

F I L E D
Clerk of the Superior Court

JUL 12 2017

By: R. CERSOSIMO, Deputy

17 JUL 12 4:00 PM

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO, CENTRAL DIVISION
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11 PROPER MEDIA, LLC, a California limited
12 liability company; CHRISTOPHER RICHMOND,
13 an individual; and DREW SCHOENTRUP, an
14 individual,

15 Plaintiffs,

16 v.

17 BARDAV INC, a California corporation, and
18 DAVID MIKKELSON, an individual,

19 Defendants,

20 BARDAV INC, a California corporation,

21 Cross-Complainant,

22 v.

23 PROPER MEDIA, LLC, a California limited
24 liability company; DREW SCHOENTRUP, an
25 individual; and ROES 1 through 30, inclusive,

26 Cross-Defendants.
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Case No. 37-2017-00016311-CU-BC-CTL

~~PROPOSED~~ TEMPORARY
RESTRAINING ORDER AND ORDER
TO SHOW CAUSE RE:
PRELIMINARY INJUNCTION

Date: June 29, 2017
Time: 8:45 a.m.
Dept.: C-68
Judge: Hon. Judith F. Hayes

Complaint Filed: May 4, 2017
Trial Date: Not set

1 **TO ALL PARTIES AND THEIR ATTORNEY(S) OF RECORD:**

2 On June 29, 2017, at 8:45 a.m., the *Ex Parte* Application of Defendant/Cross-Complainant
3 BARDAV INC (“Bardav”) for a Temporary Restraining Order and an Order to Show Cause re:
4 Preliminary Injunction against Plaintiff/Cross-Defendant PROPER MEDIA, LLC (“Proper
5 Media”) came before the court. Paul A. Tyrell, Esq., of Procopio, Cory, Hargreaves & Savitch
6 LLP appeared for Bardav. Virginia Sanderson, Esq., of Kronenberger Rosenfeld, LLP appeared
7 telephonically for Proper Media. Having considered the *Ex Parte* Application and the supporting
8 memorandum and declarations and the arguments of counsel, and good cause appearing,

9 **IT IS HEREBY ORDERED** that:

10 WHEREAS, based on the Cross-Complaint filed by Bardav, as well as the *Ex Parte*
11 Application, Memorandum of Points and Authorities, and declarations filed and served by Bardav
12 in support thereof, and the arguments of counsel, this Court finds good cause to grant an Order to
13 Show Cause re: Preliminary Injunction and Temporary Restraining Order; and

14 WHEREAS, absent the granting of a Temporary Restraining Order, great or irreparable
15 injury may result to Bardav.

16 **ORDER TO SHOW CAUSE**

17 Proper Media is hereby ordered to appear and show cause on August 4, 2017, at 10:30 a.m.,
18 or as soon thereafter as the matter may be heard in the above-captioned Court, in order to show
19 cause why it and its agents, servants, representatives, assigns, officers, employees, and all persons
20 acting in concert or participating with it, including but not limited to Christopher Richmond and
21 Drew Schoentrup, should not be restrained and enjoined pending trial of this action from:

- 22 (1) Withholding from Bardav any revenues procured from the placement of
23 advertisement on the Snopes.com website except for those expressly authorized
24 pursuant to the formula set forth in the Agent Commission Rate provisions of the
25 parties’ written General Services Agreement (“GSA”) up through the effective date
26 of the GSA’s termination on May 8, 2017;

- 1 (2) Withholding from Bardav any revenues procured from the placement of
2 advertisement on the Snopes.com websites occurring after the effective date of the
3 GSA's termination on May 8, 2017;
- 4 (3) Withholding access and control of the Snopes.com website from Bardav, including
5 the following databases and content:
- 6 a. All Snopes.com repositories in their current formats located at:
 - 7 i. <https://github.com/proper-media/snopes-theme>
 - 8 ii. <https://github.com/proper-media/pp-plugin-snopes>
 - 9 iii. <https://github.com/proper-media/pp-plugin-popularity>
 - 10 iv. <https://github.com/proper-media/pp-plugin-permalink>
 - 11 v. <https://github.com/proper-media/co-authors-plus>
 - 12 vi. <https://github.com/proper-media/wp-post-meta-revisions>
 - 13 vii. <https://github.com/proper-media/redirection>
 - 14 viii. <https://github.com/proper-media/ajax-load-more-preloaded>
 - 15 ix. <https://github.com/proper-media/rumormill>
 - 16 b. All Snopes.com WordPress (WP) databases in their current formats;
 - 17 c. All Snopes.com RumorMill databases in their current formats;
 - 18 d. All Snopes.com videos hosted on Vimeo and maintained on Proper Media's
19 website in their current formats, including all metadata;
 - 20 e. All Snopes.com image assets hosted on Amazon Web Services and uploaded
21 within the Snopes.com WordPress database in their current formats;
- 22 (4) Withholding control of all Snopes.com email accounts from Bardav;
- 23 (5) Failing to maintain all hosting of the Snopes.com website in its current form,
24 without alteration or disruption, for a period of at least forty-five (45) days to
25 facilitate the transfer of hosting activities to Bardav without a disruption in service;
- 26 (6) Representing itself as an authorized sales agent for Bardav and the Snopes.com
27 website; and
28

1 (7) Destroying, altering, or otherwise modifying any and all relevant evidence,
2 including all source code, databases, videos, images, and other data identified above
3 and related thereto.

4 ~~Bardav is further ordered to post an undertaking in the amount of \$ _____ within ten~~
5 ~~(10) days of entry of the order issuing the preliminary injunction.~~

6 **TEMPORARY RESTRAINING ORDER**

7 Pending the hearing on the above Order to Show Cause, Proper Media and its agents,
8 servants, representatives, assigns, officers, employees, and all persons acting in concert or
9 participating with Proper Media, including but not limited to Christopher Richmond and Drew
10 Schoentrup, are enjoined and ordered as follows:

11 (1). Proper Media is enjoined from withholding from Bardav \$100,000 of the revenues
12 presently being withheld that were procured from the placement of advertisement on
13 the Snopes.com website.

14 **IT IS FURTHER ORDERED** that Proper Media shall comply with the foregoing not later
15 than three (3) court days following service on its counsel of this Order to Show Cause and
16 Temporary Restraining Order.

17 **IT IS FURTHER ORDERED** that, upon receipt of the aforementioned \$100,000 from
18 Proper Media, Bardav shall not pay any part of that \$100,000 to David Mikkelson, including as
19 salary or for his personal expenses.

20 **IT IS FURTHER ORDERED** that the following schedule shall apply:

21 Bardav shall serve this Order to Show Cause and Temporary Restraining Order on Proper
22 Media, through its counsel, no later than the close of business on July 13, 2017 and shall file and
23 serve any additional moving papers in support of the Order to Show Cause and any motion for
24 additional preliminary injunctive relief no later than July 13, 2017. Any opposition to the Order to
25 Show Cause and motion for preliminary injunction relief shall be filed and served on counsel for
26 Bardav no later than July 24, 2017. Any reply papers to such opposition shall be filed and served
27 on counsel for Proper Media no later than July 28, 2017. Issuance of the Temporary Restraining
28 Order shall be permitted without an undertaking.

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IT IS FURTHER ORDERED that the hearing on Plaintiffs' motion for preliminary injunction, previously set for hearing on August 25, 2017, shall be heard on August 4, 2017 at 10:30 a.m.

APPROVED AS TO FORM.

DATED: July 11, 2017

KRONENBERGER ROSENFELD, LLP

By: 

Karl S. Kronenberger
Virginia Sanderson
Ansel J. Halliburton
Attorneys for Plaintiffs Proper Media, LLC,
Christopher Richmond and Drew Schoentrup

DATED: July 11, 2017

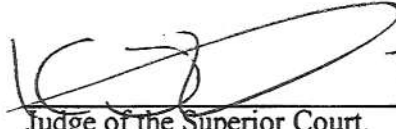
PROCOPIO, CORY, HARGREAVES &
SAVITCH LLP

By: 

Paul A. Tyrell
Ryan C. Caplan
Attorneys for Defendant, Bardav Inc

IT IS SO ORDERED.

7/12/17


for
Sise
Hayes
Catherine A. Bacal
Judge of the Superior Court