Case No. 21-3633, 21-3661, 21-4191, and 22-3025

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

BRYAN ANTHONY REO, et al.

PETITIONER-APPELLEE,

v.

MARTIN LINDSTEDT

RESPONDENT-APPELLANT

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
CASE No. 1:19-cv-02589-CAB (Hon. CHRISTOPHER A. BOYKO)
CASE No. 1:19-cv-02786-CAB (Hon. CHRISTOPHER A. BOYKO)
CASE No. 1:19-cv-02103-SO (Hon. SOLOMON OLIVER, Jr.)
CASE No. 1:19-02615-JRA (Hon. JOHN R. ADAMS)

APPELLEES' PETITION FOR REHEARING AND REHEARING EN BANC

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I. TABLE OF AUTHORITIES

Case Law

Statutory Law

None cited.

Court Rules

II. INTRODUCTION AND RULE 35 STATEMENT

The Panel's decision addresses a number of important and recurring questions of law and procedure: whether requests for admission can only be withdrawn by formal motion (whether oral or written) (Case: 21-3633, Document 29-2, Opinion Page 2); whether a District Court must permit a pro se litigant leave to withdraw admissions under any circumstance regardless of the behavior of the litigant and clear prejudice to the non-movant (Case: 21-3633, Document 29-2, Opinion Page 2); whether a District Court must construe an incoherent Sovereign Citizen rant by a pro se litigant as an actual request for relief and then ultimately grant the requested relief (Case: 21-3633, Document 29-2, Opinion Page 2); whether a District Court may enter judgment based upon a party's complete failure to respond to any discovery including requests for admissions (Case: 21-3633, Document 29-2, Opinion Page 2); and how much bad behavior must a District Court tolerate from a pro se before declining to show further leniency to that litigant. (Case: 21-3633, Document 29-2, Opinion Page 2)

As Sovereign Citizen style arguments and litigation tactics become increasingly common, especially among a rising number of extremists litigating pro se, it has never been more important for District Courts to be afforded the tools necessary to keep cases progressing and to resolve cases in a legally and procedurally

proper manner. This Panel's decision will inevitably result in the clogging of dockets of District Courts as this Panel has essentially signaled to Northern District judges that no matter how many times a pro se Sovereign Citizen threatens to kill the party opponent, judges in the district, or attack a nuclear power plant in the community, and no matter how often he refuses to produce evidence or participate in discovery, even after being given extensions, he must be shown not only latitude and leniency but the District Court must show such a litigant actual deference and defer to his wishes and demands for any requested relief. This Panel's decision effectively hamstrings Northern District of Ohio judges and requires them to construe rambling rants containing generic denials as de facto motions to withdraw admissions and then to grant the requested relief, especially if the movant is a pro se, regardless of said movant's behavior or clear prejudice to the non-movant.

Further, this Panel's decision, which found that Requests for Admission under Rule 36 are a general "discovery device" (Case: 21-3633, Document 29-2, Opinion Page 2) cannot be reconciled with *Misco, Inc. v. United States Steel Corp.*, 784 F.2d 198, 205-06 (6th Cir. 1986) which held that "Requests for admissions are not a general discovery device." To the extent this Panel's decision appears based on an understanding that RFAs are a "general discovery device" it is clearly erroneous. Requests for admissions are not a general discovery device but a rather a procedural tool to narrow issues for trial. Here, absent the use of Requests for Admissions, all

issues (including jurisdiction and venue) would have been required to be tried because Lindstedt provided absolutely no responses to any Reo discovery and stated he was refusing to participate in the discovery process, and ignored every single deadline as to discovery, even after receiving his requested 60 day extension on discovery. (1:19-cv-02589-CAB ECF No. 92 PageID# 994). Lindstedt never responded to any discovery at any point, even after Reo filed his motion for summary judgment and the motion was pending, with Lindstedt fully aware of the basis of the motion. (1:19-cv-02589-CAB ECF No. 92 PageID# 995)

The Panel further strayed from the precedent of *Kerry Steel, Inc. v. Paragon Indus.*, 106 F.3d 147 (6th Cir. 1997) and *Petroff-Kline*, 557 F.3d 285 (6th Cir. 2009) both of which involved movants to withdraw admissions having actually responded to the outstanding admissions, albeit several days late, whereas at 942 days and counting, Lindstedt never responded to any discovery, let alone the admissions he insists should have been withdrawn.

Petitioner would concede that the granting of significant judgments against a pro se litigant may, at a cursory glance, seem extreme. However, under the very unique and extreme circumstances that came about in the case taken up on appeal, the grant of summary judgment based on the requests for admissions was not only quite proper, but was the most proper and appropriate way to resolve the case in a legal, procedural, and correct manner, particularly in light of Lindstedt's repeated

threats of extreme violence if he did not get his way and his refusal to participate in discovery or produce evidence in discovery. (1:19-cv-02589-CAB ECF No. 92 PageID# 997)

The 6th Circuit has previously held that "the lenient treatment generally accorded to pro se litigants has limits." *Pilgrim v. Littlefield*, 92 F.3d 413, 416 (6th Cir. 1996) Moreover, "pro se parties must follow the same rules of procedure that govern other litigants." *Barry Wilson v. Middle Tennessee State Univ. & The State of Tennessee,* No. 3:19-0798, 2021 WL 694181, at *5 (M.D. Tenn. Feb. 23, 2021); see also *Fields v. County of Lapeera*, 2000 WL 1720727 at *2 (6th Cir. Nov. 8, 2000). The Sixth Circuit has further held: "[W]hile pro se litigants may be entitled to some latitude when dealing with sophisticated legal issues, acknowledging their lack of formal training, there is no cause for extending this margin to straightforward procedural requirements that a layperson can comprehend as easily as a lawyer." *Jourdan v. Jabe*, 951 F.2d 108, 109 (6th Cir. 1991). "Pro se litigants are not to be accorded any special consideration when they fail to adhere to readily-comprehended court deadlines." *Id.* at 110.

The conflict of authority alone is sufficient to justify rehearing. Fed. R. App. P. 35(a)(1) and Fed. R. App. P(35)(b)(1)(A), while the questions of exceptional importance justify a rehearing per Fed. R. App. P. (35)(a)(2).

With all respect, it is apparent that the Panel misapprehended the record on appeal and failed to grasp the significance that the Trial Courts, presiding over the case(s) below, with their fingers on the pulse, was fully aware of the extent of Lindstedt's abuses and non-participation in discovery, and detailed this in the opinion and order granting summary judgment, "the fact that Defendant failed to provide evidence during discovery and has issued many threatening responses in his Court filings is particularly troubling to the Court and has clearly prejudiced Plaintiff's ability to marshal evidence in his case." (1:19-cv-02589-CAB ECF No. 92 PageID # 997). The Panel opinion (erroneously) states that the Trial Court granted summary judgment based on admissions that were deemed admitted and not permitted to be withdrawn "based solely" on Lindstedt's failure to formally motion for the withdrawal of said admissions, where the Trial Court's own opinion and order make it clear that the Trial Court went beyond the matter of Lindstedt's failure to observe mere formality for the relief he requested and did an analysis of prejudice to Plaintiff Reo, the non-movant, to explain why withdrawal would be inappropriate even if Lindstedt had made a proper formal motion. the Panel of this Appellate Court unfortunately misapprehended the record and incorrectly applied the law.

The petition should be granted and this matter should be heard en banc or at a minimum be reheard by the Panel.

III. STATEMENT OF THE CASE

The cases below involved claims for defamation and other state tort claims wherein Martin Lindstedt published highly offensive statements about Bryan Reo online, stating that Bryan Reo had an extramarital affair against his wife Stefani Rossi Reo, that Bryan Reo had a homosexual incestuous affair with his own father Anthony Domenic Reo, and that Bryan Reo had engaged in sexual acts with a judge to obtain a favorable court ruling (1:19-cv-02589-CAB ECF No. 1 at ¶7)

IV. ARGUMENT

a. The Panel Misapplied Sixth Circuit Precedent.

The Panel has essentially concluded that the District Courts were *required* to construe Lindstedt's rants as a motion to withdraw admissions and further were *required* to grant said motion and that the failure to do both was reversible error.

The Panel appears to rely heavily on *Kerry Steel, Inc. v. Paragon Indus.*, 106 F.3d 147 (6th Cir. 1997) and *Petroff-Kline*, 557 F.3d 285 (6th Cir. 2009) but both of those cases are easily distinguishable from the present matter.

> If no formal motion was necessary here, it does not seem to us that the district abused its discretion in deeming the admission withdrawn. A "district court has considerable discretion over whether to permit withdrawal or amendment of admissions." American Auto., 930 F.2d at 1119. The court's discretion must be exercised in light of Rule 36(b), which permits withdrawal (1) "when the presentation of the merits of the action will be subserved thereby," and (2) "when the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice that party in maintaining the action or defense on the merits." Here there can be no doubt that the presentation of the merits of the jurisdictional issue was served by allowing the withdrawal of the admission. In regard to prejudice, " [t]he prejudice contemplated by [Rule 36(b)] is not simply that the party who initially obtained the admission will now have to convince the fact finder of its truth." *Brook Village North Assoc. v. General Elec. Co.*, 686 F.2d 66, 70 (1st Cir. 1982). Prejudice under Rule 36(b), rather, "relates to special difficulties a party may face caused by a sudden need to obtain evidence upon withdrawal or amendment of an admission." *American Auto.*, 930 F.2d at 1120.
> *Kerry Steel* at 154.

Kerry Steel dealt with the oral request to withdraw admissions being made by counsel at an oral argument or an evidentiary hearing. Lindstedt never made any such oral request, instead writing threats of violence to the Trial Court stating that if he was not permitted to withdraw admissions, mayhem would result, people would die, and he would issue a declaration of war and attack a Nuclear Power Plant in North Perry Ohio, for the purpose of "Chernobylzing the Plant." If a District Court abuses discretion by refusing to treat that sort of rant and threat as a motion to withdraw, and then compounds this abuse of discretion by refusing to grant the relief implicitly requested, then litigation by motion practice will be replaced with "litigation by threat of mayhem."

Judge Boyko reasoned well when he wrote that it would actually be abuse of discretion to grant Lindstedt a withdrawal of admissions under the circumstances as they were at the District Court in that case.

> On consideration of Defendant's and Plaintiff's Objections, the Court agrees with the Magistrate Judge's recommendation finding that Defendant admitted the requests for admission and that these support the elements of Defamation and False Light. The Court will not construe the statement in his Objection that he overtly asked the Magistrate to withdraw his requests as a request for withdrawal because the docket demonstrates Lindstedt never moved to withdraw, despite knowing the consequences for failure to do so, and because Lindstedt has not provided responses even more than eight months after they were propounded on him.
>
> Rule 36(b) also requires that the Court consider what prejudice, if any, Plaintiff will face should the Court grant withdrawal. Again, the prejudice the Court must guard against is that which "relates to special

> difficulties a party may face caused by a sudden need to obtain evidence upon withdrawal or amendment of an admission." *Kerry Steel*, 106 F.3d at 154. The Magistrate Judge found Plaintiff would be prejudiced by the continued scandalous and insulting filings of Defendant and by the needless prolonging of the litigation. In his Objection, Plaintiff argues against withdrawal, contending that not only would he suffer the prejudice described by the Magistrate Judge, but would also have to present his claims in the absence of any discovery from Defendant, who failed to provide him discovery as requested and continues to submit slanderous filings at every opportunity. Moreover, Plaintiff asserts that expert witnesses have declined to testify on his behalf for fear of Defendant.
>
> The Court finds that much of the purported prejudice Plaintiff complains of is not the sort that would militate against withdrawal. Continued slanderous filings by Defendant do not relate to the special difficulties Plaintiff will face with the sudden need to obtain evidence. However, the fact that Defendant failed to provide evidence during discovery and has issued many threatening responses in his Court filings is particularly troubling to the Court and has clearly prejudiced Plaintiff's ability to marshal evidence in his case. Based upon Defendant's continued scandalous, scurrilous and vitriol-laced filings, the Court will not show him the leniency usually afforded pro se litigants. Holding him to the standards of practice required of counsel, the Court will not tolerate Defendant's language in his filings and his misuse of the judicial process. Nor will the Court search the record to find that any of his filings constitute a request to withdraw the admissions.
> (1:19-cv-02589-CAB ECF No. 92 PageID # 996-997)

The Panel also cited to *Petroff-Kline*, however this case is distinguishable from the matters of Reo v. Lindstedt in so much that the movant in *Petroff-Kline* did substantively respond to admissions (with written denials), albeit 3 days late, and the written responses were held to be construed as a desire to withdraw the admissions, which was permitted absent the filing of a formal motion. Here, in the cases at bar,

despite the admissions being served on Lindstedt in 1:19-cv-02589-CAB and 1:19-cv-02786-CAB on 5/15/2020, Lindstedt never responded at any time, and still (even as of this appeal) hasn't responded (in any of the 4 cases). The court in *Petroff-Kline*, citing *Chancellor v. City of Detroit*, 454 F.Supp.2d 645, 666 (E.D.Mich. 2006) held that a denial could take the form of actions by way of "a filing a belated denial" noting that in *Petroff-Kline* and *Chancellor v. City of Detroit*, the belated denials were filed 3 days late, meaning responses were made.

No authority has been offered for the proposition that a party can withdraw admissions and refuse to respond even 942 days after the admissions were propounded, and suffer no ill consequences. If such can be the case, why even bother having a Civ. R. 36? If Lindstedt is able to avoid the consequences of Rule 36 admissions in these cases, then Rule 36 is meaningless and dead, at least in the 6th Circuit.

b. The Panel Misapprehended the Record.

It is clear from Judge Boyko's opinions in 1:19-cv-02589 and 1:19-cv-02786 that the trial court did not enter judgment against Lindstedt, as stated by this Panel, based "solely on Lindstedt's failure to file a formal motion seeking withdrawal of admissions." (Case: 21-3633, Document 29-2, Opinion Page 2) but rather only after a thorough analysis considering prejudice to non-movant Reo and the absurd, outrageous, threatening, and obstructionist behavior of Lindstedt leading up to that

point as well as noting Lindstedt's persistent failure to even belatedly respond to the outstanding discovery. "However, he never provided direct answers to the Requests for Admission in the form required by Rule 36; and, insofar as this Court is aware, has still not done so, despite knowing that failure to do so may subject him to summary judgment." (1:19-cv-02589-CAB ECF No. 92 PageID # 995-997)

It is also clear that the Appellate Court's assertion that "Meanwhile withdrawal of the admissions would promote the presentation of the merits of the plaintiff's claims for damages and would impose no significant prejudice on the plaintiffs" (Case: 21-3633, Document 29-2, Opinion Page 2) is completely misguided and wrong in light of the clear record of the trial courts which articulated the basis of how and why there was clear prejudice. (1:19-cv-02589-CAB ECF No. 92 PageID # 997) and the reasoning of Judge Oliver in 1:19-cv-02103-SO wherein the District Court reasoned:

> Nor did he serve responses on Plaintiff. Given these key factual distinctions, this court's reliance on *United States v. Petroff-Kline*, 557 F.3d 285 (6th Cir. 2009), was misplaced. Unlike this case, the defendant in *Petroff-Kline* eventually submitted responses to the plaintiff's requests for admissions—albeit three days late. Although the defendant never filed a formal motion, the district court granted leave allowing the tardy responses.
> 1:19-cv-02103-SO (ECF No. 72 PageID # 856)

Lindstedt never responded, not even belatedly, as was explicitly noted by Judges Boyko and Oliver.

This Panel has relied on two cases, *Kerry Steel* and *Petroff-Kline*, both of which entailed movants being allowed withdrawal of admissions under circumstances involving their having provided written responses answering admissions 3 days late, to support the proposition that Lindstedt *must* be allowed to withdraw admissions, based on his incoherent rant which *must* be construed as a motion for leave to withdraw, which *must* be granted, despite the fact of clear prejudice and despite Lindstedt never having responded to the requests for admissions at any time. In short, this Panel's opinion eviscerates discretion at the trial court level and essentially demands that anytime a litigant has remorse over failure to cooperate or participate in discovery, the litigant may avoid the consequences of said failure, no matter how willful and flagrant the conduct was. Neither *Kerry Steel* nor *Petroff-Kline* can reasonably be construed to support the proposition of withdrawal of admissions for a litigant who simply never responded to discovery while acknowledging having been served with the same and who was not participating in the case except to rant, ramble, and grandstand with threats of "religious and racial civil war."

c. The Panel Misapplied Facts and Law and Made Findings Inconsistent with the Record.

This Panel reasoned "one could infer that the plaintiffs used their requests for admissions less as a discovery device than as a shortcut to obtaining the judgments they obtained here." (Case: 21-3633, Document 29-2, Opinion Page 2)

This despite the fact that there is no basis for that inference, and the record evidence speaks to the contrary. The record clearly demonstrates that the Reos all propounded fairly thorough extensive written discovery upon Lindstedt, Requests for Production of Documents, Interrogatories, and Requests for Admissions, and would have coordinated to set depositions but Lindstedt did not cooperate. Lindstedt did not produce any responses to *any* discovery, did not answer one single interrogatory, and did not produce one piece of paper documentary evidence in response to discovery. The Reos were not trying to use RFAs as a shortcut, rather the Reos were using what they had, crucially relying on admissions when dealing with Lindstedt who produced nothing.

"That point of view is all of a piece with such judicial proclivities as the strong reluctance to default defendants for a few days' delay in filing their responsive pleadings." *Petroff-Kline* at 293. Contrasting this with the situation of Lindstedt never responding.

As Judge Boyko noted, "In addition, his case would further be prejudiced because Defendant has refused to provide any discovery in the case." (1:19-cv-02589-CAB ECF No. 92 PageID# 989) and "However, he never provided direct answers to the Requests for Admission in the form required by Rule 36; and, insofar as this Court is aware, has still not done so, despite knowing that failure to do so

may subject him to summary judgment." (1:19-cv-02589-CAB ECF No. 92 PageID# 995)

Indeed, Lindstedt never provided answers at the trial court level and still has not responded to any outstanding discovery at any point in this case. Despite the responses to RFAs having been outstanding and overdue for almost 250 days on the day that the Trial Court granted summary judgment for Reo in 1:19-cv-02589, Lindstedt had still not provided discovery responses. Even then, at 250 days past due, Lindstedt had not provided discovery responses propounded no discovery of his own, refused to participate in discovery, he had done nothing. Nothing in *Kerry Steel* or *Petroff-Kline* supports the proposition that a movant can withdraw admissions while simply never responding. Movants in both *Kerry Steel* and *Petroff-Kline* did indeed actually respond, in writing, albeit 3 days late in each case. This Lindstedt matter is not a matter of a "technical default" for an unsophisticated litigant missing a deadline by a few days but rather a belligerent obstructionist Sovereign Citizen who flagrantly refused to produce evidence and declined to participate in the case (except to file rants and attempt to join third party government actors) as a strategy of causing delay. (1:19-cv-2103-SO, ECF No. 72 PageID # 856)

Delay was the name of Lindstedt's game. In what Lindstedt claimed were his "objections" to Reo's motion for summary judgment based on requests for admissions, Lindstedt wrote that his tactics were all focused on delay, and his 15

page incoherent rant supported that assertion. "By moving it up to the federal level hopefully it will be delayed." (1:19-cv-02589-CAB ECF No. 57, PageID # 541)

Further, in the case of Anthony Domenic Reo v. Martin Lindstedt, Lindstedt did not object to any of the factual conclusions (based in part on RFAs) reached by the Magistrate in the Report and Recommendation, as was noted by Judge Adams:

> Initially, the Court notes that neither party has objected to the factual conclusions reached by the R&R. Accordingly, those factual conclusions are adopted in whole herein. Moreover, while Defendant Martin Lindstedt has filed what he styles objections, his filing highlights no alleged factual or legal error.
>
> (1:19-cv-0615-JRA ECF No.43, PageID # 610)

Judge Oliver analyzed the matter *of Petroff-Kline* and a possible withdrawal, clearly distinguishing the Reo v. Lindstedt matter from *Petroff-Kline*.

> On appeal, the Sixth Circuit affirmed the district court's exercise of discretion. It explained that Rule 36(b) does not always require a formal motion because, in appropriate circumstances, "withdrawal may be imputed from a party's actions, including the filing of a belated denial." Id. (quotation omitted). But the factual circumstances here make this case a bad candidate for Rule 36 discretion because Defendant's only attempt to "withdraw" his admissions came via assertions in his filings.
> (1:19-cv-02103-SO ECF No.72, PageID # 856)

Additionally, this Panel has overlooked the 6th Circuit precedent in *Misco, Inc. v. United States Steel Corp.*, 784 F.2d 198, 205-06 (6th Cir. 1986) ("Requests for admissions are not a general discovery device.") by concluding that RFAs are a "discovery device." (Case: 21-3633, Document 29-2, Opinion Page 2) To the extent

that the Panel regards the RFAs propounded by the Reos upon Lindstedt as a "discovery device" the Panel's understanding is contrary to the precedent of this Circuit Court.

V. CONCLUSION

This may be the only time in the history of this (or any) Circuit Court where a self-professed Aryan Nations Ku Klux Klan leader (Appellant Martin Lindstedt) used Sovereign Citizen obstructionist tactics of refusing to participate in the case except to file long-winded rants combined with death threats at a District Court level, only to have a Circuit Court validate the use of those tactics and death threats by reversing sound well-reasoned thorough opinions of multiple District Court judges, and doing so in a barebones unpublished opinion of barely two pages that demonstrated a clear failure to grasp what occurred at the District Court level. Being mindful of the need to be respectful and civil, the Panel of this Circuit Court unfortunately misapprehended the record and strayed from 6th Circuit precedent and produced an opinion that was simply wrong in every conceivable sense from the rationale to the conclusion.

For the reasons set forth herein, the Court should grant the petition for a Panel rehearing or a rehearing En Banc.

Respectfully submitted,
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VI. CERTIFICATE OF COMPLIANCE

I certify that this petition complies with the length limit permitted by Federal Rules of Appellate Procedure 35(b)(2)(A) and 40(b)(1). The petition is 3,845 words, excluding the portions exempted by Federal Rule of Appellate Procedure 32(f). The brief's type size and type face comply with Federal Rule of Appellate Procedure 32(a)(5) and (6).

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Attorney for Appellees and Appellee Pro Se for Himself

Dated: December 19, 2022

VII. CERTIFICATE OF SERVICE

I certified that I electronically filed this Appellee's Petition for Rehearing and Rehearing En Banc with the Clerk of the Court using the CM/ECF System, which sent electronic notification to all parties and counsel registered to receive notice.

Furthermore, I certify that I served a true and accurate copy of Appellee's Petition for Rehearing and Rehearing En Banc and this Certificate of Service 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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Dated: December 19, 2022

VIII. ADDENDUM OF APPEAL 21-4191

CASE No. 1:19-cv-02589-CAB (Hon. CHRISTOPHER A. BOYKO)

DOCUMENTS

RECORD ENTRY NUMBER	DESCRIPTION OF ENTRY	DATE DOCUMENT ENTERED	PAGE ID # RANGE
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16	Order Striking Answer and Counterclaim	January 17, 2020	122-125
37	Case Management Conference Order	May 15, 2020	324-329
49	Plaintiff's Motion for Summary Judgment	July 23, 2020	433-467
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57	Defendant's Objections to Magistrate Parker's Report and Recommendation	August 20, 2020	534-555
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78	Magistrate's Report and Recommendation on Summary Judgment	December 1, 2020	787-801
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119	Opinion and Order Denying Defendant's Motion for Reconsideration	November 18, 2021	1212-1218
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122	Plaintiff Bryan Anthony Reo's Motion for Amended Short Form Judgment	November 18, 2021	1226-1229

123	Supplemental Judgment	December 1, 2021	1231
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ADDENDUM OF APPEAL 21-3633

CASE No. 1:19-cv-02103-SO (Hon. SOLOMON OLIVER)

DOCUMENTS

RECORD ENTRY NUMBER	DESCRIPTION OF ENTRY	DATE DOCUMENT ENTERED	PAGE ID # RANGE
N/A	Docket Sheet		
1	Notice of Removal	September 12, 2019	1-3
1-1	Complaint	September 12, 2019	6-18
15	Answer with Counterclaim (stricken)	October 17, 2019	
19	Order Striking Answer and Counterclaim	November 15, 2019	191-197
29	Second Amended Answer with Counterclaim (partially stricken)	November 27, 2019	298-332
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31	Answer to Bryan Reo's Series of Ongoing Frivolous Motions to Strike	December 30, 2019	335-342
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ADDENDUM OF APPEAL 21-3661

CASE No. 1:19-cv-2615-JRA (Hon. JOHN R. ADAMS)

DOCUMENTS

RECORD ENTRY NUMBER	DESCRIPTION OF ENTRY	DATE DOCUMENT ENTERED	PAGE ID # RANGE
N/A	Docket Sheet		
1	Notice of Removal	November 7, 2019	1-6
1-1	Complaint	November 7, 2019	7-17
4	Answer with Counterclaim (stricken)	November 15, 2019	25-57
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20	Plaintiff's Reply in Support of Summary Judgment	July 14, 2020	221-225
32	Defendant's Motion for Rule 59e and Rule 60b relief to file amended answer	February 1, 2021	364-410
37	Report and Recommendation by Magistrate Judge	March 3, 2021	450-469
38	Partial Objection to Report and Recommendation by Plaintiff	March 9, 2021	470-502
41	Sur Reply in Support of Plaintiff's Partial Objection	March 22, 2021	545-592
42	Supplemental Authority as to Plaintiff's Position on Requests for Admissions and Damages	March 30, 2021	593-609
43	Order adopting the Magistrate's Report and Recommendation in part, granting in	April 18, 2021	610-613

	part and denying in part Plaintiff's motion for summary judgment		
46	Defendant's Rule 59e and 60b motions (stricken)	May 12, 2021	SEALED
47	Apology by Defendant (stricken)	May 25, 2021	SEALED
52	Judgment Entry for Plaintiff	June 23, 2021	649-650
56	Notice of Appeal	July 21, 2021	683-684

ADDENDUM OF APPEAL 22-3025

CASE No. 1:19-cv-2786-CAB (Hon. Christopher A. Boyko)

DOCUMENTS

RECORD ENTRY NUMBER	DESCRIPTION OF ENTRY	DATE DOCUMENT ENTERED	PAGE ID # RANGE
N/A	Docket Sheet		
1	Notice of Removal	November 26, 2019	1-5
1-2	Complaint	November 26, 2019	8-15
6	Answer to all defendants filed by Martin Lindstedt (stricken)	December 10, 2019	[stricken]
12	Order Adopting Magistrate's Report and Recommendation to Grant Plaintiff's Motion to Strike	February 13, 2020	110-113
13	Amended Answer with Counter-claim of Defendant	March 3, 2020	114-154
21	Case Management Order	May 15, 2020	155-161
26	Plaintiff's Motion for Summary Judgment	July 27, 2020	229-261
27	Defendant's Rule 56(d) Declaration in Response to Plaintiff's Fraudulent Motion	July 27, 2020	262-270

	for Summary Judgment, Asking for Discovery To Be Extended to Cover All Parties Once Established, Motion to Consolidate All Four Current Bryan Reo Federal Litigation Into One Overall Case		
31	Order on Case Management Extending Discovery	September 8, 2020	316-317
37	Pastor Lindstedt's Explanation Concerning His Nov 9. 2020 Belated Discovery Requests, Rule 59 and 60 Motions For Altering Permanent Injunction Regarding Pastor Lindstedt's Former Inheritance	November 13, 2020	388-401
39	Magistrate's Report and Recommendation on Summary Judgment	December 1, 2020	412-426
42	Plaintiff's Partial Objection to Magistrate Judge Thomas M. Parker's Report	December 3, 2020	432-448

	and Recommendation		
47	Plaintiff Stefani Rossi Reo's Sur Reply in Support of Plaintiff's Partial Objections to Magistrate's Report and Recommendation	March 15, 2021	530-570
48	Opinion and Order Granting Summary Judgment	March 30, 2021	571-585
52	Defendant's FRCP 59(e) Motion to Alter or Amend a Judgment or FRCP 60 relief from judgment or order	April 27, 2021	600-613
58	Opinion and Order Denying Defendant's Motion for Reconsideration	December 12, 2021	643-649
59	Notice of Appeal	January 10, 2022	650-651
65	Judgment Entry	April 21, 2022	683

NOT RECOMMENDED FOR PUBLICATION
File Name: 22a0509n.06

Nos. 21-3633/3661/4191/22-3025

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Dec 08, 2022
DEBORAH S. HUNT, Clerk

BRYAN ANTHONY REO (21-3633/4191); ANTHONY DOMENIC REO (21-3661); STEFANI ROSSI REO (22-3025),

Plaintiffs - Appellees,

v.

MARTIN LINDSTEDT,

Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO

OPINION

Before: BOGGS, KETHLEDGE, and WHITE, Circuit Judges.

PER CURIAM. In 2019, Martin Lindstedt published provocative and highly offensive material online, impugning three members of the Reo family: namely, Bryan Anthony Reo; Bryan's father, Anthony Domenic Reo; and Bryan's wife, Stefani Rossi Reo. Each family member separately sued Lindstedt in the Court of Common Pleas for Lake County, Ohio, bringing state-law claims for defamation and invasion of privacy through false light. Lindstedt, proceeding pro se, removed each case to federal court. There, each plaintiff moved for summary judgment solely on the ground that Lindstedt failed to timely respond to plaintiffs' requests for admissions, which requested admissions of liability and damages. *See* Fed. R. Civ. P. 36(a). The district courts—four in total—each granted summary judgment to the plaintiffs. The courts also collectively

awarded the Reo family $2,750,000 in damages, based largely on finding that Lindstedt failed to seek withdrawal of his admissions. *See* Fed. R. Civ. P. 36(b). These appeals followed.

Lindstedt argues that the district courts misapplied Rule 36(b) when they declined to permit him to withdraw his admissions; we review those decisions for an abuse of discretion. *Kerry Steel, Inc. v. Paragon Indus., Inc.*, 106 F.3d 147, 154 (6th Cir. 1997).

Rule 36(b) requires that a withdrawal be "on motion." Yet a formal motion is not always required. *United States v. Petroff-Kline*, 557 F.3d 285, 293 (6th Cir. 2009). That is because we are reluctant to assign "talismanic significance" to an attorney's—or, as here, a pro se party's—failure to use the phrase "I move." *Kerry Steel, Inc.*, 106 F.3d at 154. Instead, a withdrawal "may be imputed from a party's actions[.]" *Petroff-Kline*, 557 F.3d at 293. We conclude here that Lindstedt's actions in each of these cases—which include his insistence in various filings that he caused the plaintiffs no harm—should have been construed as motions to withdraw his admissions. The district courts in these cases entered judgments against a pro se litigant in excess of $2.7 million based solely on Lindstedt's failure to file a formal motion seeking withdrawal of his admissions. Meanwhile, withdrawal of the admissions would promote the presentation of the merits of the plaintiffs' claims for damages and would impose no significant prejudice on the plaintiffs. *See* Fed. R. Civ. P. 36(b). To the contrary, one could infer that the plaintiffs used their requests for admissions less as a discovery device than as a shortcut to obtaining the judgments they obtained here. These judgments also raise a significant question as to whether a federal court sitting in diversity can award punitive damages under Ohio law based on Rule 36 admissions alone. *See Whetstone v. Binner*, 57 N.E.3d 1111, 1115 (Ohio 2016); *Wayt v. DHSC, LLC*, 122 N.E.3d 92 (Ohio 2018).

We vacate the district courts' judgments in each of these cases and remand them for further proceedings consistent with this opinion. We also deny as moot all other pending appellate motions and requests for relief. For the district courts' sake and for ours, we strongly suggest that the lower courts consolidate these cases before a single judge on remand.

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Nos. 21-3633/3661/4191/22-3025

BRYAN ANTHONY REO (21-3633/4191); ANTHONY DOMENIC REO (21-3661); STEFANI ROSSI REO (22-3025),

Plaintiffs - Appellees,

v.

MARTIN LINDSTEDT,

Defendant - Appellant.

FILED
Dec 08, 2022
DEBORAH S. HUNT, Clerk

Before: BOGGS, KETHLEDGE, and WHITE, Circuit Judges.

JUDGMENT

On Appeal from the United States District Court
for the Northern District of Ohio at Cleveland.

THESE CASES were heard on the records from the district courts and were submitted on the briefs without oral argument.

IN CONSIDERATION THEREOF, it is ORDERED that the judgments of the district courts are VACATED, and the cases are REMANDED for further proceedings consistent with the opinion of this court. IT IS FURTHER ORDERED that all pending appellate motions and requests for relief are DENIED AS MOOT.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk