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 BRIEF IN OPPOSITION TO DEFENDANT'S MOTION TO ALTER, AMEND, OR RECONSIDER THE SEPTEMBER 28 ORDER

NOW COMES Bryan Anthony Reo ("Plaintiff"), *pro se*, and hereby propounds upon Martin Lindstedt ("Defendant") and this Honorable Court Plaintiff Bryan Anthony Reo's Brief in Opposition to Defendant's Motion to Alter, Amend, or Reconsider the September 28, 2020 Order of this Court.

The motion filed by Defendant, Document No. 47, is so completely and totally devoid of any merit that it does not warrant any significant response by Plaintiff. It is patently and blatantly offensive to the Plaintiff, to the justice system, to the United States District Court for the Northern District of Ohio, and especially to the Honorable Judge presiding over the instant action. It does

not read as a serious motion made pursuant to FRCP 59 seeking reconsideration of a judgment. It reads as an incoherent and unintelligible racist rant that fails to outline or detail a legally sufficient basis for a duly entered judgment to be altered, amended, or reconsidered.

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the unanswered admissions and it would be highly prejudicial to the non-movant for such admissions to be allowed to be withdrawn at this late stage in the proceedings, especially considering judgment has been entered based on the admissions.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.

Within Defendant's ramblings it seems he takes issue with the sequence of discovery in the case, although Plaintiff did properly serve initial disclosures under FRCP 26, Defendant seemed not to like the content of those disclosures. Defendant propounded no discovery on Plaintiff and did not answer any of Plaintiff's discovery packet, nor did Defendant address the Requests for Admissions. Defendant may have "buyer's remorse" over the fact that his conduct during discovery put him on the course which has brought him to the present point, but that isn't a legally sufficient basis for altering or amending a judgment.

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.

For the sake of judicial economy Plaintiff will simply state that he opposes every aspect of the motion filed by Defendant, Defendant has failed to provide a sufficient basis, whether legally or factually, for the relief he requests, and Defendant is not entitled to the requested relief.

Defendant's motion is rife with offensive and outrageous language and it should be denied as frivolous and perhaps even stricken as abusive and scandalous per F.R.C.P. 12(f). Plaintiff will not waste his time nor the Court's time to repeat and quote the despicable remarks Defendant made in his frivolous motion. The frivolity of the motion speaks for itself and requires no further addressing by Plaintiff except to note that this Court might consider the imposition of a contempt bond upon Defendant of $500 dollars which Defendant must submit to the clerk and provide proof therefore to the Court, before Defendant can file anything further in this case, with the bond being forfeit in the event Defendant files something that is deemed frivolous or violative of Rule 12(f).

Fundamentally the motion is frivolous to the extent it fails to provide any legally sufficient basis for the requested relief. The Defendant provides a stack of garbage and a list of reasons that amount to more garbage which can be summed up as "I don't like Reo, he ain't remotely white, and I don't accept rulings from a judge who is black." The Defendant then talks about a coming war, civil war, massacres, nuclear radiological attacks, and finishes with a threat to appeal. Plaintiff has noticed that the Court has shown incredible tolerance, patience, and generosity with a Defendant who is obviously a bully and an unapologetic racist, and Plaintiff believes it is a credit to the stability of the American system of justice that even a man as vulgar and nasty as Defendant is able to present his arguments and be heard. Defendant has been heard, he unfortunately didn't have anything worthwhile to say and his motion should be denied on the basis it is frivolous and legally insufficient. Rather than a proper use of the Federal Rules of Civil Procedure the Defendant makes an appeal to racism, an appeal which should be denied. The Defendant has taken enough of this Court's time and Plaintiff will take no more of the Court's time with further briefing or narrative, unless so ordered.

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

The Court should deny Defendant's motion in its entirety.

Respectfully submitted,

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Dated: October 27, 2020

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CERTIFICATE OF SERVICE

I, Bryan Anthony Reo, affirm that I am a party to the above-captioned civil action, and on October 27, 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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