



Judge Issues Protective and Sealing Order

Despite being subject to a protective order forbidding his further dissemination of certain confidential DIRECTV information, Jeffrey Wilens posted on the Internet another confidential DIRECTV document. He also posted inaccurate statements about DIRECTV's anti-piracy litigation strategy.

Once again, we asked the court to enter an order to protect DIRECTV from further harm. The Court signed another order, this time forbidding Mr. Wilens or his client from disseminating any confidential, privileged or work product information of DIRECTV. The order also requires Mr. Wilens to file under seal any exhibits or other materials that contain confidential, privileged or work product information, as well as any pleadings, motions, briefs, memoranda or other documents that contain or paraphrase confidential information. A copy of the order is attached.

Other attorneys have filed in other cases copies of the documents that Mr. Wilens has been ordered to stop disseminating. DIRECTV will not be deterred in protecting its business and will pursue appropriate remedies for improper litigation tactics.

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CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court
MAY 11 2004
John A. Clarke, Executive Officer/Clerk
By B. Gregg, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

JOHN FISHER, on behalf of himself and the
general public as private attorney general,

Plaintiff,

v.

DIRECTV, INC., and DOES 1 through 50,
inclusive,

Defendants.

CASE NO. YC 048689
[PROPOSED] PROTECTIVE AND
SEALING ORDER

Filing Date: March 24, 2004
Trial Date: None Set

Dept.: E
Judge: Hon. Cary H. Nishimoto

1 Defendant DIRECTV's Ex Parte Application for Protective Order and
2 Sealing Order re: Privileged and Work Product Materials and Request for Sanctions
3 came on for hearing before the Court on May 11, 2004. Having considered the papers
4 and oral argument submitted in support of and in opposition to the Application, the Court
5 GRANTS the Application and enters the following Protective Order and Sealing Order
6 and Monetary Sanction.

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8 PROTECTIVE ORDER

9 1. Privileged Communications and Work Product Materials.

10 Plaintiff's attorney, Jeffrey Wilens, has obtained, and has indicated that he has continuing
11 access to, internal DIRECTV documents including confidential, privileged and attorney
12 work product information. Mr. Wilens has included privileged information in the
13 complaint in this action, attached a work product document as an exhibit to the
14 complaint, and posted confidential, privileged and work product documents on the
15 internet, accompanied by statements urging third parties involved in litigation with
16 DIRECTV to use DIRECTV's privileged and work product information against
17 DIRECTV.

18 2. No Dissemination of Privileged Communications or Work
19 Product Materials. Plaintiff and Mr. Wilens are hereby ordered not to disseminate, on
20 the internet or in any manner at any time, any confidential, privileged or work product
21 information of DIRECTV.

22 ~~3. Disclosure of Sources. Mr. Wilens is order to disclose to~~
23 ~~DIRECTV the identities of each person from whom Mr. Wilens has acquired any internal~~
24 ~~DIRECTV documents.~~

25
26 SEALING ORDER

27 The Court finds as follows:
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1 1. There exists an overriding interest--DIRECTV's right to maintain
2 the confidentiality of its attorney-client privileged and work product information--that
3 overcomes the right of public access to exhibits or other documents filed in this Court
4 that consist of and/or contain attorney-client privileged and/or attorney work product
5 information.

6 2. The overriding interest in protecting DIRECTV's privilege and work
7 product rights supports an order requiring sealing all exhibits or other materials that
8 contain confidential, privileged and/or work product information and all portions of all
9 pleadings, motions, briefs, memoranda or other documents filed in this matter that
10 contain and/or purport to reproduce or paraphrase confidential, privileged and/or work
11 product information.

12 3. A substantial probability exists that DIRECTV's right to maintain
13 the confidentiality of its privileged and work product information will be prejudiced if all
14 exhibits or other materials that contain confidential, privileged and/or work product
15 information and all portions of all pleadings, motions, briefs, memoranda or other
16 documents filed in this matter that contain and/or purport to reproduce or paraphrase
17 confidential, privileged and/or work product information are not sealed.

18 4. This Sealing Order is narrowly tailored.

19 5. No less restrictive means exist to achieve the overriding interest in
20 protecting DIRECTV's right to maintain the confidentiality of its privileged and work
21 product information.

22 WHEREFORE, all exhibits or other materials that contain confidential,
23 privileged and/or work product information and all portions of all pleadings, motions,
24 briefs, memoranda or other documents filed in this matter that contain and/or purport to
25 reproduce or paraphrase confidential, privileged and/or work product information are
26 hereby ordered to be filed under seal in accordance with Rule 423.2, California Rules of
27 Court.

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MONETARY SANCTION

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Plaintiff John Fisher and plaintiff's attorney, Jeffrey Wilens, are ordered to pay DIRECTV, as a monetary sanction, an amount, according to proof, to compensate DIRECTV for all fees and costs it will have been forced to incur as a result of plaintiff's and Mr. Wilens' frivolous, bad faith tactics.

DATED: MAY 11 2004

JUDGE CARY H. NISHIMOTO

Honorable Cary H. Nishimoto
Judge of the Superior Court

1 be forced to incur as a result of plaintiff's and Mr. Wilens' frivolous, bad faith actions and
2 tactics.

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4 DATED: May 10, 2004

5 QUINN EMANUEL URQUHART OLIVER &
6 HEDGES, LLP

7
8 By _____

9 Dale H. Oliver
10 John S. Gordon
11 Michael E. Williams
12 Marc R. Rosner
13 Attorneys for Defendant
14 DIRECTV, Inc.
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