

**IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY FLORIDA**

COMPLEX BUSINESS LITIGATION COURT

THERESA COSTANTINE, as)
personal representative of the estate)
of RICHARD COSTANTINE,)

Plaintiff,)

CASE NO.: 08-CA-004422

-vs-

ORIGINAL MARYLAND FRIED)
CHICKEN, LLC, a Florida limited)
liability company, ROBERT)
COSTANTINE, an individual, and)
CAM VAN, an individual,)
Defendants.)

ORDER ON PLAINTIFF'S MOTION FOR TEMPORARY INJUNCTION

This matter having come before the Court on February 18, 2009, on the Plaintiff's Motion for Temporary Injunction. The Court, having heard argument of counsel and being fully advised in the premises, decides as follows:

A. The Plaintiff is the senior user of the word and design mark "MARYLAND FRIED CHICKEN" (the "Mark") ^{in Lake County FL} through his continuous use of the Mark for approximately thirty years to identify restaurant services provided by his Leesburg Restaurant so that the Mark has acquired a special significance as the name of the services rendered by the Plaintiff in his geographic market area.

B. The Plaintiff has established through evidence of the Plaintiff's advertising and customers from Lake County, Florida, witness testimony, and the proximity of the Defendants' Mt. Dora Restaurant to the Plaintiff's Leesburg Restaurant, that the Plaintiff's market area and use of the Mark includes the geographic area of Lake County, Florida, and in particular includes the location of the Defendants' Mt. Dora Restaurant.

C. Defendants are using an identical word and design mark to the Plaintiff's Mark to identify their restaurant services in the Plaintiff's market area where the Plaintiff has already established his Mark.

D. Consumers are likely to be confused by Defendants' use of the Plaintiff's Mark due to the Defendants' identical use of the Mark to identify an identical type of services in the Plaintiff's market area and in competition with the Plaintiff.

E. Thus, the Plaintiff has a substantial likelihood of success on the merits at trial.

F. The Plaintiff will likely suffer irreparable harm if the Temporary Injunction is denied due to the likelihood of consumer confusion and an inadequate remedy at law.

G. The balance of potential harm to the Defendants is outweighed by the potential harm to the Plaintiff if a Temporary Injunction is not issued as the Defendants may continue to operate their restaurant without interruption but under a different word and design mark than the Plaintiff's Mark.

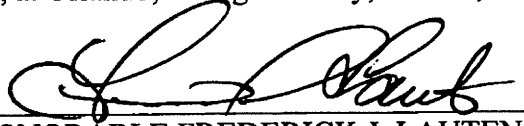
H. The public interest in preventing consumer confusion favors issuance of the Temporary Injunction.

THUS, IT IS HEREBY ORDERED, that the Plaintiff's Motion for Temporary Injunction is hereby **GRANTED** as follows:

Defendants are enjoined from continuing to use the word and design mark "MARYLAND FRIED CHICKEN" (the "Mark") with respect to their Mt. Dora Restaurant effective 30 days from entry of this Order and any words, terms, names, symbols, or devices, or combinations thereof, that are likely to cause confusion, mistake, or deception as to Defendants' affiliation, connection, or association with Plaintiff, or as to the origin, sponsorship, or approval of Defendants' goods, services, or commercial activities, directly or indirectly, and whether alone or in concert with others that might facilitate their wrongful conduct, including but not limited to Defendants' officers, agents, employees, representatives and attorneys with respect to the Defendants' Mt. Dora Restaurant.

This Temporary Injunction Order is conditioned upon Plaintiff's filing with the Clerk of this Court, not later than 20 days from entry of this Order, an undertaking in the form of a certified or cashier's check, bond, cash, or attorney's check, in the amount of \$ 20,000 to provide security for the payment of such costs and damages which may be incurred by Defendants if the relief herein is found to have been improvidently granted.

DONE AND ORDERED in Chambers, at Orlando, Orange County, Florida, on this 25
day of Feb, 2009.


HONORABLE FREDERICK J. LAUTEN
Circuit Court Judge

Copies to: Matthew G. McKinney, Esq. for the Plaintiff
Arthur Ranson, III Esq. and Stephanie Knott, Esq. for the Defendants