

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
OWENSBORO DIVISION

FORBA HOLDINGS, LLC,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 4:08-cv-00137-JHM-ERG
)	
DEBBIE HAGAN,)	
)	
Defendant.)	

**PLAINTIFF’S MOTION FOR SANCTIONS, TO ENFORCE CONSENT INJUNCTION,
TO SHOW CAUSE AS TO WHY DEFENDANT SHOULD NOT BE HELD IN
CONTEMPT, TO HOLD DEFENDANT IN CONTEMPT, FOR AWARD OF
ATTORNEY’S FEES, THE IMPOSITION OF FINES AND OTHER RELIEF**

The plaintiff, now known as Church Street Health Management, LLC (FORBA Holdings, LLC changed its name to Church Street Health Management, LLC effective December 31, 2010; hereinafter “Plaintiff” or “CSHM”), respectfully moves this Court, pursuant to Fed. R. Civ. P. 70 and LR 7.1(a), for sanctions, to enforce the Consent Injunction in this action, for an order to show cause why the defendant, Debbie Hagan (“Hagan”), should not be held in contempt, for a finding of contempt, an award of attorney’s fees, the imposition of a fine of at least \$10,000 for Hagan’s violations of the Consent Injunction and a fine of at least \$10,000 for each future violation of the Consent Injunction, and the identification of any persons who are providing internal and/or confidential information of Plaintiff. As grounds for this motion, Plaintiff states as follows:

1. On November 17, 2008, Hagan signed the Consent Injunction, stipulating as follows:

As evidenced by the signature below of the defendant, Debbie Hagan (“Hagan”), Hagan has agreed to the entry of an

injunction containing the terms set forth herein. Upon review of Hagan's consent to this injunction and a review of the Verified Complaint and exhibits thereto, the Court finds that Plaintiff's trade secrets and copyrighted information should be protected from misappropriation and infringement, respectively, and that, therefore, the following injunctive relief should be granted to the Plaintiff, as agreed to by Hagan.

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, it is hereby ORDERED that:

A. Hagan, and Hagan's agents, servants, employees, attorneys, and all those persons in active concert or participation with them, are **preliminarily and permanently enjoined from, directly or indirectly, (1) publishing or posting** at the Internet web site maintained by her at the Internet address or URL (universal resource locator) <http://www.dentistthemenace.com>, which URL is redirected to Hagan's blog **at http://debbiehagan.blogspot.com/ or any other location or in any other manner, or making available for access to others in any way, (a) any internal** and/or copyrighted **documents or other information of FORBA** obtained, directly or indirectly, through access to the FORBA FTP Site, <ftp://ftp.forbainfo.com>¹ **and/or (b) any other internal** and/or confidential **FORBA documents or information**; and (2) using or disclosing any documents or information constituting trade secrets of FORBA, including FORBA's marketing materials, marketing strategy information, budgeting materials, recruitment strategy information, spreadsheets and facility information lists; ...

Consent Injunction [Docket Entry No. 11] (emphasis added).

¹ These documents and information shall include, without limitation, the spreadsheet titled "2008 Advertising Budget" (trade secret), the document titled "National Network of Resident Treatment Programs" (trade secret), the spreadsheet titled "Master Center File" (trade secret), the PowerPoint Presentation titled "National Children's Dental Health Month" (copyrighted), the PowerPoint presentation titled "FORBA Final Report" dated October 2, 2007 (trade secret); the PowerPoint presentation titled "FORBA Recruitment Strategy" (trade secret), the memorandum titled "SEM/SEO Tactics" (trade secret), the document titled "Small Smiles August Direct Mail Results" (trade secret), the PowerPoint presentation titled "Direct Response Plan" (trade secret), the white paper titled "Preventative Resin Restorations" (copyrighted), the PowerPoint presentation titled "Guide to Dental Health Screenings" (copyrighted), the memorandum titled "Website Design & Development, Version 3.0" (trade secret) and all information gleaned from the named documents.

2. The Consent Injunction was made permanent by the Court's entry and filing on April 16, 2009, of an "Order Dismissing Action Without Prejudice, with Consent Injunction of November 18, 2008 (Docket No. 11) to Remain in Full Force and Effect" [Docket Entry No. 37].

3. Plaintiff has continued to monitor Hagan's websites, which appear at <http://www.dentistthemenace.com> (redirected to <http://blog.dentistthemenace.com>) and <http://dentistthemenace.wordpress.com> (collectively, the "Hagan Blog"). In addition to her continuing to post highly offensive postings concerning Plaintiff, Hagan has made several recent entries that blatantly violate the Consent Injunction. In making these posts, Hagan has violated the plain terms of the Consent Injunction to which she agreed and which the Court ordered. As such, Hagan should be sanctioned by the Court and held in contempt of Court, Hagan should be ordered to appear at a hearing to show cause why she should not be held in contempt and sanctioned, Hagan should be ordered to remove immediately the referenced information from the Hagan Blog, Hagan should be fined at least \$10,000 for her violations of the Consent Injunction and should be fined at least \$10,000 for any future violations of the Consent Injunction, Plaintiff should be awarded its attorney's fees incurred as a result of Hagan's willful disobedience of the order and judgment of this Court as embodied by the Consent Injunction, Hagan should be ordered to disclose the person(s) providing her with internal and/or confidential information from Plaintiff, which disclosures are unlawful, and the Court should enter other appropriate relief to ensure that its orders are honored and obeyed by Hagan.

4. In further support of this motion, Plaintiff submits herewith the supporting Declaration of Todd Cruse, Senior Vice President, Development, for Plaintiff (filed herewith as **Exhibit A**), excerpts of Defendant's discovery responses (filed herewith as **Exhibit B**), a supporting memorandum of law in accordance with LR 7.1(a), and a proposed order in accordance with LR 7.1(e).

WHEREFORE, Plaintiff prays that this Court:

A. Hold Hagan in contempt of the Consent Injunction and sanction her for her violations of the Consent Injunction;

B. Set a hearing at which Hagan shall show cause why she should not be held in contempt and sanctioned;

C. Order that the blog entries identified in the attached Declaration of Todd Cruse be removed immediately;

D. Fine Hagan at least \$10,000 for her violations of the Consent Injunction;

E. Order that each future violation by Hagan of the Consent Injunction will result in a fine of at least \$10,000;

E. Award Plaintiff its attorney's fees and expenses incurred in connection with obtaining Hagan's compliance with the Consent Injunction;

F. Compel Hagan to disclose the source(s) of Plaintiff's internal and/or confidential information that she continues to receive and post to the Hagan Blog; and

G. Award Plaintiff such further relief as the Court deems just and proper and as is necessary to coerce Hagan's obedience to its orders, including the Consent Injunction, and to fully compensate Plaintiff.

Respectfully submitted,

/s/ Thor Y. Urness

Thor Y. Urness (admitted *pro hac vice*)
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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Sanctions, to Enforce Consent Injunction, to Show Cause as to Why Defendant Should Not Be Held in Contempt, to Hold Defendant in Contempt, for Award of Attorney's Fees, the Imposition of Fines and Other Relief is being served, via U.S. Mail, first class postage prepaid, on this the 2nd day of July, 2011, on:

Debbie Hagan
4453 Strickland Drive
Owensboro, KY 42301-6519

/s/ Thor Y. Urness
Thor Y. Urness