

A musician sued a political candidate in a federal court for federal copyright infringement. The complaint requested damages and a preliminary injunction to stop the candidate from using the musician's songs at his political rallies. Notice of a hearing on the preliminary injunction was provided to both parties. After the hearing was conducted, the judge granted the musician's request for a preliminary injunction and stated the reasons for doing so. In addition, the injunction reads as follows:

"The political candidate and any person working or volunteering to put on a rally for the candidate may not play any of the musician's songs. The political campaign is directed to distribute this injunction to all persons, including workers, independent contractors, and volunteers, who are involved in the candidate's rallies. A fine of \$1,000 per violation will be assessed against anyone who fails to adhere to this injunction."

At the candidate's next rally, a volunteer who had received a copy of the preliminary injunction nonetheless played the musician's song.

Is the volunteer subject to the monetary fine for violating the preliminary injunction?

- A. No, because the volunteer did not receive notice of the hearing.
- B. No, because the volunteer is not a party in the musician's suit against the candidate.
- C. Yes, because the injunction is in the best interests of the public.
- D. Yes, because the injunction reasonably described the prohibited acts.

Explanation:

Preliminary injunction

Grounds* Movant establishes that:

- movant is likely to succeed on merits
- movant is likely to suffer irreparable harm in absence of relief
- balance of equities favors movant *and*
- injunction is in public's best interests

Contents Order granting injunction must:

- state reasons for issuance
- reasonably describe prohibited or commanded acts *and*
- state terms specifically

Effect Binds the following persons who receive actual notice of order:

- parties
- parties' officers, agents, employees & attorneys *and*
- anyone in active concert or participation with above-listed persons

*Movant also must provide bond to pay costs & damages if nonmovant was wrongfully enjoined.

A **preliminary injunction** is a temporary court order that is issued before or during trial to **prohibit or command a specified action** while a **case is pending** before the court. A preliminary injunction can only be granted after notice of the hearing to the adverse party, and it **must contain** all of the following:

- The **reasons** why it was granted
- A reasonable description of the **prohibited or commanded acts**
- The **specific terms** (eg, persons bound, penalties for noncompliance)

Additionally, **actual notice** of the preliminary injunction must be provided to **any person bound by it**, including (1) the parties, (2) their officers, agents, employees, and attorneys, and (3) persons in active concert or participation with the parties or their subordinates. Only persons who receive this notice can be held in **contempt of court** (eg, charged a monetary fine) for violating the injunction.

Here, the judge issued a preliminary injunction and stated the reasons why it was granted. The injunction bound the candidate and all persons working or volunteering on his behalf (specific terms) to stop playing the musician's songs (prohibited acts). And since the volunteer received a copy of the injunction (actual notice), the volunteer is subject to the monetary fine for violating the preliminary injunction.

(Choice A) The volunteer had to receive actual notice of the *injunction* to be subject to it, but the volunteer did not need to receive notice of the *hearing* since the candidate was the adverse party in this suit.

(Choice B) Although the volunteer is not a party in the musician's suit against the candidate, the volunteer worked on the candidate's behalf and received actual notice of the injunction. As a result, the volunteer is bound by the injunction.

(Choice C) The injunction may be in the public's best interests because the enforcement of copyright laws protects intellectual property rights. But that alone is not a basis to enforce the injunction against the volunteer.

Educational objective:

A preliminary injunction must contain (1) the reasons why it was issued, (2) a reasonable description of the prohibited or commanded acts, and (3) its specific terms.

References

- Fed. R. Civ. P. 65(d) (required contents and scope of preliminary injunction).