

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ELIZABETH LAUBER, et al.,

Plaintiffs,

Civil Action No.
09-CV-14345

vs.

HON. MARK A. GOLDSMITH

BELFORD HIGH SCHOOL, et al.,

Defendants.

**OPINION AND ORDER GRANTING
PLAINTIFFS' MOTION FOR CONTEMPT**

This matter is presently before the Court on Plaintiffs' motion for contempt. The matter is fully briefed, and the Court will decide the motion without oral argument. See E.D. Mich. LR 7.1(f).

On October 27, 2011, the Court imposed sanctions against Belford High School and Salem Kureshi pursuant to Federal Rule of Civil Procedure 11 and the Court's inherent authority. See Dkt. 182. Specifically, the Court ordered that Belford and Kureshi (a) pay a fine to the Court, which they have done; and (b) reimburse Plaintiffs for all reasonable costs and attorney fees connected to Belford and Kureshi's sanctionable conduct,¹ which they have not done. The Court ordered as follows:

Defendants Belford High School and Salem Kureshi are hereby ordered to pay Plaintiffs \$24,902.22 via a certified check made payable to "Elizabeth Lauber, Jaime Yanez, and their attorneys, The Googasian Firm, P.C.," and delivered to The Googasian Firm, P.C. 6895 Telegraph Road, Bloomfield Hills, MI 48301 within sixty (60) days of the entry of this Order.

¹ The amount to be reimbursed to Plaintiffs was later determined to be \$24,902.22. See Dkts. 191-192.

Dkt. 192. The order was issued on February 6, 2012. Therefore, the reimbursement payment was due by April 6, 2012 and remains unpaid.

The contempt power of federal courts is deeply rooted and well established:

The power to punish for contempts is inherent in all courts; its existence is essential to the preservation of order in judicial proceedings, and to the enforcement of the judgments, orders, and writs of the courts, and consequently to the due administration of justice. The moment the courts of the United States were called into existence and invested with jurisdiction over any subject, they became possessed of this power.

Ex parte Robinson, 86 U.S. 505, 510 (1873). Civil contempt sanctions are “penalties designed to compel future compliance with a court order,” and thus “are considered to be coercive and avoidable through obedience.” Int’l Union, United Mine Workers of Am. v. Bagwell, 512 U.S. 821, 827 (1994). See also 11A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice & Procedure § 2960 (2d ed. 1995) (“The relief granted in civil contempt proceedings . . . is compensatory or conditional.”).

According to Wright and Miller, civil contempt sanctions “often take[] the form of a fine in the amount of the damage sustained by plaintiff and an award of costs and attorney’s fees.” Id. at § 2960 (footnote omitted). Incarceration is another available option, but only while the contemnor remains noncompliant. See id. (“Since any incarceration ordered in a civil contempt proceeding is intended to force defendant into doing what he was ordered to do, defendant can secure his discharge by so acting.”). Courts also may craft other appropriate sanctions:

A contempt order need not be limited to fine or imprisonment to coerce the contemnor into complying with the injunction. A federal court’s discretion includes the power to frame a sanction to fit the violation.

Id.

In the present case, Plaintiffs ask the Court to find Belford and Kureshi in contempt, and urge the Court to order that Belford’s various website domains be transferred to class counsel

“for the benefit of the certified Class.” Mot. at 5 (Dkt. 208). With Belford remaining unrepresented, Kureshi alone responds and claims that he is “extremely short of funds and heavily under debt” – conditions that purportedly prevent him from complying with the Court’s reimbursement order. Response at 2 (Dkt. 211).²

The Court agrees with Plaintiffs that Belford should be held in civil contempt for its failure to comply with this Court’s reimbursement order. It also agrees that the transfer of Belford’s domain names will further the singular goal of these contempt proceedings by prodding Kureshi to comply with the Court’s order. Courts recognize domain names as a species of property, see, e.g., Jonathan D. Hart, *Internet Law 120* (2008) (“domain names are subject to the same laws as other types of intangible property”) (quoted with approval by the Ninth Circuit in CRS Recovery, Inc. v. Laxton, 600 F.3d 1138, 1142 (9th Cir. 2010)), and have ordered the transfer of a domain name to address a defendant’s wrongful behavior. See, e.g., Tony Burch LLC v. Yong Sheng Int’l Trade Co., Ltd., No. 10-9336 (S.D.N.Y. May 13, 2011) (ordering the domain names associated with the defendant’s wrongful conduct be transferred to the plaintiff’s ownership and control).

Accordingly, the Court orders that Belford and Kureshi transfer to Plaintiffs’ counsel, for the benefit of the certified class, the six domain names listed on page eight of Plaintiffs’ motion. The transfer must be effectuated by July 16, 2012, unless Belford and/or Kureshi have, by that date, fully complied with the Court’s order of October 27, 2011 by paying the amount specified

² The Court rejects this excuse for two reasons. First, Kureshi’s inability-to-pay claim is unsubstantiated. Kureshi submitted a declaration in connection with his response brief discussing certain matters, none of which relates to his current financial situation or his purported inability to pay. Second, Kureshi made no effort to comply with the Court’s reimbursement order, such as by submitting a partial payment or attempting to arrange a payment plan. Instead, he essentially ignored the Court’s order and let the deadline for payment pass. In these circumstances, Kureshi’s claim of inability-to-pay is rejected.

in that order in the manner prescribed by that order. Failure to comply with this order will subject Belford and Kureshi to further sanctions including, without limitation, issuance of an arrest warrant and additional monetary sanctions.

SO ORDERED.

Dated: June 19, 2012
Flint, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on June 19, 2012.

s/Deborah J. Goltz
DEBORAH J. GOLTZ
Case Manager