Ward attach pages from that website as Exhibit 11. McIntyre Declaration,
28 ¶¶ 13.

1 **Civil Contempt.**

2 Accordingly, Pacific Law Center and Solomon Ward ask this Court to use its coercive
3 powers—up to and including incarceration—to force Saadat-Nejad immediately to shut
4 down each website that contains any name of one or the other, or both, and to impress on
5 him that he must stop using their names in websites.

6 In addition, Pacific Law Center and Solomon Ward seek an additional order directing
7 the hosts of all Saadat-Nejad's websites immediately to shut them down and not allow him
8 to register or use any website that identifies either Pacific Law Center or Solomon Ward.

9 They are also entitled, as an additional sanction, to an award of their attorneys fees
10 and costs incurred in getting this relief—although, in this case, such an award would be, at
11 best, a hollow victory.

12 **Criminal Contempt.**

13 This Court may also chose to vindicate the Court's authority and punish Saadat-
14 Nejad's conduct. The Court fairly warned him that such was a possibility if he deliberately
15 violated the Court's order. He has not only done so, but done so in spades. Not only that,
16 but he has done so in a manner in which he is deliberately playing games with this Court's
17 order. This Court's orders are entitled to be treated with respect—something that Saadat-
18 Nejad has deliberately chosen not to do.

19 **X**
20 **CONCLUSION**

21 This Court put its finger on the issue at the April 26 hearing. Saadat-Nejad will push
22 the limit every chance he gets. But this time, by flouting and trivializing this Court's orders,
23 he has willfully crossed the line of permissible conduct. Pacific Law Center and Solomon
24
25
26

27 ²⁶ Pacific Law Center and Solomon Ward attach pages from that website as Exhibit 12. McIntyre Declaration,
28 ¶ 14.

1 Ward respectfully request that this Court use the full of its coercive powers to impress on
2 Saadat-Nejad, once and for all, that his behavior will not be tolerated either now or into the
3 future.

4 DATED: June 20, 2007

Respectfully submitted,

5 SOLOMON WARD SEIDENWURM & SMITH, LLP

6

7 By: /s/ Edward J. McIntyre
8 EDWARD J. MCINTYRE
9 Attorneys for Pacific Law Center and Solomon
10 Ward Seidenwurm & Smith, LLP

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

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

CERTIFICATE OF SERVICE

I caused the **MEMORANDUM IN SUPPORT OF ORDER TO SHOW CAUSE RE SAADAT-NEJAD'S CONTEMPT OF THIS COURT'S APRIL 26, 2007 PRELIMINARY INJUNCTION ORDER** to be served in the following manner:

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

Electronic Mail Notice List

NONE.

I manually served the following:

Shahrokh Saadat-Nejad
3713 Mt. Ashmun Place
San Diego, CA 92111
VIA FEDERAL EXPRESS

/s/ Edward J. McIntyre
EDWARD J. MCINTYRE