

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT, IN
AND FOR MIAMI-DADE COUNTY,
FLORIDA

GENERAL JURISDICTION

CASE NO.: 11-17842 CA (32)

R.K./FL MANAGEMENT, INC., et al.,

Plaintiffs,

v.

IRINA CHEVALDINA, an individual, et al.,

Defendants.

PLAINTIFFS' MOTION FOR CONTEMPT AGAINST DEFENDANTS

Plaintiffs, R.K./FL MANAGEMENT, INC., R.K. ASSOCIATES VII, INC., 17070 COLLINS AVENUE SHOPPING CENTER, LTD., RAANAN KATZ, DANIEL KATZ, RK HALLANDALE 1, LLC, RK HALLANDALE LIMITED PARTNERSHIP, 18100 COLLINS AVENUE SHOPPING CENTER, LTD, RK 17600-17632 COLLINS, LLC, R.K.ASSOCIATES # 2, INC., R.K. ASSOCIATES XVIII, LLC, R K CAUSEWAY PLAZA, LLC, RK BISCAYNE PLAZA, LLC, CALIFORNIA CLUB MALL SHOPPING CENTER, LTD., RK SANS SOUCI PLAZA, LLC and RK SAGE PLAZA, LLC (collectively, "**Plaintiffs**"), through their undersigned counsel hereby file this Motion for Contempt against Defendants IRINA CHEVALDINA, DMITRI CHEVALDINE and "JOHN DOE" (collectively, "**Defendants**") and state as follows:

1. On November 1, 2012 this Court held a hearing on Plaintiffs' Motion for Preliminary Injunction to Enjoin Tortious Interference, Stalking, Trespass and Defamatory Blogs ("**Plaintiffs' Motion for Injunction**").

2. At the conclusion of the hearing, this Court made oral rulings, *inter alia*, enjoining Defendants, and all others acting by them, through them, with them, or on their behalf, from directly or indirectly publishing any blogs or any other written or spoken matter calculated to defame, tortiously interfere with, invade the privacy of, or otherwise cause harm to Plaintiffs. See Transcript of November 1, 2012 hearing, filed with this Court by Defendant IRINA CHEVALDINA (“**Chevaldina**”) on or about November 20, 2012.

3. On November 19, 2012, this Court entered its Order on Plaintiffs’ Motion for Preliminary Injunction to Enjoin Tortious Interference, Stalking, Trespass and Defamatory Blogs (the “**Injunction**”), which reiterates this Court’s oral rulings during the November 1, 2012 hearing. A true and correct copy of the Injunction is attached hereto as **Exhibit “A.”**

4. Defendants have contumaciously disregarded this court’s clear rulings as pronounced during the November 1, 2012 hearing and as set forth in the Injunction.

5. Specifically, on November 10, 2012, November 12, 2012 and November 15, 2012 Defendants posted blogs on the website located at <http://www.rkassociatesusa.blogspot.com> (collectively, the “**Post-Hearing Blogs**”). True and correct copies of the Post-Hearing Blogs are attached hereto as **Composite Exhibit “B.”** The Post-Hearing Blogs are in direct violation of this Court’s rulings.

6. Like the other blogs that are incorporated into Plaintiffs’ Second Amended Complaint and filed as a part of the Appendix thereto, the Post-Hearing Blogs are false, misleading, and have the tendency to injure Plaintiffs in their trade or profession and subject Plaintiffs to hatred, distrust, ridicule, contempt or disgrace. Moreover, although Plaintiffs are not public figures, the Post-Hearing Blogs were published with actual malice as they were false when made and Defendants knew that the statements were false at the time they were published,

or Defendants made the statements with reckless disregard for their truth or falsity, and with reckless disregard for their adverse effect on Plaintiffs' reputation and/or their business. The Post-Hearing Blogs are therefore calculated to defame Plaintiffs. In addition, the Post-Hearing Blogs are calculated by Defendants to tortiously interfere with or otherwise harm Plaintiffs.

7. Accordingly, Defendants should be found in contempt of this Court's orders.

8. "Civil contempt proceedings may be employed to coerce a contemnor into compliance with the court's order and to compensate a complainant for losses sustained." *Popular Bank of Florida v. Banco Popular de Puerto Rico*, 180 F.R.D. 461, 465 (S.D. Fla. 1998) (citing *Martin v. Guillot*, 875 F.2d 839 (11th Cir.1989)). Frequently used in injunction actions, civil contempt proceedings are useful methods for enforcing judicial orders. *Id.*

9. "To find contempt, the court must find that the order violated was clear and unambiguous and that the party to be charged had notice of the order but did not diligently attempt to comply." *Id.* (citing *In re E.I. DuPont De Nemours*, 99 F.3d 363, 372 (11th Cir.1996)); *see also United States v. Roberts*, 858 F.2d 698 (11th Cir.1988) (civil contempt may be imposed where there has been a violation of a clear and unambiguous order of which the party to be charged had notice). "[A] violation of [an] order need not be willful for a party to be found in civil contempt." *Popular Bank of Florida*, 180 F.R.D. at 465 (citing *McComb v. Jacksonville Paper Co.*, 336 U.S. 187 (1949)).

10. This Court's rulings during the November 1, 2012 hearing and in the Injunction itself are clear and unambiguous.

11. Defendants also clearly had notice of the Injunction. Chevaldina was physically in court during the November 1, 2012 hearing and personally heard this Court's rulings. She was later interviewed by the so-called "independent media" (who was actually brought to the hearing

by Ms. Chevaldina and her attorneys to film the proceedings to further their agenda) and the video interview is posted on www.photographyisnotacrime.com. DMITRI CHEVALDINE (“Chevaldine”) is Chevaldina’s husband and is certainly aware of this Court’s rulings as well.¹

12. Defendants have nevertheless chosen to openly violate this Court’s rulings. This certainly constitutes a failure to “diligently attempt to comply,” which is a ground for a contempt finding. *See, e.g., In re E.I. DuPont De Nemours*, 99 F.3d 363, 372 (11th Cir.1996).

13. In its Contempt Order, this Court should include sanctions including but not limited to Plaintiffs’ attorneys fees. “[A]n award of attorney fees to the injured party in a civil contempt case is within the district court’s discretion.” *Sizzler Family Steak Houses v. Western Sizzlin Steak House, Inc.*, 793 F.2d 1529, 1534 (11th Cir. 1986).

WHEREFORE, Plaintiffs, R.K./FL MANAGEMENT, INC., R.K. ASSOCIATES VII, INC., 17070 COLLINS AVENUE SHOPPING CENTER, LTD., RAANAN KATZ, DANIEL KATZ, RK HALLANDALE 1, LLC, RK HALLANDALE LIMITED PARTNERSHIP, 18100 COLLINS AVENUE SHOPPING CENTER, LTD, RK 17600-17632 COLLINS, LLC, R.K.ASSOCIATES # 2, INC., R.K. ASSOCIATES XVIII, LLC, R K CAUSEWAY PLAZA, LLC, RK BISCAYNE PLAZA, LLC, CALIFORNIA CLUB MALL SHOPPING CENTER, LTD., RK SANS SOUCI PLAZA, LLC and RK SAGE PLAZA, LLC, respectfully request that this Court enter an Order finding Defendants, IRINA CHEVALDINA, DMITRI CHEVALDINE and “JOHN DOE,” in contempt of this Court’s November 1, 2012 rulings and the Injunction, imposing the appropriate sanctions in such instances, and granting such other and further relief in favor of Plaintiffs as this Court deems just and proper.

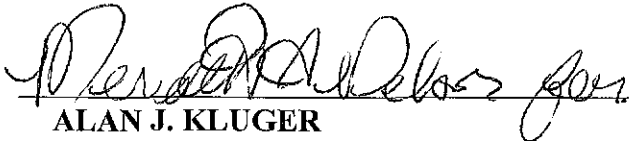
¹ Chevaldine has been actively avoiding service of process of the Second Amended Complaint despite Plaintiffs’ diligent attempts to serve him.

Respectfully submitted,

**KLUGER, KAPLAN, SILVERMAN,
KATZEN & LEVINE, P.L.**

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By: 

ALAN J. KLUGER

Florida Bar No. 200379

TODD A. LEVINE

Florida Bar No. 899119

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via email and U.S. Mail this ~~20th~~^{21st} day of November, 2012 upon **Robert C. Kain, Jr., Esq.** and **Darren Spielman, Esq.**, Kain & Associates, Attorney at Law, P.A., 900 Southeast Third Avenue, Suite 205, Ft. Lauderdale, Florida 33316 and **Marc Randazza, Esq.**, Randazza Legal Group, 6525 West Warm Springs Road, Suite 100, Las Vegas, NV 89118.


TODD A. LEVINE

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT, IN
AND FOR MIAMI-DADE COUNTY,
FLORIDA

GENERAL JURISDICTION DIVISION
CASE NO.: 11-17842 CA (32)

R.K./FL MANAGEMENT, INC., a Florida Corporation, R.K. ASSOCIATES VII, INC., a Florida Corporation, 17070 COLLINS AVENUE SHOPPING CENTER, LTD., a Florida Limited Partnership, RAANAN KATZ, an individual, DANIEL KATZ, an individual, RK HALLANDALE 1, LLC, a Florida Limited Liability Company, RK HALLANDALE LIMITED PARTNERSHIP, a Florida Limited Partnership, 18100 COLLINS AVENUE SHOPPING CENTER, LTD., a Florida Limited Partnership, RK 17600-17632 COLLINS, LLC, a Florida Limited Liability Company, R.K. ASSOCIATES # 2, INC., a Florida Corporation, R.K. ASSOCIATES XVIII, LLC, a Florida Limited Liability Company, R K CAUSEWAY PLAZA, LLC, a Florida Limited Liability Company, RK BISCAYNE PLAZA, LLC, an Oklahoma Limited Liability Company, CALIFORNIA CLUB MALL SHOPPING CENTER, LTD., a Florida Limited Partnership, RK SANS SOUCI PLAZA, LLC, a Florida Limited Liability Company, and RK SAGE PLAZA, LLC, a Florida Limited Liability Company,

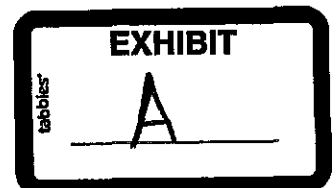
Plaintiffs,

v.

IRINA CHEVALDINA, an individual, DMITRI CHEVALDINE, an individual, and JOHN DOE, an unknown person or persons,

Defendants.

**ORDER ON PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION TO ENJOIN
TORTIOUS INTERFERENCE, STALKING, TRESPASS AND DEFAMATORY BLOGS**



This matter came before the Court on November 1, 2012 on Plaintiffs' Motion for Preliminary Injunction to Enjoin Tortious Interference, Stalking, Trespass and Defamatory Blogs. The Court, having reviewed the file, heard argument of counsel, considered limited testimony, admitted evidence, and being otherwise duly advised in the premises, makes no findings of facts as to actual violations of law by the Defendants, except that the Defendants have blogged extensively about the Plaintiff and many of these blogs are arguably defamatory. Although ultimately a defamation trial will be held, this Court ORDERS the Defendants not to enter defamatory blogs in the future.

This Court has broad discretion to enter injunctive relief, which may include enjoining defamation that is accompanied by other torts. *See, e.g., Zimmerman v. D.C.A. at Welleby, Inc.* 505 So. 2d 1371, 1375 (Fla. 4th DCA 1987); *Murtagh v. Hurley*, 40 So. 3d 62 (Fla. 2d DCA 2010); *Azar v. Lehigh Corporation*, 364 So. 2d 860, 862 (Fla. 2d DCA 1978); *DeRitis v. AHZ Corporation*, 444 So. 2d 93 (Fla. 4th DCA 1984).

This Court finds that Plaintiffs have a substantial likelihood of ultimately prevailing on the merits of their claims, and there is a substantial threat of irreparable injury to the Plaintiffs if injunctive relief is not granted, that the threatened injury to Plaintiffs outweighs whatever damage the injunction would cause the Defendants, and that the injunction would not be adverse to the public interest.

This Court finds that the following injunction is fair and that the trespass and stalking injunction is reasonable in balancing the potential harm with the potential inconvenience of the Defendants to merely stay away from Plaintiff's properties or refrain from tortuously interfering with, invading the privacy of, or otherwise causing harm to the Plaintiff.

Accordingly, it is hereby **ORDERED AND ADJUDGED** as follows:

1. Plaintiffs' Motion for Preliminary Injunction to Enjoin, Tortious Interference, Stalking, Trespass and Defamatory Blogs is hereby **GRANTED** to the extent described herein.

2. Defendants, IRINA CHEVALDINA, DMITRI CHEVALDINE, JOHN DOE, and all others acting by them, through them, with them, or on their behalf, are enjoined from directly or indirectly interfering in person, orally, in written form or via any blogs or other material posted on the internet or in any media with Plaintiffs' advantageous or contractual business relationships.

3. Defendants, IRINA CHEVALDINA, DMITRI CHEVALDINE, JOHN DOE, and all others acting by them, through them, with them, or on their behalf, are enjoined from directly or indirectly publishing any blogs or any other written or spoken matter calculated to defame, tortiously interfere with, invade the privacy of, or otherwise cause harm to Plaintiffs.

4. Defendants, IRINA CHEVALDINA, DMITRI CHEVALDINE, JOHN DOE, and all others acting by them, through them, with them, or on their behalf, are enjoined from stalking Plaintiffs, RAANAN KATZ and DANIEL KATZ and the members of these Plaintiffs' immediate families, and to remain at least 200 yards away from these Plaintiffs and the members of their immediate families unless Defendants and Plaintiffs are each accompanied by their legal counsel in connection with legal proceedings.


5. Defendants, IRINA CHEVALDINA, DMITRI CHEVALDINE, JOHN DOE, and all others acting by them, through them, with them, or on their behalf, are ordered not to trespass on any of Plaintiffs' Properties or the residences of Plaintiffs RAANAN KATZ or DANIEL KATZ.

6. Upon the *ore tenus* request of counsel for Defendant IRINA CHEVALDINA, the portion of this Order set forth in the immediately preceding paragraph is stayed for up to thirty

(30) days to the extent it enjoins Defendants from trespassing on Plaintiffs' Properties, to enable Defendants to file an appeal with the Third District Court of Appeal.

7. Plaintiffs are ordered to post a total bond of \$20,000.00 with the Clerk of Court in connection with the injunction granted by this Order. The bond will remain in effect until further Order of this Court.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida this ____ day of
November, 2012. **NOV 19 2012**


The Honorable Ellen Leesfield

ORIGINAL
JUDGE ELLEN LEESFIELD

Copies furnished to: Alan J. Kluger, Esq.
Todd A. Levine, Esq.
Robert Kain, Esq.
Darren Spielman, Esq.
Marc Randazza, Esq.

RK Associates

This blog presents publicly available information about RK Centers (former RK Associates), including court records, media publications and opinions. Raanan Katz is the owner of RK Associates (Centers). Raanan Katz is a minor owner of Miami Heat. This blog is not associated in any way with RK Centers and RK Associates official websites and blogs.

THURSDAY, NOVEMBER 15, 2012

RK Centers, Raanan Katz Admitted In Their Pleadings Intentional Use Of Gotcha Clause

Below are the new arguments of Raanan Katz and RK Centers recently filed with Miami Court in regards to RK Centers use of "gotcha clause" in their leases.

"...blogger represents that Raanan Katz, Daniel Katz, RK Centers are engaging in an "improper business tactics" by "the continued use of a 'gotcha clause' in leases with tenants." Blogger contends that "RK Centers practice and clause was specifically decied against by a previous court against RK Centers."

Further, RK Centers and Raanan Katz argued:

"Blogger ignores however, that the prior court was not an appellate court, and the subject order was case specific. The state court judge did not order that Plaintiffs could not use the clause in other leases if the tenants agreed to the contractual provision."

Does Raanan Katz actually states here that Court orders are not applicable to him? In fact, Miami Court order speaks for itself "GOTCHA and AGAINST PUBLIC POLICY that this court cannot and WILL not condone"

Additionally RK Centers, Raanan Katz admitted:

"The so-called "gotcha clause" is a provision in Plaintiffs' (RK Centers, Raanan Katz) standard lease that provides that the lease will automatically renew at the end of the term unless the tenant decides not to renew. Moreover, as Daniel Katz testified in the May 15 hearing, the tenants specifically initial and authorize this provision. Plaintiffs advise their tenants before the expiration of the lease whether it is going to expire or be renewed. The tenants do not have to automatically renew if they decide not to. There is nothing unlawful or fraudulent about such an arms-length, agreed-upon contractual provision."

Obviously, tenants "do not have to automatically renew", this is in Ranan Katz' financial interest to automatically renew the lease for as long as he wishes, especially when the tenant is already out and the new tenant is in.

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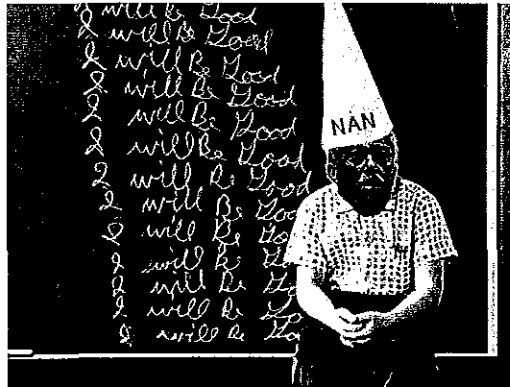


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BLOG ARCHIVE

- ▼ 2012 (64)
 - ▼ November (3)
 - RK Centers, Raanan Katz Admitted In Their Pleading...
 - RK Centers, Raanan Katz Can Be Held Responsibl e Fo...
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 - ▶ May (9)
 - ▶ April (5)
 - ▶ March (8)
 - ▶ February (4)
 - ▶ January (4)
- ▼ 2011 (45)





His business is reflected on his face,
 or his face is a reflection of his business?
 It is for you to decide

Posted by alwaystrue at 6:52 AM No comments:

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Labels: alan kluger, gotcha clause commercial lease, miami court order, raanan katz, rk centers, todd levine miami attorney

MONDAY, NOVEMBER 12, 2012

RK Centers, Raanan Katz Can Be Held Responsible For Constitutional Rights Violation

There is no known prior precedent when law-abiding people were issued trespass warning for going shopping to the shopping centers, especially when consent is given by the businesses (tenants of the shopping plaza). There is no trespass when consent is present *Gruber v State*, App.5. Dist., 816 So. 2d 835 (2002). Additionally, Florida Statute clearly states that consent can be given by "lessee of the premises".

But RK Centers and Raanan Katz is a different story. In spite of prior court ruling against them, Raanan Katz, Daniel Katz, and RK Centers continued to abuse Trespass law and harass people, depriving them from Constitutionally protected activities. Raanan Katz, Daniel Katz, and RK Centers are subject to trespass and/or conversion themselves if they enter leased premises without business owner authorization or prior notice.



Several courts have held that individuals may exercise their free speech rights on private property. In a number of these cases, the result is justified because the shopping mall or other private property have become the functional equivalent of town squares where political speeches were once given. The first case to resolve the conflict between free expression and private property ownership was *Marsh v. Alabama*, 326 US 501, 66 S.Ct. 276, 90 L.Ed. 265 (1946).

In that case, the US supreme court held that the town, holly owned by the private corporation had all the attributes of any American municipality, aside of it's ownership, and was functionally like any other town. In the

circumstances the court reasoned, "the more an owner, for his advantage, opens up his property for use by the public in general, the more do his rights become circumscribed by the statutory and constitutional rights of those who use it." (328 U.S. at 506.) When the Court balanced the owner's interest against the "preferred position" given to First Amendment freedom, the owners rights had to give way. Id. at509.

In Food Employees Union 590 v. Logan Valley Plaza, 391 US 308, 88 S.Ct. 1601, 20 L.Ed.2d 603 (1968) the court determined that the shopping center was the functional equivalent of the business district involved in Marsh.

"The State," said Justice Marshall, "may not delegate the power, through the use of it's trespass laws, wholly to exclude those members of the public wishing to exercise their First Amendment Rights on the premises in a manner and for the purpose generally consonant with the use to which the property is actually put" (391 U.S at 319-20)

RK Centers, Raanan Katz, Daniels Katz continued abusing trespass law violating People's Constitutional Rights. RK Centers, Raanan Katz, Daniels Katz are represented by attorneys Alan Kluger, Todd Levine of Miami based law firm Kluger, Kaplan, Silverman, Katzen, Levine. In 2009 Cort ruled against RK Centers, Raanan Katz, Daniels Katz on trespass matter, they were represented by the same attorneys in that case 2009-79604-CA02.

Posted by alwaystrue at 10:34 AM No comments:

Labels: alan kluger attorney, daniel katz, florida trespass law, miami attorney todd levine, raanan katz, rk centers, rk centers sunny isles beach, trespass

SATURDAY, NOVEMBER 10, 2012

Miami Court Ruled Against Raanan Katz, RK Centers On Trespass Matter In Case 2009-79604-CA02

In 2009 Court ordered that Raanan Katz, RK Centers (former RK Associates) will be held responsible for trespassing customers from shopping plazas if they violate Judge Friedman order Miami Dade Circuit Court Case 2009-79604-CA02. RK Centers and Raanan Katz were represented by Alan Kluger and Todd Levine, Todd Levine, Todd Levine, Todd Levine, Todd Levine (sorry folks, he is not getting it until I repeat it 5 times) of Miami based law firm Kluger, Kaplan, Silverman, Katzen, Levine. More details to come..



Posted by alwaystrue at 9:07 PM No comments:

Labels: alan kluger, court order, miami law firm, shopping plaza trespass, raanan katz, illegal trespass, rk centers, todd levine, trespass

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