

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-61470-CIV-COHN/SELTZER

STEVEN A. KARAKIS,

Plaintiff,

v.

FOREVA JENS, INC., d/b/a Ginger Bay Café,
ZAHAVA HALPERN RESIDUARY TRUST,
ARON HALPERN, Co-Trustee, and SARAH N. BAXT,
Co-TrusteeDefendants.

ORDER GRANTING MOTION TO DISMISS COUNTERCLAIM
ORDER FOR STATUS REPORT REGARDING OTHER DEFENDANTS

_____ THIS CAUSE is before the Court upon Plaintiff's Motion to Vacate Order [DE 43].

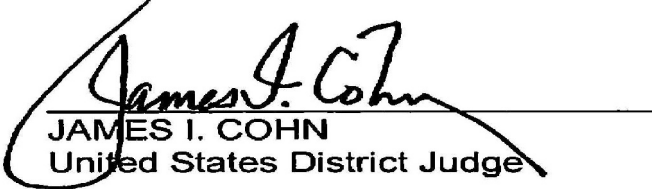
The Court has carefully considered the motion, Plaintiff's report that Defendants will not be responding to the motion and is otherwise fully advised in the matter.

The parties have settled this action [DE 42]. Pursuant to Rule 60(b) of the Federal Rules of Civil Procedure, Plaintiff seeks this Court to vacate a prior seventeen (17) page order by Magistrate Seltzer regarding discovery motions, which included rulings that Plaintiff's counsel pay to Defendant a small amount of attorney's fees. Plaintiff states that a condition of the settlement is that this Order [DE 40] be vacated.

Upon a review of the Order and in consultation with Magistrate Judge Seltzer, this Court declines to exercise its discretion to vacate the prior order in its entirety. The events and filings that led to that Order cannot be undone and were properly addressed by the Magistrate Judge. However, to facilitate settlement, this Court will not enforce the payment of the attorney's fees contained in the prior Order.

Accordingly, it is **ORDERED and ADJUDGED** that Plaintiff's Motion to Vacate Order [DE 43] is hereby **DENIED**, though the Court will not enforce the payment of the attorney's fees contained in the prior Order.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 10th day of March, 2009.


JAMES I. COHN
United States District Judge

copies to:
counsel of record on CM/ECF