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

THE BOARD OF DIRECTORS OF SAPPHIRE BAY CONDOMINIUMS WEST

Plaintiff,

-v-

GEORGE R. SIMPSON, et al.

Defendant.

Civil Number: 2004-62

GEORGE R. SIMPSON

Plaintiff,

-v-

ANDREW CAPDEVILLE and
ALAN R. FEUERSTEIN

Defendant.

Case Number: 2007-51

ALAN R. FEUERSTEIN

Plaintiffs,

-v-

GEORGE R. SIMPSON

Defendant.

CIVIL NUMBER: 2004-134

GEORGE R. SIMPSON

Plaintiff,

-v-

GEORGE WOOD

Defendant.

Civil Number: 2007-102

DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS PLAINTIFF'S COMPLAINT (GEORGE R. SIMPSON v. ANDREW CAPDEVILLE AND ALAN R. FEUERSTEIN, CASE NUMBER 2007-51)

To Honorable Ronald Buckwalter
Senior United States District Court Judge for the
Eastern District of Pennsylvania

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

December 10, 2007

I. Introduction

The Plaintiff, George R. Simpson ("Simpson"), filed his action and commenced these proceedings against the Defendants, Alan R. Feuerstein and Andrew Capdeville, on the 15th day of March, 2007. Since the time he has commenced his action, Simpson has done *nothing* to prosecute this claim. Instead, Simpson, has engaged in an effort to defame and injure the Defendants through publishing his Complaint on the internet under www.andrewcapdevillesucks.com, www.alanrfeuersteinsucks.com, and www.feuerstein&smithllpsucks.com. Alan R. Feuerstein and Andrew Capdeville are the attorneys for Sapphire Bay Condominiums West ("Sapphire") in the U.S. Virgin Islands. Over the past several years, Simpson has been subject of lawsuits filed by Sapphire and by Simpson which are matters of record before this Court. As a result of Feuerstein and Capdeville's vigorous representation of their client, Sapphire, Simpson has commenced this baseless, frivolous lawsuit against Feuerstein and Capdeville alleging that the conduct of Feuerstein and Capdeville in lawfully representing their client, Sapphire, has caused some type of injury or damage to Simpson and his wife. Defendants' Answer to the Plaintiff's Complaint sets out a full history of the representation of Sapphire by Feuerstein and Capdeville, and sets out Mr. Simpson's bizarre motivation in commencing this lawsuit.

II. Failure to Prosecute

F.R.Civ.P. 41(b) allows a Court to involuntarily dismiss and dispose of a case without a trial. The dismissal can operate as either a final adjudication on the merits of a suit or as a method for returning the parties to the positions they held before the suit was filed. Wright & Miller, 9 Federal Practice & Procedure 2d. §2369-2376 (1995 & Supp. 2005); 8 Moore's Federal Practice 3d. §41.50-41.70 (2005). Defendants move the Court to dismiss Plaintiff's Complaint pursuant to F.R.Civ.P. 41(b) and has shown in the attached Motion that since the initial filing of the Plaintiff's Complaint that

Simpson has done nothing whatsoever to prosecute his claim. Simpson's sole intention with respect to the filing of his Complaint was to set up an internet website and then publish his Complaint in an attempt to injure the Defendants, both of whom are highly respected attorneys. Simpson's claim has no merit, his claims are without any basis, and Simpson has brought these claims in order to attempt to injure the Defendants by publishing the Complaints on the internet websites that he himself has erected.

Simpson previously has been held responsible for the content in the same internet website owned by "North American Alliance for Honest Corporate Management". In a ruling and an Order of this Court, Honorable Thomas Moore, in granting a permanent injunction to Sapphire Bay Condominiums West restraining Simpson from continuing to poach Sapphire's trade name and held that Simpson exercises complete dominion and control over the website allegedly owned by North American Alliance for Honest Corporate Management and therefore can be held responsible for its content. (See: The Board of Directors of Sapphire Bay Condominiums West v. George R. Simpson individually and d/b/a North American Alliance for Honest Corporate Management, case pending in the District Court of the Virgin Islands Division of St. Thomas and St. John, civil number 250/05.

Defendants move to dismiss Plaintiff's Complaint with prejudice. The Plaintiff has failed to comply with the discovery statutes (F.R.Civ.P. 16, F.R.Civ.P. 26) and, therefore, this Court should involuntarily dismiss the Plaintiff's Complaint. Link v. Wabash R.R., 370 U.S. 626, 629-33, 82 S. Ct. 1386, 1388-90 (1962) Bowling v. Hasbro, Inc., 403 F. 3d. 1373, 1375 (Fed. Cir. 2005); Long v. Simmons, 77 F. 3d. 878, 879 (5th Cir. 1996); In re: Bluestein & Company, 68 F. 3d. 1022, 1025 (7th Cir. 1995).

Because the Plaintiff has refused to actively pursue this lawsuit, because the lawsuit is baseless and frivolous, this Court must dismiss Plaintiff's case for want of prosecution [F.R.Civ.P. 41(b); Link

v. Wabash R.R., 370 U.S. at 630, 82 S. Ct. at 1388; Larson v. Scott, 157 F. 3d. 1030, 1031 (5th Cir. 1998) Baker v. Latham Sparrowbrush Associates, 72 F. 3d. 246, 252-53 (2d. Cir. 1995) In re: Bluestein, 68 F. 3d. at 1025; GCIU Employer Ret. Fund v. Chicago Tribune, 8 F. 3d. 1195, 1199 (7th Cir. 1993) Chamarro v. Puerto Rican Cars, Inc., 304 F. 3d. 1, 4 (1st Cir. 2002)].

III. Plaintiff's Personal Responsibility, His Record of Delay, His Willful and Bad Faith Conduct Favors Dismissal of Plaintiff's Case

The responsibility for the Plaintiff's conduct, and the blame lays upon the Plaintiff *pro se* personally. Emerson v. Thiel College, 296 F. 3d. 184, 190 (3d. Cir. 2002). In this case, Plaintiff commenced a baseless frivolous lawsuit solely in order to defame and libel the Defendants and he has taken no action with respect to its prosecution. There is a clear record of delay in this case, Emerson, 296 F. 3d. at 190.

The unreasonable delay in the prosecution of this case presents a presumption of prejudice to the Defendant. In re: Eisen, 31 F. 3d. 1447, 1452-53 (9th Cir. 1994) The conduct of the *pro se* Plaintiff Simpson is willful and in bad faith. Emerson, 296 F. 3d. at 190, see also Dorsey v. Scott Wetzel Services, Inc., 84 F. 3d. 170, 171-72 (5th Cir. 1996 describing contumacious conduct).

This Court has a need to manage it's docket. Simpson's alleged rights are greatly outweighed by the Court's interest to manage it's docket. See Al-Torki v. Kaempen, 78 F. 3d. 1381, 1384 (9th Cir. 1996).

Therefore, based upon the fact that Simpson has a clear record of delay, that there has been prejudice to the Defendants, that Simpson's conduct is willful and in bad faith, that the Court has an extraordinary need to manage its docket, that policy favors disposition of cases and expeditious resolution of litigation and, because Plaintiff's case has no merit. (Degen v. U.S., 517 U.S. 827-28 116 S. Ct. 1777, 1782-83 (1996); Long, 77 F. 3d. at 879 this Court must dismiss Plaintiff's case.

IV. Conclusion

The Plaintiff, George Simpson, has a clear record of contumacious conduct with respect to the incredible amount of litigation that he has pursued in this Court. In the instant case, he has sued two highly respected attorneys who represented their client, Sapphire Bay, vigorously, and within the confines of the law. Simpson simply filed a Complaint, and then "advertised it on the internet" by erecting a defamatory and libelous website against Alan R. Feuerstein, Andrew Capdeville and Feuerstein & Smith, LLP. Mr. Simpson has a history of wrongful and bizarre conduct with respect to filing lawsuits and then opening websites in order to "Advertise" their defamatory and libelous content. Simpson has a history of wrongful conduct and he has already been sanctioned as a result of it.

Based upon the foregoing, this Court must dismiss Plaintiff's Complaint, and award to the Defendants' costs, attorney fees and sanctions against Plaintiff as a result of his frivolous, baseless commencement of this case.

DATED: December 10, 2007
St. Thomas, USVI

Respectfully Submitted,
FEUERSTEIN & SMITH, LLP

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CERTIFICATE OF SERVICE

I, Alan R. Feuerstein, HEREBY CERTIFY that I am over 18 years of age, not a party to this action and on the 10th day of December, 2007 served the Defendants' Memorandum of Law in Support of Motion to Dismiss Plaintiff's Complaint e by depositing a true copy of the same in a post-paid US Mail envelope in an official depository under the exclusive care and custody of the United States Post Office, directed to the following:

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

s/Alan R. Feuerstein
Alan R. Feuerstein, Esq.