

testimony at trial, it will be up to the defendant[s] to prove truth as an affirmative defense.” *Waters v. Kearney*, No. 22-P-1105, 5 (Mass. App. Ct. May. 28, 2024)

The Appeals court has already shot down Kearney’s other defenses. “Kearney told the judge that he intended to move for summary judgment on the ground that the statement at issue in the remaining libel claim included the word “alleged[ly].” We note that that issue was litigated in *Waters I* and the defendants lost.” *Waters v. Kearney*, No. 22-P-1105, 4 n.7 (Mass. App. Ct. May. 28, 2024) See. *Waters v. Kearney*, No. 20-P-88, 10-11 (Mass. App. Ct. Aug. 19, 2021) (“[A]n imputation of crime is defamatory per se. This is so even when the charge was qualified by the words ‘it is alleged’ or their equivalent, or a mere truthful preface [was added] that someone else has so stated.”)

I will continue to be irreparably harmed until I can fairly present evidence, and the current risk of harm to witnesses and jurors far outweighs even a 100-million-dollar judgment. As a direct consequence of Kearney getting away with harassing multiple witnesses including my last therapist, and the cascading damage from Kearney’s conspiracies, I’ve been unable to get medical treatment or make an income. Affidavit at 3 and 5

Kearney will not suffer any harm if the injunction issues as his rights to speech may not deny or disparage my Ninth Amendment right to a fair trial.

“The First Amendment does not supersede the proper administration of justice and the court's obligation to ensure a fair trial, including protecting witnesses from intimidation... The right to a fair trial is just as important to the functioning of democracy as the First Amendment.” COMMONWEALTH vs. AIDAN T. KEARNEY November 9, (2023) MEMORANDUM AND ORDER ON DEFENDANT'S BAIL PETITIONS (23BP116 / 23BP117 / 23BP118 / 23BP119 / 23BP120 / 23BP123 / 23BP124 / 23BP125 / 23BP126)

Alternatively, the court should grant an injunction using its equitable inherent power to repair the status quo, as the articles and videos were all retaliation and punishment for participation in this court case, and Kearney should no longer be able to receive fruit from his obstructive acts. Kearney has numerous witness intimidation charges for acts that are minor compared to what Kearney did to my witnesses.

I should not have to post a bond, because the injunction should issue for equitable reasons and to protect my constitutional rights, or alternatively because Kearney has promised to harass anyone that hired me and impaired my emotional intelligence which has prevented me from earning an income and put me in poverty.

Affidavit at 3

Consolidation with a trial on the merits should be ordered because any jury or judge deciding this matter needs to understand why Kearney's actions have made

it too dangerous for me to fairly present evidence, and because this is a 2018 case with a complete record as for liability, and Kearney has insufficient evidence to support his defense.

See also the memorandum.

This matter became an emergency, because today when I asked Aidan Kearney where he wanted me to serve him, (since he no longer lives at his house and he asked me not to send any more papers there,) **Kearney said he would not respond to the motion** and again asked me not to send him anything else. I said I would mail this motion to his house, and Kearney stated that I had just threatened to kill him. I responded saying obviously I hadn't, Kearney said "well I'm going to the police and I'm going to tell them you threatened me, have fun in prison Rian." And then he hung up. Affidavit at 14.

Kearney's allegations cause extreme emotional distress, because multiple courts including this one ignored the facts and the law to make sure he did not get in trouble the last time he tried to frame me for threats on November 19th 2021. See docket 90, 101, and several others.

To be clear I would never threaten to harm Kearney or personally attempt to harm Kearney as I don't personally have the means or desire. We have a SCOTUS case with Meta Platforms that should be docketed any day and I could receive

millions of dollars from that case, and I've built algorithms for trading futures that auto detect trends and would make 10s of thousands every single month if any court decided my dispute with Kearney according to the facts presented (Exhibit A), but I have been unable to let the algos trade because of the impairment to my emotional intelligence from Kearney's conspiracies and the courts ignoring fact and law to allow the conspiracies, Kearney's new threats will impair me for several weeks if a court doesn't take the matter seriously on an emergency basis.

A five-minute video of Kearney's threats to my witness is here https://youtu.be/j0S9Z7Km5_U

A 3-minute video of Kearney admitting he was attacking Yakimowsky because she was my witness. <https://youtu.be/pNqn6CsOPaE>

Wherefore, I request the court;

1. Schedule a hearing for a preliminary and permanent injunction to address Kearney's misconduct including the recent threats and the November 19th conspiracy and the attacks on his coconspirator Cristina Yakimowsky, and after hearing issue an injunction requiring Kearney to retract all articles, video's, posts, or other harassing content that was written about me and/or witnesses in this case, from TBDailyNews.com, and TurtleboySports.com, and all associated social

media accounts, and for Kearney to refrain from discussing the case on associated accounts until Kearney either prejudgment posts a bond for \$100,000, or post judgment satisfies any judgment in this case.

2. Consolidate the preliminary injunction hearing with the trial on the merits as to liability, issue sanctions if appropriate.
3. Issue witness subpoenas for Aidan Kearney and Cristina Yakimowsky to appear at the hearing. (I don't want her address public)

Respectfully submitted

/S/ Rian Waters
(530)739-8951 Watersrian@gmail.com Dated: December 13th 2024

Certificate Of Service

I, Rian Waters, hereby certify that I will today serve a copy of the **Motion**, memorandum, and exhibits upon Kearney by email at Turtleboysports@gmail.com

/S/ Rian Waters
(530)739-8951 Watersrian@gmail.com Dated: December 13th 2024