

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ESTATE OF KYLE THOMAS BRENNAN,
by and through its Administrator,
Victoria L. Britton,

Plaintiff,

vs.

Case No. 8:09-cv-00264-T-23-EAS

CHURCH OF SCIENTOLOGY
FLAG SERVICE ORGANIZATION, INC.,
DENISE MISCAVIGE GENTILE,
GERALD GENTILE, and
THOMAS BRENNAN,

Defendants.

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ESTATE'S EMERGENCY MOTION FOR INJUNCTION

The Plaintiff, ESTATE OF KYLE THOMAS BRENNAN (ESTATE), by and through its Personal Representative, hereby requests an injunction against the CHURCH OF SCIENTOLOGY FLAG SERVICE ORGANIZATION, INC. (FLAG), its counsel, and/or the Circuit Court of the Sixth Judicial Circuit in and for Pinellas County, Florida, to prohibit enforcement of a state order or conduct a hearing on the state court order, (i.e., an Order to Show Cause why the Estate's counsel should not be held in indirect criminal contempt for failing to secure withdrawal from this case), or for FLAG or any of its counsel to seek enforcement of a state order.¹ FLAG has obtained an order of Civil Contempt, which is on

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FLAG'S counsel, F. Wallace Pope, Jr. filed a Motion for Contempt against the undersigned counsel in the unrelated state court action seeking enforcement of the state court order by requesting that Dandar be found in contempt and enter sanctions of incarceration and/or assessing a daily fine until he withdraws from representing the ESTATE in this matter. The state court obliged and entered a \$50,000 fine and \$1,000 daily fine until withdrawal is accomplished. That is on appeal to the Second District Court of Appeal.

appeal, where a temporary stay was entered, then dismissed. Following dismissal of the stay before the Second District Court of Appeal, Dandar sought a stay in the Circuit state court, however, FLAG counsel, F. Wallace has not cooperated in setting a hearing on the Motion for Stay so that it can be heard before the hearing of August 31, 2010. The stay is sought by Dandar so that the appeal of the civil contempt order can be had, which raises the lack of subject matter jurisdiction of the state court.

Without the stay, the state circuit court will proceed with the hearing scheduled for August 31, 2010 on FLAG's request for criminal contempt against Dandar for failing to withdraw as counsel for the ESTATE in this matter. FLAG and its counsel, F. Wallace Pope, are intentionally interfering with the orderly progress of this case before this court.

MEMORANDUM OF LAW

To support the above-motion, Plaintiff relies upon 28 U.S.C. §1651(a); Rule 83, Federal Rules of Civil Procedure; *In re: Snyder*, 472 U.S. 634, 643 (1985); *In the matter of Abrams*, 521 F.2d 1094, 1099 (1st Cir. 1975); *In re Mitchell*, 901 F.2d 1179, 1183 (3d Cir.1990); and *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43, 111 S.Ct. 2123, 115 L.Ed.2d 27 (1991).

Article VI, Clause II, of the United States Constitution permits the Federal Court to regulate the practice of law and control admission to its Bar regardless of State Court action. *Surrick v. Killion*, 449 F.3d 520 (3d Cir. Penn. 2006). See also, *In re Marcone*, 2009 W.L. 1258489, 4 (E.D. PA. 2009).

This Court has inherent power to manage its affairs and that power is broad enough to reach conduct which is intended to influence the course of litigation before it, *Sanders v. Russell*, 401 F.2d 241, 246 (5th Cir. 1968), such as Mr. Pope's and FLAG'S actions to

remove Plaintiff's counsel in this action. 28 U.S.C. §1651(a) provides that the All Writs Act established by Congress permits Federal Courts to issue all writs necessary or appropriate in aid of the respective jurisdictions.

WHEREFORE, in this "Catch 22," the undersigned counsel requests this Court to put an end to this detrimental effect that FLAG is imposing upon the ESTATE and the mother of the Decedent, VICTORIA BRITTON, not to mention the undersigned counsel, by issuing a writ directed to the Defendant, CHURCH OF SCIENTOLOGY FLAG SERVICE ORGANIZATION, INC., any Scientology entity, its counsel, and if necessary, the State Circuit Court to prohibit interference with this Court's orderly progression of this case.

I HEREBY CERTIFY that per local Rule 3.01, on August 20, 2010 had phone contact with Robert Potter and on August 23, 2010, the undersigned had phone contact with Mr. Pope's secretary and waited until today for Mr. Pope to return the call to schedule a hearing in state court, to no avail. The undersigned also spoke to Robert Potter today and he opposes this motion.

I also certify that on August 25, 2010, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following: F. WALLACE POPE, JR. and ROBERT POTTER, ESQ., (Flag),; LEE FUGATE, ESQ. (Gentile):and RICHARD ALVAREZ, ESQ. (Brennan). I also notified the court through the law clerk about the nature of this motion.

/s/ Kennan G. Dandar, Esq.
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