

IN THE COURT OF COMMON PLEAS

FILED

LAKE COUNTY, OHIO

2015 DEC 23 P 1:40

BRYAN ANTHONY REO
Plaintiff,

MAUREEN G. KELLY
LAKE CO. CLERK OF COURT

CASE NO. 15 CV 001590

vs.

JOURNAL ENTRY

MARTIN LINDSTEDT
Defendant.

December 23, 2015

This matter is presented to address the following motions and discussions had with the magistrate at a case management conference with plaintiff Bryan Anthony Reo present and defendant Martin Lindstedt on the telephone.

I.

Plaintiff Reo moved to strike the original October 26, 2015 answer and counterclaims filed by defendant Lindstedt as not in conformity with Civ.R. 11 and Civ.R. 12(F). No opposition to refute Reo's contentions was filed. Defendant Lindstedt did file a second document on November 6, 2015 also captioned "DEFENDANT'/COUNTER-CLAIMANTS' ANSWER AND COUNTERCLAIM" with some service instructions for the clerk of court. This second filing appears identical to the first.

Neither filing asserts admissions or denials of the allegations in Reo's complaint, as required by Civ.R. 8(B). Instead, it appears that defendant Lindstedt rewrote each of Reo's numbered paragraphs and immediately after each paragraph gave his narrative, take or version of what was alleged. Many of these explanations contain facts that could be interpreted as affirmative defenses or possible counterclaims- but none are designated as such. Regardless, neither the opposing party nor the court should be left to guess whether a defense of claim is asserted within a given narrative. Affirmative defenses should be asserted pursuant to Civ.R. 8(C) and counterclaims or cross-claims pursuant to Civ.R. 13.

In addition, the pleadings under a heading "PARTIES" references no fewer than twenty-three "parties" that defendant Lindstedt may be joining pursuant to Civ.R. 13(H). Whether that is the case is also unclear. Instructions for service were only provided to the clerk of court for six

of these parties, namely Anthony D. Reo, Clifton A. Emahiser, William Raymond Finck (Christogenia.org), Melissa Epperson, a.k.a. Finck, William Shawn DeClue and Joseph Pastor, a.k.a. Pastor Eli James. However, while leave of court is not needed to join additional parties under Civ.R. 13(H) when a counterclaim is raised in the original answer, that is only the case where a discernable claim is indeed stated. There must be an assertion of a counterclaim or cross-claim to justify the joinder of those additional parties without leave of court. See *Camelot Condo. Owners' Assn., Inc. v. Ruscoe*, 9th Dist. No. 14125, 1989 WL 140626, at *4 (Nov. 22, 1989) citing *Vermont Castings, Inc. v. Evans Products Co.* (1981), 510 F.Supp. 940. Here, the pleadings makes frequent references to one or more conspiracies without clearly stating what is at issue, who was involved and when. Whether this is the only claim also is not made clear. The fact that plaintiff Reo sought clarification by filing a motion for definite statement underscores this point.

For these reasons, defendant Lindstedt is granted until January 6, 2016 to file a pleading that conforms to the Ohio Civil Rules of Procedure- one that clearly and concisely states what is being sought. The motion of plaintiff Reo to strike the October 26, 2015 filing captioned 'DEFENDANTS'/COUNTER-CLAIMANTS' ANSWER AND COUNTERCLAIM" is granted. The same shall apply to the identical November 6, 2015 filing.

II.

The court further cautions the parties that the caption of this case is the one that appears on this journal entry. Pleadings that are filed with a different case caption after the issuance of this journal entry will be stricken.

III.

Defendant Lindstedt's November 13, 2015 motion to summarily sanction plaintiff Reo for perjury and fraud for filing a malicious civil complaint and to strike is denied. There is no legally supported basis at this moment to issue sanctions or dismiss plaintiff's Reo's complaint. The complaint conforms with the Ohio Rules of Civil Procedure and defendant Lindstedt has not shown that it is barred by any applicable statute of limitation or that under any reasonable interpretation of the pleadings can it be said that no claim for relief is stated. Further, a Civ.R. 12(F) motion to strike based on insufficiency of a claim should only be used to attack individual

claims which are not dispositive of the entire action. *State ex rel. Neff v. Corrigan* (1996), 75 Ohio St.3d 12, 661 N.E.2d 170. Defendant Lindstedt's motion attacks the entire pleading which generally is not proper. A Civ.R. 12(F) motion to strike is not intended to be a substitute for a Civ.R. 12(B) motion to dismiss for failing to state a claim for relief.

IV.

The motion of plaintiff Reo for a more [sic] definite statement is moot and the same is denied.

V.

Finck and Epperson moved for their dismissal from this suit on the grounds that the court lacks personal jurisdiction over them. Defendant Lindstedt opposed the motion and filed what appears to be his own motion for summary judgment. In light of the above ruling striking the pleadings filed by defendant Lindstedt, the motions of Finck and Epperson are at this time moot.

VI.

The motion of defendant Lindstedt purportedly for summary judgment filed on December 7, 2015 is denied. Defendant Lindstedt has not shown that the cause of action for defamation, which is alleged to have occurred between March and July 2015 is untimely under R.C. 2305.11. Moreover, summary judgment against Anthony D. Reo is procedurally improper as no pleading was ever served on him to date.

However, Plaintiff Reo is cautioned that while he may represent himself, he may not advocate on behalf of a third-party, as he did with regard to his father, as such would constitute the unauthorized practice of law.

VII.

Defendant Lindstedt is granted leave to January 6, 2016 to file proper responses to requests for admission that were served upon him by plaintiff Reo.

Defendant Lindstedt shall reserve his discovery requests, by ordinary mail, upon plaintiff. The original discovery sent by certified mail to Reo was damaged in delivery. Plaintiff Reo refused to accept it believing it was contaminated by defendant Lindstedt. Plaintiff Reo shall answer this discovery within the time designated in the request.

VIII.

Plaintiff Reo's motion for summary judgment based on defendant Lindstedt's failure to properly admit or deny them within the original designated period is denied.

IX.

Plaintiff Reo's motion to strike defendant Lindstedt's motion for summary judgment is moot and the same is denied.

X.

Defendant Lindstedt's motion for more [sic] definite statement to Bryan Reo's fraudulent litigation barred by Ohio's statute and previous failure at the federal level and because Byran Reo hasn't a valid case or actual provable damages is denied.

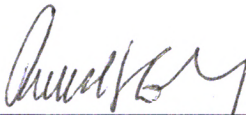
XI.

All discovery in this matter shall be completed by May 2, 2016.

No additional motion for summary judgment shall be accepted for review after May 16, 2016. A ten page brief limitation, in accord with the local rules of the Lake County Common Pleas Court, shall be enforced.

Jury trial is set for August 2, 2016, at 8:30 a.m.

IT IS SO ORDERED.



RICHARD L. COLLINS, JR.
Judge of the Court of Common Pleas

Copies:

Bryan Reo, Plaintiff *pro se*
Martin Lindstedt, Defendant *pro se*
William R. Finck
Melissa Epperson