

**COMMONWEALTH OF KENTUCKY
MEADE CIRCUIT COURT
DIVISION 1
CIVIL ACTION NO. 07-CI-00082**

JORDAN GRUVER

PLAINTIFF

vs.

PLAINTIFF'S PRETRIAL BRIEF

IMPERIAL KLANS OF AMERICA,
RON EDWARDS, JOSHUA COWLES,
JARRED R. HENSLEY, and
ANDREW R. WATKINS

DEFENDANTS

* * * * *

This is a personal injury action. The plaintiff, Jordan Gruver, alleges that members of the Imperial Klans of America (IKA), acting on behalf of Klan leader Ron Edwards, attacked him while they were recruiting at the Meade County Fair in Brandenburg, Kentucky, in July 2006. The plaintiff seeks compensatory and punitive damages.

The plaintiff originally sued five defendants: Jarred Hensley and Andrew Watkins, IKA members who attacked the plaintiff and served time in prison for the offense; Joshua Cowles, a former high-ranking IKA official who was with Hensley and Watkins at the time of the attack and did nothing to stop it; Ron Edwards, the IKA leader; and the IKA itself. Because Watkins and Cowles have settled with the plaintiff, the plaintiff has

it.”). Songs glorify skinhead violence, including that aimed at Hispanics and other minorities.

II. Liability of Hensley, Watkins, and Cowles

The plaintiff has proposed instructions on Hensley and Watkins for assault and battery, and on Cowles for negligent supervision of Hensley and Watkins. Although Watkins and Cowles have settled with the plaintiff and will be dismissed from this lawsuit, the plaintiff has proposed jury instructions on their liability pursuant to Burke Enterprises, Inc. v. Mitchell, 700 S.W.2d 789 (Ky. 1985). See Palmore, Kentucky Instructions to Juries § 46.04 (5th ed. 2006).

To demonstrate that defendant Hensley committed assault and battery against him, the plaintiff will show that: (1) Hensley verbally threatened to strike or physically attempted to strike him with the intention of actually striking him or of putting him in fear of being struck; and (2) Hensley actually struck him or put him in fear of being struck. See Sigler v. Ralph, 417 S.W.2d 239, 241 (Ky. 1967). Because the plaintiff would predicate his intentional infliction of emotional distress claim against Hensley upon these same facts and likely would not obtain additional relief, he has not requested an instruction on that claim.

III. Liability of Ron Edwards

The plaintiff grounds his claims against IKA leader Ron Edwards on two bases of liability: (1) reckless selection, retention, and supervision of the Klansmen who attacked the plaintiff; and (2) inducement or encouragement of the violent actions by his Klansmen.

A. Reckless Selection, Retention, and Supervision

The plaintiff alleges that Edwards, in his capacity as the leader of the IKA, recklessly selected, retained, and supervised K

proximately caused the plaintiff's injuries. Under Kentucky law, "a [principal] can be held liable when [his] failure to e

“specifically intended . . . to cause

directed, or ratified” commission of a tort); Brown, 456 U.S. at 55 (“[A] solicitation, even though it may have an impact in the political arena, remains in essence an invitation to engage in an illegal exchange.”).

As long as the defendants’ statements and beliefs are relevant to the issues of this case, they are admissible as evidence. See, e.g., United States v. Abel, 469 U.S. 45, 54 (1984) (“[A]ttributes of the Aryan Brotherhood – a secret prison sect s

supervision claim against Edwards because it establishes that Edwards knew or should have known of the violent temperaments of the Klansmen who attacked the plaintiff and resulting danger they posed to the plaintiff and others. See, e.g., Plaintiff's Exhibits discussed, supra, on pages 2-3.

Respectfully submitted this 6th day of November, 2008.

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