

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 12-61772-Civ-SCOLA/SNOW

GEOFFREY EDELSTEN,

Plaintiff,

vs.

RAFAEL MAWARDI, *et al.*,

Defendants.

ORDER AMENDING TEMPORARY RESTRAINING ORDER


THIS MATTER is before the Court upon the Plaintiff's Emergency Motion for Preliminary Injunction (ECF No. 17). On September 13, 2012, the Court entered a Temporary Restraining Order as to the Defendants and scheduled a hearing on the Plaintiff's Motion. The Defendants subsequently filed a Motion to Dissolve the Temporary Restraining Order and a Response to the Plaintiff's Motion for a Preliminary Injunction (ECF No. 26). On September 18, 2012, a hearing was held on this Motion before the undersigned.

The Court was dismayed to learn that approximately ten days ago a suit involving the same parties and the same inextricably intertwined issues had been filed by the **Defendants** in the 17th Judicial Circuit Court in and for Broward County, Case No. 12-025285, and that the Plaintiff was aware of that pending suit yet failed to include this significant factor in its Motion to this Court. The Court perceives this as a significant omission. Based on the "first filed" rule of the federal rules of civil procedure, *Barber-Greene Co. v. Blaw-Knox Co.*, 239 F.2d 774 (6th Cir. 1957), it appears that the instant case may have been improperly filed and will be ultimately dismissed based either under this rule or for lack of diversity due to failure to include an indispensable party, Mr. David Levy.

Without admitting any wrongdoing, the Defendants have agreed to entry of an order which prohibits both parties from engaging in certain conduct. Therefore, it is **ORDERED AND ADJUDGED** that an agreed Amended Temporary Restraining Order is hereby issued as follows:

- (1) All parties shall be **ENJOINED AND PROHIBITED** from making extortionate threats toward each other; disseminating any unauthorized photographs of each other; demanding monies from each other in exchange for not disseminating unauthorized photographs of each other; and from publishing on the internet anything negative to the reputation of another party.
- (2) All adverse parties shall be **ENJOINED AND PROHIBITED** from directly communicating with each other and must only communicate through their respective counsel.
- (3) As a condition of this Order, and pursuant to Florida law and Fed. R. Civ. P. 65(c), the Plaintiff shall post a bond in the amount of **\$5,000** by **Tuesday, September 18, 2012 at 2:00 pm** to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.
- (4) This amended temporary restraining order will remain in effect until the court rules on the anticipated Motion to Dismiss to be filed by the Defendants.

DONE and ORDERED in chambers, at Miami, Florida on September 18, 2012.



ROBERT N. SCOLA, JR.
UNITED STATES DISTRICT JUDGE

Copies to:
Designated U.S. Magistrate Judge
Counsel of record