

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN COUNTY,

1879CV0344

\_\_\_\_\_  
RIAN WATERS,  
Plaintiff

\_\_\_\_\_  
AIDAN KEARNEY,  
Defendant

)  
)  
) Attachment  
) Mass. R. Civ. P. 4.1  
)

HAMPDEN COUNTY  
SUPERIOR COURT  
FILED

OCT 28 2021

**Memorandum in support of Plaintiff's Ex Parte Motion to Attach Defendant's Bank Accounts**

**Background:**

On December 18<sup>th</sup> 2018, Aidan Kearney said that he sat down with his lawyer in Westfield [Kevin Chrisanthopolous] and that they discussed hiding Kearney's assets in case of a judgment. (AFF 3-4) Aidan Kearney also said at the time that it was impossible for him to get insurance, because he was obviously going to get sued a lot. (AFF 1) Aidan Kearney has bragged about being judgment proof on at least two other occasions. Aidan Kearney has since dissolved his companies, but he is continuing all of the same business. (Aff 2, and Exhibit A&B) The Appellate court reversed summary judgment in my favor as to the defamatory allegations in his book that I sold and shipped drugs in

California. (Docket 69) An attachment is necessary as it is clear that Kearney plans on hiding his assets.

**Argument:**

**I will likely recover judgment in an amount greater than \$20,000.**

"An 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. Accordingly, we reverse so much of the judgment entered in favor of Kearney on Waters's libel claim that is based on the statements that Waters sold drugs in California and shipped drugs to Massachusetts via USPS." Waters v. Kearney, 20-P-88, (Mass. App. Ct. Aug. 19, 2021) quotations omitted. "In a case of defamation the plaintiff's recovery is limited to actual damages, which are compensatory for the wrong done by the defendant." Stone v. Essex County Newspapers, Inc., 365 Mass. 246, 256 (Mass. 1974) "Actual injury includes not only out-of-pocket expenses, but also harm inflicted by impairment of reputation and standing in the community, personal

humiliation, and mental anguish and suffering.” Draghetti v. Chmielewski, 416 Mass. 808, 815-16 (Mass. 1994) In this case I have a diagnosis for adjustment disorder, (Docket 47.1) and the defamation in the book was the first major stressor to my adjustment disorder that caused significant impairment (Aff. 5,6), and in an affidavit for a motion to reconsider the removal of the default, I cited the cognitive impairment stemming from the defamation in the book as the reason the court should reconsider. (Docket 22.1) Plaintiffs have recovered significant sums for mental suffering with less evidence in other defamation cases. Van Liew v. Eliopoulos, 92 Mass. App. Ct. 114, 115 (2017) (concluding \$250,000 emotional distress award not excessive); Borne v. Haverhill Golf & Country Club, Inc., 58 Mass. App. Ct. 306, 319-321 (2003) (concluding \$424,000 emotional distress award not excessive); Shafir v. Steele, 431 Mass. 365, 373 (Mass. 2000) (“feelings of being ‘bludgeoned,’ ‘stunn[ed],’ and then ‘outrage’ and ‘anger...’are the ‘natural result’ of the defamation, sufficient to prove mental suffering.”)

### **Damages to reputation**

Aidan Kearney operates blog that has “weaponized public shaming” making his defamatory statements more damaging than if made by a normal newspaper editor. Kearney’s book has been a top seller on Amazon, and has been read by some of the biggest names in politics, including Ted Cruz and Sean Spicer. (AFF. 7)

**There is a clear danger that the defendant if notified in advance of attachment of the property will convey it, remove it from the state or will conceal it.**

Aidan Kearney has bragged about being judgment proof on several occasions. (Aff 3-4) Kearney does not have insurance (Aff 1)

**Wherefore,**

This court should approve the attachment of Kearney’s personal and business TD Bank accounts in an amount of \$10,000 each.

Respectfully Submitted,

Rian Waters  10/28/2021

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