UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

BRYAN ANTHONY REO, Plaintiff / Counter-Defendant, v. **MARTIN LINDSTEDT,** Defendant / Counter-Plaintiff.	Case No. 1:19-CV-02103-SO Hon. Solomon Oliver, Jr. Mag. Jonathan D. Greenberg

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PLAINTIFF BRYAN ANTHONY REO'S OPPOSITION TO DEFENDANT'S CONSOLIDATED ANSWERS

NOW COMES Bryan Anthony Reo ("Plaintiff"), *pro se*, and hereby propounds upon Martin Lindstedt ("Defendant") and this Honorable Court Plaintiff Bryan Anthony Reo's Opposition to Defendant's Consolidated Answers [ECF No. 50].

Defendant made a filing on 11/9/2020 titled "Defendant's Consolidated Answers, Withdrawal of Silent Admissions, Answering Reo Interrogatories, and Stating There are No Other Documents Other than What Bryan Reo Already has or Already on Lindstedt's Church's Web Page." [ECF No. 50]. This document appears to be several things. It appears to be a further brief in opposition to the [already granted] motion for summary judgment [granted via ECF No. 44]

which would be untimely. It appears to be yet another [de facto] motion for reconsideration, and it appears to be an attempt to grant himself withdrawal of admissions. Defendant's filing necessarily fails on all counts.

On 1/26/2020 Plaintiff filed a Motion for Summary Judgment pursuant to Fed. R. Civ. P. 56 [ECF No. 34]. On 2/24/2020 Defendant filed his brief in opposition to said motion [ECF No. 37]. On 2/26/2020 Plaintiff filed a Reply in Support of summary judgment [ECF No. 38]. Briefing is closed, done, over, the time for briefing [per the Local Rules] ended months ago. The Court granted [in part] Plaintiff's motion, as to liability, on 9/28/2020 [ECF No. 44].

Summary judgment has already been entered as to liability on the unanswered admissions and it would be highly prejudicial to the non-movant for such admissions to be allowed to be withdrawn at this late stage in the proceedings, especially considering judgment has been entered based on the admissions. A motion for summary judgment was pending from 1/26/2020 [ECF No. 34] to 9/28/2020 [ECF No. 44]. In short, Defendant had slightly more than 8 months within which to meaningfully oppose Plaintiff's motion for summary judgment, a motion which he knew was based on unanswered requests for admissions. Defendant found the time to file a substantial amount of offensive trash and racist gibberish, but he didn't find the time to meaningfully participate in the instant action in a non-frivolous manner. Defendant's present problem is one that is entirely of Defendant's own making.

Strictly speaking, Fed. R. Civ. P. 36 is not a discovery device, but rather "a procedure for obtaining admissions for the record of facts already known." *Ghaxerian v. United States*, No. 89-

8900, 1991 WL 30764, at *1 (E.D. Pa. March 5, 1991). See also *Richard Bouchard v. United States*, Case No. 1:05-cv-00187-JAW (D. Me. March 6, 2007) ("[S]trictly speaking Rule 36 is not a discovery procedure at all . . . ." (citing 8 Charles Alan Wright, Arthur R. Miller & Richard L. Marcus, Federal Practice and Procedure § 2253 (2007) (Wright Et Al.); *Pickens v. Equitable Life Assurance Soc'y*, 413 F.2d 1390, 1393 (5th Cir. 1969) ("Rule 36 is not a discovery device, and its proper use is as a means of avoiding the necessity of proving issues which the requesting party will doubtless be able to prove.").

Given the Defendant's frequent party admissions within his own pleadings, Plaintiff, the requesting party, would doubtlessly be able to prove liability as to the counts upon which the Court has already entered judgment in favor of Plaintiff as to liability. Defendant's pleadings make it clear he is the owner of the website in question, he is the sole creator of content on the website, he wrote the posts in question about Plaintiff, and he has nothing other than an [incorrect and legally insufficient] belief that the First Amendment allows him to engage in defamatory speech, as a defense to an accusation of the intentional tort of defamation per se.

Defendant tellingly cites no legal authority for the proposition that a party can withdraw his own admissions based on nothing more than his own say so, without the intervention of the Court, or that it would be appropriate for the Court to grant withdrawal of admissions almost 10 months after the matters were admitted and after summary judgment has been granted, partially on the basis of said admissions. Such withdrawal would be highly prejudicial to the non-movant [Plaintiff] and Defendant does not even attempt to suggest otherwise. Defendant never participated in discovery, never responded to discovery, never propounded discovery, and now seeks to cause

yet more delay. Prejudice to the non-movant is typically the most important factor in determining whether it would be appropriate for a court to permit a movant to withdraw admissions. In this instance the withdrawal of admissions would be highly prejudice to Plaintiff in so much that Defendant seeks endless delay, did not, has not, and will not ever cooperate in any way with discovery, and instead seeks to file multiple, repetitive, abusive, duplicative motions for reconsideration, one after another. Delay is the name of his game.

To quote the Defendant himself, ""By moving it up to the federal level hopefully it will be **delayed**. In South Dakota Pastor Lindstedt gave his property back to his sister who uses lawyers to try to keep it." *Bryan Anthony Reo v. Martin Lindstedt*, Case No. 1:19-cv-02589-CAB [ECF No. 57, Page ID #541]. Defendant has embarked on a campaign of attempting to cause as much delay as possible, which is not proper in litigation. His present conduct should be understood and viewed through that lens. Flagrant disregard for the rules, incoherent rambling pleadings, and abusive language appear to be the "go-to" tools for Defendant whose primary purpose is to cause confusion and delay.

Defendant tellingly fails to cite any legally sufficient basis for the [de facto] reconsideration he is seeking in his filing. The filing is caption as a consolidated answer but it is clearly a motion requesting multiple aspects of relief from this court. For the reasons Plaintiff has provided, Defendant is not entitled to any of the requested relief and his de facto motion should be denied in its entirety, or even stricken as abusive and frivolous.

Plaintiff will further brief this issue if the Court so desires/orders or otherwise directs.

The Court should deny Defendant's requested relief in its entirety.

Respectfully submitted,

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Dated: November 10, 2020

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Pro se Defendant

CERTIFICATE OF SERVICE

I, Bryan Anthony Reo, affirm that I am a party to the above-captioned civil action, and on November 10, 2020, I served a true and accurate copy the foregoing document upon Martin Lindstedt, 338 Rabbit Track Road, Granby, MO 64844, by placing the same in a First Class postage-prepaid, properly addressed, and sealed envelope and in the United States Mail located in City of Mentor, Lake County, State of Ohio.

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