

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

GEORGE R. SIMPSON

Plaintiff,

-v-

GEORGE WOOD

Defendant.

Civil Number: 2004-62

**DEFENDANT GEORGE WOOD'S MOTION FOR F.R.Civ.P. RULE 11 SANCTIONS AGAINST
PLAINTIFF GEORGE R. SIMPSON**

*Respectfully submitted,
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Post Office Box 502008
St. Thomas, U.S. Virgin Islands 00805-2008*

*TO: George R. Simpson
Post Office Box 775
Hampton Bay, New York 11946*

DATED: October 26, 2007

I. Introduction

The Defendant, George R. Simpson, commenced a baseless action against the Defendant, George Wood, and the Defendant George Wood by and through counsel, Feuerstein & Smith, LLP, does hereby move that the Court grant F.R.Civ.P. Rule 11 sanctions against George R. Simpson and does hereby move that the Court award Defendant attorney fees, costs and expenses.

II. The Plaintiff George Simpson's Conduct Justifies Sanctions

The Plaintiff, George R. Simpson, has brought a lawsuit against George Wood and alleges that George Wood is liable to the Plaintiff for money damages.

Shortly after Mr. Simpson's original filing of service of his Complaint, Mr. Wood, by and through counsel, demanded that Mr. Simpson withdraw his Complaint because the Complaint that was filed against Mr. Wood has no basis in law or in fact and a complete review of the Complaint shows that the Complaint was filed for improper purposes and in order to harass and cause unnecessary expense to Mr. Wood. In addition, the correspondence forwarded to Mr. Simpson stated that his Complaint was neither supported by existing law nor a good faith argument for an extension or change in existing law that the legal contentions were unjustified, that Mr. Simpson ignored unfavorable precedent and that he was obviously unfamiliar with the law with respect to his alleged claims. Further, it was alleged that Mr. Simpson's claims have no evidentiary support and are not likely to have evidentiary support even after a reasonable opportunity for an investigation.

This initial March 19, 2007 correspondence is attached as Exhibit 1.

After the commencement of the Plaintiff's claim against Mr. Wood, the Defendant served initial disclosures of over one thousand (1,000) pages of discovery. The Plaintiff has served no discovery, no voluntary disclosures and has totally refused and failed to engage in any required discovery.

On August 10, 2007 another letter was sent to the Plaintiff which is attached hereto as Exhibit 2.

Again, Mr. Wood, by and through counsel, explained to Mr. Simpson that the action that was commenced by him initially in the Superior Court of the Virgin Islands under index number 102-2007 and later removed to the District Court of the Virgin Islands on March 12, 2007, civil action number 102-2007 should immediately be withdrawn because it was filed against the Defendant and it is obvious that the Complaint has no basis whatsoever in law or in fact and a complete review of the Complaint shows that the Complaint was filed for improper purposes and to harass, annoy and cause unnecessary expense to Mr. Wood.

The letter demanding withdrawal of the Complaint of August 10, 2007, attached hereto as Exhibit 2, further states that Mr. Simpson's Complaint that was served and filed is not supported by existing law or a good faith argument for an extension or change in existing law, and that his legal contentions are unjustified. Favorable precedent is ignored and Mr. Simpson is obviously unfamiliar with the law with respect to his alleged claim. It was alleged further that Mr. Simpson's claims have no evidentiary support and that evidentiary support that exists is contrary to the allegations that Mr. Simpson has made in his Complaint.

Mr. Simpson failed and refused to respond to either of the demands that he withdraw his Complaint which are attached hereto as Exhibit 1 and Exhibit 2.

Mr. Simpson has continued and refused to withdraw his Complaint despite the fact that Mr. Simpson has failed to make a reasonable inquiry of the facts and law before signing and presenting the offensive Complaint. Additionally, the time available for investigation has expired, Mr. Simpson is aware of all the facts, Mr. Simpson commenced this proceeding for an improper purpose (i.e. to harass, cause unnecessary delay and expense) and his claims are not warranted in the law.

III. Pending Proceedings

Despite having been warned that his Complaint has no basis in law or in fact, the Plaintiff has done nothing to correct and nothing to withdraw his Complaint thus necessitating extensive Motion practice in

order to cause Mr. Simpson's Complaint to be dismissed

On September 18, 2007 the Defendant, George Wood, by and through counsel filed an Affidavit of George Wood in support of a Motion for Summary Judgment, the Affidavit of Kay Wood in Support of a Motion for Summary Judgment, the Affidavit of Alan R. Feuerstein in Support of a Motion for Summary Judgment, the Notice of Motion in Support of the Defendant's Motion for Summary Judgment, the Defendant's Statement of Material Facts About Which Defendant Contends There are No Genuine Issues, extensive Exhibits in support of the Defendant's Motion for Summary Judgment and an extensive Memorandum of Law. All of the above referenced Motions and documents are presently before this Court.

Mr. Simpson has failed to provide any evidence whatsoever in opposition to the Defendant's Motion to Dismiss and instead alleged that the Defendant filed his Motion for Summary Judgment under the wrong index number, that the Summary Judgment Motion was in violation of a Settlement Conference Order, that the Summary Judgment Motion was disingenuous and includes Affidavits made in bad faith, that the Motion for Summary Judgment fails to allege proper specificity and meet burdens prescribed by Court rules and further alleges that the Plaintiff has standing despite the fact that the condition precedent of arbitration never met. Plaintiff goes further and attempts to move that the Court "try the Defendant, his wife and attorney for acts of bad faith". Simpson provides no Affidavits, no evidence, no exhibits, and note one piece of admissible proof that in any way supports his Complaint.

IV. Argument

Plaintiff's actions and conduct justify sanctions. The Complaint that was filed by the Plaintiff is groundless and frivolous. The Court can oppose sanctions on a *pro se* party such as Simpson because his Complaint was signed in violation of F.R.Civ.P. 11(b) by certifying via his signature on the Complaint [F.R.Civ.P. 11(a)] Mr. Simpson has certified that his Complaint has not been presented for an improper purpose or to harass or cause unnecessary delay or expense, that the claims are supported by existing law or

by a good faith argument for an extension or change in existing law, that the allegations and factual contentions have, or are likely to have after a reasonable opportunity for investigation, evidentiary support, and, that the denials or other factual contentions are warranted by the evidence or based upon lack of information or belief [F.R.Civ.P. 11(b) 1, 2, 3, 4].

It is clear that Mr. Simpson's Complaint is groundless, frivolous, was filed for improper purposes, his claims and defenses are not warranted in law, that he ignores unfavorable precedents, that his pleadings lack evidentiary support, and that his conduct throughout the prosecution of this claim has been committed in bad faith.

Importantly, this Court is fully aware of the fact that the Plaintiff has commenced two (2) other separate identical proceedings against two (2) other former members of the Board of Directors of Sapphire Bay Condominiums West. There is an action pending in the United States District Court for the Eastern District of New York, Long Island Division entitled George R. Simpson v. Stephen Sokolow (civil number 07-2388), and another action that is pending in the Superior Court of the Virgin Islands Division of St. Thomas and St. John entitled George R. Simpson v. Steven Kerschner (civil number 250-05) which are identical claims that Plaintiff Mr. Simpson has brought against other former members of the Board of Directors. Simpson's conduct in commencing multiple proceedings against other board members for the identical claims can be described as nothing less than multiplying proceedings unreasonably and vexatiously and therefore, has opened the door to a finding that Simpson has multiplied the proceedings unreasonably and vexatiously and therefore must pay costs, expenses and attorney fees incurred because of this conduct. Simpson's conduct is egregious behavior that violates recognized standards of litigation conduct.

This Motion for Sanctions is being brought against the Plaintiff, George R. Simpson, separately from any other Motion. It is being forwarded to Mr. Simpson on the 26th day of October, 2007 in order to comply with the "safe harbor" requirement as set out in F.R.Civ.P. 11 which requires that it may be filed twenty-one

(21) days after it has been served on the opposing party [F.R.Civ.P. 11(c)(1)(A)].

V. Conclusion

Based upon the foregoing, sanctions should be imposed against George R. Simpson as a result of the foregoing. This Court should order that all attorney fees, costs and expenses be imposed against George R. Simpson as a result of his sanctionable conduct.

DATED: Buffalo, New York
October 26, 2007

Respectfully submitted,
FEUERSTEIN & SMITH, LLP

BY: *s/Alan R. Feuerstein*

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TO: George R. Simpson
Post Office Box 775
Hampton Bay, New York 11946

CERTIFICATE OF SERVICE

I, Alan Feuerstein, hereby certify that on the 26th day of October, 2007 served the Defendant George Wood's Motion for F.R.Civ.P. Rule 11 Sanctions against Plaintiff George R. Simpson via U.S. First Class Mail directed to the following:

George R. Simpson
Post Office Box 775
Hampton Bay, New York 11946

s/Alan R. Feuerstein _____

Alan R. Feuerstein