

IN THE CIRCUIT COURT OF UNION COUNTY, ARKANSAS
CIVIL DIVISION

BRIAN MARK GIVENS

PLAINTIFF

V.

CASE NO.: 70CV-18-526

EL DORADO FESTIVALS & EVENTS, INC.,
D/B/A MURPHY ARTS DISTRICT

DEFENDANT

**PETITION FOR TEMPORARY RESTRAINING ORDER AND
FOR PERMANENT INJUNCTION**

Comes the Plaintiff, Brian Mark Givens, through his attorney, David P. Price, and for his Verified Complaint against the Defendant, now states:

1. Plaintiff brings his Verified Complaint for a Temporary Restraining Order and for a Permanent Injunction, pursuant to Rule 65 of the Arkansas Rules of Civil Procedure.

2. Jurisdiction and venue are proper before this Court.

3. Plaintiff, Brian Mark Givens, is a resident of Dallas County, Arkansas. His address is 615 Dallas 226, Sparkman, AR 71763

4. El Dorado Festivals & Events, Inc. (hereinafter referred to as EFE, Inc.), does business as the Murphy Arts District. It is an Arkansas Corporation, authorized to do business in the State of Arkansas. Its registered agent for service of process is Pamela K. Griffin. She can be reached at 100 W. Cedar Street, Suite A, El Dorado, AR 71730.

5. In November of 2016, Plaintiff was hired by EFE, Inc., when he signed an agreement to become its Executive Vice-President of Entertainment and Talent Relations.

FILED
11/9/18 11:31
CHERYL COCHRAN - WILSON, CLERK
BY *[Signature]* D.C.

6. At the time of his hiring, Terry Stewart and R. Austin Barrow, the agents of Defendant who recruited and hired him to come to work for Defendant, knew that Plaintiff was an alcoholic.

7. On September 12, 2018, Plaintiff was part of a group that had entertained clients and patrons after a show, while in the course of his employment with Defendant. In particular, large amounts of alcohol were consumed that day and evening by Plaintiff and other employees of EFE, Inc.

8. The next day, on September 13, 2018, while at work, Plaintiff was given marijuana by an EFE, Inc., employee, which he smoked. He consumed alcohol that day, while in the employ of EFE, Inc.

9. Later that same day, on September 13, 2018, while under the influence of marijuana and alcohol, Plaintiff had a "black out" episode, which as of this filing, he does not remember.

10. Plaintiff was subsequently arrested and jailed, however, as of the filing of this matter, no criminal charges have been filed against him. He bonded out of jail.

11. On September 18, 2018, Plaintiff spoke with Barrow, and told Barrow that he was making plans to check into rehabilitation treatment for his alcoholism. Plaintiff told Barrow that he had to get some things in order, and would check into treatment on September 20, 2018.

12. During their conversation on September 18, 2018, Barrow told Plaintiff that he needed to retrieve a company laptop computer from Plaintiff, since Plaintiff was going into alcohol rehabilitation, as contacts for the upcoming *Musicfest El Dorado*, which was sponsored by EFE, Inc., were on it. Plaintiff agreed to this request.

13. During their conversation on September 18, 2018, Plaintiff then asked Barrow if he also needed Plaintiff's cellular telephone. Barrow told him that he did not, and that Plaintiff could keep it. However, Barrow told Plaintiff that Defendant would need to have access to Plaintiff's cellular telephone number for staying in communication with various contacts for the upcoming *Musicfest, El Dorado*, which were in Plaintiff's cellular telephone, while Plaintiff was hospitalized. Plaintiff agreed to this request as well.

14. On September 20, 2018, Plaintiff checked into the Ouachita County Medical Center (OCMC) for intensive "in-patient" treatment for his disease of alcoholism.

15. The following week, while Plaintiff was in therapy, he was informed by his now estranged wife, that Barrow had told her that Plaintiff was fired from his employment with Defendant.

16. Plaintiff is no longer in alcohol rehabilitation treatment. When he attempted to use his cellular telephone number, after being released from rehabilitation treatment, he was unable to do so. The said number has been deactivated by Defendant, which somehow has taken it from Plaintiff, and is withholding it from him.

17. The cellular telephone number at issue has belonged to Plaintiff for in excess of 15 years. It is his personal property, and despite numerous demands for its return, EFE, Inc. refuses to give it back to Plaintiff. This unlawful taking is a conversion of Plaintiff's property, in violation of Arkansas law.

18. Plaintiff's business contacts, which are in the thousands, know the cellular telephone number of Plaintiff, which was taken by Barrow, as the agent of EFE, Inc.

19. It is imperative for the cellular telephone number to be returned to Plaintiff. Without the cellular telephone number, which is being held without permission by EFE, Inc., Plaintiff is suffering irreparable harm and injury on a daily basis.

20. The said number 870 *** **79, is not being used by EFE, Inc., at this time, and actually is not working. However, EFE, Inc. is holding the telephone number hostage, depriving Plaintiff of its use, and causing him irreparable harm and injury.

21. Plaintiff was released from the hospital in October of 2018, after a very long stay in alcohol rehabilitation. He has been demanding the return of his cellular telephone number since then, however, Defendant, which is holding his telephone number without authorization, as of this filing, refuses to return it to him, despite repeated requests.

22. Plaintiff is a concert and events promoter, and Defendant, by holding his cellular phone telephone number hostage, is causing Plaintiff irreparable harm and injury on a daily basis, depriving him of making a living and providing for his family.

23. Defendant has deactivated the cellular telephone number, and is not using it, however, will not release it, as Defendant is using the said telephone number as a “negotiating chip” involving Plaintiff’s claims of wrongful termination, which will be filed in another forum. The actions by Defendant are not in good faith and are a conversion of his personal property, in violation of the law.

24. Plaintiff is suffering irreparable harm, and is being denied the ability to practice his trade by Defendant, because of the conversion of his cellular telephone number.

25. Plaintiff should be given an immediate ex parte temporary restraining order, as well as a final permanent injunction, directing Defendant to give him back his cellular telephone number forthwith.

26. In the event that Defendant should contest this issue, and not agree to a permanent injunction, then Defendant should be required to present its defense at an expedited hearing on all issues, and at such time, Plaintiff will request a permanent injunction.

27. Plaintiff should be awarded attorney's fees and costs for bringing this cause of action.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays for an immediate temporary restraining order, directing Defendant to forthwith release his cellular telephone number to him, or alternatively, an expedited hearing as soon as possible in order for Plaintiff to present his request for an immediate return of his cellular telephone number from EFE, Inc.; for a permanent injunction against Defendant to prevent any further similar conduct against Plaintiff; for attorney's fees for bringing this cause of action, court costs, and all other relief that he is entitled to as a matter of law.

Respectfully Submitted,

Brian Mark Givens, Plaintiff

BY: 

David P. Price, ABN: 92121
Attorney for Plaintiff
P.O. Box 765
Magnolia, AR 71754-0765
(870) 234-4781

VERIFICATION

STATE OF ARKANSAS §
 §
COUNTY OF COLUMBIA §

MARK GIVENS having first being duly sworn, states that he has read the attached and foregoing petition, and that the matters and things set forth therein are true and correct to the best of his knowledge and belief.



MARK GIVENS

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 7th day of November, 2018.



NOTARY PUBLIC

My Commission Expires:

