

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 09-CV-00309 MSK-KMT

SUZANNE SHELL
Plaintiff

v.

AMERICAN FAMILY RIGHTS ASSOCIATION, et. al.

Defendants

**VERIFIED MOTION FOR PROTECTIVE ORDER PREVENTING PLAINTIFF'S
KNOWN COMPETITORS FROM REPRESENTING DEFENDANTS**

COMES NOW Plaintiff Suzanne Shell, requesting this honorable court to enter protective orders preventing Daniel Slater or any other competitor of the plaintiff from appearing as counsel for or otherwise representing any defendants in this action. I am also seeking sanctions against Mr. Slater.

I have conferred with Mr. Slater and he opposes this motion.

I contend that Mr. Slater is ethically prohibited from representing any defendants in this action due to the numerous conflicts of interest. I also contend that his representation of the defendants is intended to forward his own anti-competition agenda and that he has a personal interest in the outcome of this case.

I am seeking a protective order to insure that anyone who has positioned himself as my competitor in Colorado does not obtain unfair advantage or access to proprietary information that I have expressly withheld from them nor are otherwise permitted to use this lawsuit to validate or otherwise continue their monopolistic and anti-competitive agendas or practices through the mechanism of representing any defendants.

1. I stated in ¶¶ 43-44 in my complaint that "I advertise and offer goods and/or services to consumers and/or professionals involved with Child Protective Services and court cases

nationwide, and that these goods and services are offered in competition with. . .goods and services. . .offered and provided by . . .independent providers of goods and services to consumers of child welfare agencies and professionals who administer child welfare cases. . .in the courts. . .”

2. My business was created to address the existing monopoly of incompetent and inferior services foisted upon parents and children in child welfare cases, including, but not limited to the abysmal quality of legal representation endured by the many consumers in this market. My products are designed to increase competition and fill a need in this market, consistent with existing regulations and restrictions.
3. These products have been repeatedly tested and tried in numerous objective venues and found to be wholly legal and not offensive to any regulatory agency requirement.
4. Daniel Slater, as court appointed attorney for indigent parents and court appointed Guardian ad litem for children in these cases, has taken anti-competitive action against me which unambiguously indicates he considers me to be a competitor of his.
5. .Mr. Slater’s posture has historically been that he opposes and condemns any of the products I offer. He has actively attempted to prevent consumers, including his clients, from seeking or obtaining my products, to the point of retaliation if they do.
6. Mr. Slater has never discussed my products with me.
7. He has also participated in, supported or condoned the conduct of other attorneys and service providers in Fremont County when they take action to protect the existing monopoly in this market by using unfair methods of competition and unfair trade practices to prevent me from offering or providing my products to consumers.
8. As a potential consumer of my Continuing Legal Education products and other professional products, Mr. Slater has declined to obtain or use my products, which is his right.
9. However, it is not his right to prevent me from offering or providing my products to other

consumers in any market, nor to prevent consumers from obtaining or utilizing my products, which he has done. Our free market system encourages competition as being good for the consumer.

10. By this posture and his past actions against my business and my products, he has positioned himself to be in hostile competition with me and has thereby created the conflicts of interest and ethical dilemmas I cite herein.
11. In response, I have expressly excluded hostile competitors, including but not limited to Mr. Slater, from permissive use of or access to my proprietary or trade secret protected products, as is my right.
12. Because this is a case about issues involving *inter alia*, misappropriation of trade secrets, by virtue of representing any defendants, my competitor Mr. Slater may be able to obtain access to proprietary information through discovery and the presentation of evidence, etc., which constitutes information that I have deliberately withheld from him and his associates in Fremont County. Using the mechanism of representing defendants, he is able to unfairly circumvent the restrictions I have placed on my access to my proprietary products for his own benefit.
13. Mr. Slater's representation of the defendants, being he has elected a posture which defines him as a competitor of mine, constitutes an unfair method of competition mechanism to gain access to my proprietary information which could then be used or disseminated in competition with me or otherwise used to harm my business outside of this litigation. His participation would jeopardize the integrity of my proprietary information associated with those trade secrets and harm my business long after this case is decided.
14. Mr. Slater's representation of the defendants, being he has elected a posture which defines him as a competitor of mine, constitutes an unfair method of competition mechanism intended to validate and support his agenda of protecting the existing

monopoly on goods and services in Fremont County while representing defendants who have engaged in the same conduct against me that he and his associates have.

15. It is an egregious conflict of interest for him to be an actively critical competitor of my business while representing any similarity situated defendant in this case. He has a personal interest in the outcome of this case as it pertains to his own conduct, which is a wholly unethical position for him to assume.
16. **Alternatively**, as court-appointed attorney and GAL, he is also a potential consumer of the products I offer. By representing any defendant on this case, he could, through discovery and presentation of evidence, be given free access to products that I charge fees for legal professionals in his practice to receive and which require agreement to certain terms. This is of personal benefit to him.
17. **Alternatively**, I have fifteen (15) unnamed defendants in this action, and Mr. Slater has always been among those whom I consider potential defendants for the following reasons:
 - a. In the course of his business activities, Mr. Slater has been heard to make statements about me, my business and my business practices which include any of the statements described in ¶¶ 218-290 False Advertising of the Complaint [#1].
 - b. In the course of his business activities, Mr. Slater has been known and reported to have engaged in any of the actions described in ¶¶ 293-327 of the Complaint Unfair and Deceptive Trade Practices and Unfair Methods of Competition [#1].
 - c. In the course of his business activities, Mr. Slater has been known to engage in anti-competitive, anti-trust conduct describe in ¶¶ 341-350 of the complaint [#1], including, but not limited to, participating in or encouraging or supporting a boycott of a Continuing Legal Education seminar scheduled in Pueblo, wherein this event represented the sole CLE presentation I offered nationwide where nobody attended. This and similar extreme disparities between the rest of the country and Fremont County, involving the participation of the currently unnamed

defendants will feature significantly in evidence.

- d. I have already been forced out of business in Fremont County by the acts of Mr. Slater and other similar competitors. I planned for the possibility of naming certain Colorado competitors in this action because I am in possession of evidence proving a valid link between certain of the named defendants and unnamed defendants, including lawyers who represent parties in Dependency & Neglect cases in Fremont County. As the unnamed defendants have almost completely covered their tracks, I was waiting for certain information from discovery to insure that my naming them as defendants was air-tight. Mr. Slater's appearance representing these defendants tends to reinforce my findings of the existence of tortious links between the named and unnamed defendants.
 - e. Should Mr. Slater not be named as a defendant, he is also potentially subject to subpoena as a hostile witness to relevant tortious acts committed by other competitors in Fremont County when they are named.
18. **Alternatively**, one of my key witnesses was a family member in a case wherein Mr. Slater was court appointed GAL for the mother of a child in foster care. He advised the mother that his one of his duties in that capacity was to insure that the mother did not seek or obtain my products or services. He advised her that any contact with me would harm her chances of getting her child returned and enforced that position during the case over the objections of the mother.
 19. Part of the anticipated testimony relating to certain of the claims listed in my complaint will involve the wholly inadequate services he personally provided to his client in the D&N case and the harm to the consumer his representation caused.
 20. The anticipated testimony will also include his activities as my competitor described above in response to the consumer's complaints about his services and the retaliation arising out of their mere association with me. This testimony goes directly to consumer

protection and the development of my business in competition with existing monopoly to fill a need in the market.

21. This witness and his/her family have been subjected to concerted, long-term retaliatory acts by my acknowledged competitors in Fremont County due to the witness's status as a consumer of my products in the past, and as an authorized licensee of my proprietary and trade secret products, and due to the witness's entering into competition with the existing monopoly in Colorado. This witness's family members are vulnerable to future retaliation by Mr. Slater and/or his associates in Fremont County, and I have a legitimate concern that witness tampering may be inferred by virtue of my competitors's past conduct against this witness, compromising this witness's testimony out of fear of retaliation. It is irrelevant that the subject case is over. Mr. Slater, at the very least, condoned, if not encouraged the retaliation against the witness's family that resulted in that case being opened and staying open as long as it did, and allegedly provided information to facilitate the retaliation against the witness's family. If it happened before, it will happen again. This is another conflict of interest which should have ethically precluded Mr. Slater from representing any defendants as soon as I notified him of its existence.
22. Colorado, and particularly Fremont County competitors, have been unusually aggressive in their tortious acts to prevent me from engaging in my legitimate business in this state and to prevent me from offering or providing my products and to prevent consumers from seeking or obtaining my products in order to protect their existing monopoly over this market. Evidence in this case will show that no other state is as hostile to the products I offer. In fact, in other states, professionals have used my products to improve their practices and improve outcomes for the consumer. They find my products to be a valuable addition to their own professional practices, reducing costs while improving the quality of the services they provide. This kind of competition, where the diversity and quality of available products is not limited by any monopolistic practice, is only good for

the consumer and is the essence of this case.

23. This court must not allow my competitors to use this case to forward their own and their associates's existing pro-monopoly agendas through the mechanism of representing any defendant. If counsel has engaged in, supported or condoned the same conduct described in my complaint that I averred the defendants have committed against me, there exists a conflict of interest which is severely prejudicial to me.
24. The court must not allow my competitors to undermine the integrity of my business by allowing them access to or forcing my disclosure of the products to them I have legitimately developed, protected as proprietary and expressly withheld from them in the course of my business by virtue of my competitor representing any defendant.
25. This court must not allow Mr. Slater to use this litigation to validate the very anti-competitive conduct that he, himself, engages in against me, especially since his representation of any defendant in this case vests him with a personal interest in the outcome of this case.
26. I have earned my place in this market by virtue of the quality of my products, and I have the right to exploit those products as I see fit, without being forced to disclose them to hostile competitors to my detriment and my competitors's benefit. I do not have confidence that a court order prohibiting any disclosure or use of my property would serve to protect my interests or my property or the interests of justice.
27. If this court allows my hostile competitor to use this litigation for his personal benefit and the benefit of the monopoly he has historically protected, then the consumer protection laws I have invoked have no meaning, and any businessperson would have no protection against unfair competition in markets illegitimately controlled by an existing monopoly.
28. Mr. Slater's representation of these defendants is the essence of unfair methods of competition by a competitor.
29. I intend that any of this information which must be disclosed pursuant to this case would

be done under seal to prevent it from being available to the public or my competitors and protected by orders prohibiting their disclosure or use. However, given my competitor's less-than-honest dealings where I am concerned, I have no confidence that they would honor such orders or that violations of those orders would be adequately sanctioned.

30. I will not waive any of the aforementioned conflicts of interest to permit Mr. Slater to represent the defendants Cheryl Barnes, CPS Watch, Inc. and Sarah Thompson.

WHEREFORE, in the interests of justice, I respectfully request this honorable court to order Mr. Slater to immediately withdraw as counsel for defendants Cheryl Barnes, CPS Watch, Inc. and Sarah Thompson due to the conflicts of interest I described above.

WHEREFORE, I also request that Mr. Slater be sanctioned for this unethical conduct in agreeing to represent clients for the purposes of using his position as their attorney to forward his own agenda against me, and to obtain personal benefit from the proceedings and the outcome of this case. It is an unconscionable conflict of interest that Mr. Slater, who has himself, taken affirmative action or conspired to force me out of business in Fremont County and Colorado, and who has witnessed such acts by other competitors, would consent to represent any defendants in this action. I request increased sanctions should it be found he is representing these defendants pro-bono or on a contingency or fee-waiver basis or a <wink, wink> deferred payment plan, as I have personal knowledge that the defendants he is representing are not capable of paying him, due in part to the outstanding judgements existing against any of them already.

WHEREFORE, I further request this court to order defendants Cheryl Barnes, CPS Watch, Inc. and Sarah Thompson that any attorney they hire to represent them in this case cannot be a competitor of mine, which includes any attorney who accepts or has accepted/is awarded or has been awarded any court appointment or has been paid to represent parents, or represented any Department of Human Services agency, or been a Guardian at litem in a Colorado Dependency & Neglect investigation or court case.

WHEREFORE, I respectfully request this honorable court to issue protective orders in the

interests of justice, that any attorney representing any defendant shall certify that he or she has never represented any party or child in a D&N case in Colorado upon entering their appearance in this case.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing information contained in this motion is true and correct.

Respectfully Submitted May 7, 2009

/s/ Suzanne Shell

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the attached documents **VERIFIED MOTION TO ORDER THE WITHDRAWAL OF DANIEL SLATER AS COUNSEL FOR DEFENDANTS** were placed in the United States Mail, first class mail, postage prepaid on May 8, 2009 or by alternate mutually agreed upon means of delivery.

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attorney for Cheryl Barnes, CPS Watch, Inc.
and Sarah Thompson via Court's ECF
System

/s/ Suzanne Shell May 7, 2009

Suzanne Shell