

Jan 17 2006

CLARENCE MADDOX
CLERK U.S. DIST. CT.
S. D. OF FLA. - MIAMIUNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 05-80393 CIV HURLEY/HOPKINS

STELOR PRODUCTIONS, L.L.C., a
Delaware limited liability company,
f/k/a STELOR PRODUCTIONS, INC.,

Plaintiff,

vs.

STEVEN A. SILVERS, a Florida resident,

Defendant.

PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S "SUPPLEMENT"

Silvers' Supplement in Support of Motion for Attorneys' Fees and Expenses, and Sanctions should be stricken. Silvers has already filed an initial motion (DE#83), a reply (DE#94), and a memorandum in opposition to a motion for leave to file sur-reply (DE#97). He should not be permitted to file yet more papers, in disregard of the applicable rules of procedure. *See* Local Rule 7.1.C. This is especially so, given the content of the Supplement, which is an incredible effort by Silvers to support an unfounded accusation of perjury with a fragment of hearsay from some unidentified proceeding by a witness who herself admits she has lied!

Thus, Silvers – yet again – seeks to label Mr. Esrig a “perjurer”. Without any legitimate substantiation, Silvers contends that Mr. Esrig somehow forced Rebecca Gardner – an apparently disgruntled former employee of Stelor – to lie to the police in connection with the Police Report submitted by Stelor with its Sur-Reply (another copy of which is attached as Exhibit “A” hereto). Of course, the purpose of the Police Report was to document Stelor's claim that a former employee, Michael Sagan, stole documents and information from Stelor that have apparently ended up in the hands of Silvers' counsel. The Police Report also “reports” that Mr. Sagan

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threatened other Stelor personnel, including Mr. Esrig. The point of Stelor's inclusion of the Police Report, though, was to evidence Sagan's theft of documents. The death threats are clearly far afield from the issues in this case.

Nevertheless, Silvers files his supplement, alleging that Mr. Esrig "told" Ms. Gardner to lie about the death threats. The support for that assertion by Silvers is a fragment of a transcript from some unidentified proceeding, in which Ms. Gardner purportedly claims she never told the police what appears on the report regarding the death threats. She thus seeks to disavow the express description in the Police Report by a Montgomery County, Maryland Police Officer of the death threats she told the officer Mr. Sagan had made, threatening to "kill her and the Esrigs." This unauthenticated transcript of hearsay testimony by a woman claiming she never said what a Police Officer reports she said is hardly credible. Certainly, that does not support the strongly-worded assertion by Silvers that Mr. Esrig is a "perjurer". Rather, it suggests that Silvers is improperly relying on inconsistent statements and stolen information from disgruntled former employees of Stelor.

In fact, although Silvers fails to point this out, this fragment of a transcript actually supports Mr. Esrig's testimony that documents were stolen by Mr. Sagan. Thus, this woman admits in the transcript that she "had noticed that Mr. Sagan was making a disk at his computer . . . he was copying his hard drive onto a disk." Transcript at 257:21-285:1, :8. She knew that was wrong, moreover, and describes how she immediately reported it to Mr. Esrig. *Id.* Indeed, she admitted that it was reasonable for Stelor to prevent further unauthorized copying of its files by changing computer passwords. *Id.* 263:8-16. She also admits that she did make the statement

to the Police Officer, as contained in the Report, that Mr. Sagan was downloading files and should not have been. *Id.* at 265:7-18.

CONCLUSION

It should be clear by now that Silvers' cries of perjury are entirely unfounded. Silvers' elaborate efforts to support his bogus claims of perjury simply highlights the weakness of his underlying claim for fees and sanctions. He knows that unless he can inflame this Court, the claim for fees will fail. There is no perjury; Mr. Esrig has not lied. Silvers' ceaseless campaign to discredit Mr. Esrig should be put to a stop. The Supplement should be stricken, and Silvers' motion for fees and sanctions should be denied.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was served via electronic mail and U.S. mail on this 17th day of December 2005 upon the following:

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/s/ Kevin C. Kaplan
Kevin C. Kaplan

EVENT REPORT
 Montgomery County, Maryland
 Department of Police

BASIC EVENT AND VICTIM DATA

1. VICTIM (PERSON, FIRM, AGENCY)		2. DST-CR NUMBER R05-008238	
3. ADDRESS		4. R.V.D. CODE OK	5A. CLASSIFICATION 2938
6A. VICTIM'S PLACE OF EMPLOYMENT OR SCHOOL Steler Productions Inc.		7. RACE - SEX - D.O.B.	8. PHONE REC. BUS. 20
6B. ADDRESS 14701 Mockingbird Dr. Damascus MD		9. CRIME/INCIDENT Police Information	10. COMM. CR. NO. MASTER
12. NATURE OF INJURIES AND LOCATION ON BODY None		13. LOCATION OF CRIME OR INCIDENT SIA 46B	
15. VICTIM TREATED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		16. WHEN OCCURRED MO - DAY - YR 02-15-05 1330 - 1335	
17. UNIT NOTIFIED		18A. COMPLAINANT'S NAME (LAST, FIRST, MIDDLE) Esrig, Steven	
19. TSS NOTIFIED <input type="checkbox"/> LATENTS <input type="checkbox"/> PHOTOS <input type="checkbox"/>		18B. COMPLAINANT'S ADDRESS SIA 46B	

WORTHLESS DOCUMENT

23. NAME None		CODE	AGE	RESIDENCE ADDRESS	CITY	STATE	ZIP	PHONE
21. TYPE OF DOCUMENT		DATE OF DOCUMENT	DOCUMENT NO.	NAME ON DOCUMENT		ACCOUNT NUMBER		
NAME OF ISSUER		ADDRESS	MADE PAYABLE TO		SIGNATURE ON FACE			
REASON NOT HONORED	TYPE OF TRANSACTION	TYPE OF PROPERTY OR SERVICE OBTAINED		AMOUNT OF DOCUMENT	CASH RECEIVED			

M.O.

22. DESCRIBE TYPE OF AREA OR PREMISES Business	23. MEANS - TOOL, WEAPON USED IN CRIME Threats	24. METHOD - HOW CRIME WAS COMMITTED Spoken
25. POINT OF ENTRY NIA	26. TRADEMARKS OF SUSPECT(S) (ACTION OR CONVERSATION DISTINGUISHING THE SUSPECT) Suspected stated he would kill the victim and complainant.	

SUSPECT/DEPENDANT

27A. SUSPECT <input checked="" type="checkbox"/> ARRESTED <input type="checkbox"/> WARRANT/DCS ON FILE <input type="checkbox"/> WARRANT DCS SERVED <input type="checkbox"/>		MCP I.D. #	ARMED WITH
HEIGHT	WEIGHT	EYES	LENGTH - COLOR OF HAIR
FACIAL HAIR		CITATION / DOCKET NO.	
SUSPECT/DEPENDANT PHYSICAL AND CLOTHING DESCRIPTORS			
27B. SUSPECT <input type="checkbox"/> ARRESTED <input type="checkbox"/> WARRANT/DCS ON FILE <input type="checkbox"/> WARRANT DCS SERVED <input type="checkbox"/>			
FACE	SEX	AGE	D.O.B.
HEIGHT	WEIGHT	EYES	LENGTH - COLOR OF HAIR
FACIAL HAIR		CITATION / DOCKET NO.	
SUSPECT/DEPENDANT PHYSICAL AND CLOTHING DESCRIPTORS			

E.C.C.

28. VEHICLE USED IN CRIME <input type="checkbox"/> KNOWN TO OPERATE <input type="checkbox"/>	YEAR	MAKE	MODEL	BODY STYLE	COLOR(S)	TAG NO.	STATE	IDENTIFYING FEATURES
29. RADIO LOCKOUT <input type="checkbox"/> LOCKOUT CANCELLED <input type="checkbox"/>		WANT INDEX <input type="checkbox"/> WANT INDEX CANCELLED <input type="checkbox"/>		E.C.C. OP #		30. TOTAL VALUE STOLEN		
32. DRUG RELATED <input type="checkbox"/> GANG RELATED <input type="checkbox"/> ALCOHOL RELATED <input type="checkbox"/> GUN RELATED <input type="checkbox"/>		33. HATE VIOLENCE		RACIAL <input type="checkbox"/>	ETHNIC <input type="checkbox"/>	RELIGIOUS <input type="checkbox"/>	SEX ORIENT <input type="checkbox"/>	ORIAS <input type="checkbox"/>

NARRATIVE

ITEM NO.	PROPERTY VALUE	STL.	REC.	UCR CLASS
68 20874				

STATUS: <input checked="" type="checkbox"/> OPEN		CLOSED BY: <input type="checkbox"/> ARREST <input type="checkbox"/> EXCEPTION <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> ADMINISTRATIVELY		Page 1 of 3
DISTRIBUTION: GA - SA - YD CAP - CP - FM SID OTHER:	INVESTIGATING OFFICER (PRINT) Off. Ramsburg	ID. # 2040	CAR # 183	DATE MO - DAY - YR 02-16-05
	INVESTIGATING OFFICER (PRINT)	ID. #	CAR #	APPROVED BY (PRINT) [Signature]
				CASE TALLY 110

M.C.P. 100 REVISED 11/98

RECORDS

CR NUMBER
R05-008238

CONTINUATION REPORT
 Montgomery County, Maryland
 Department of Police

1. VICTIM/PERSON/FIRM FOR WHOM COMPLAINT WAS MADE
 [REDACTED]

2. DIST. OR NUMBER
 R05-008238

3. ADDRESS
 [REDACTED] CITY, STATE, ZIP

4. CLASSIFICATION
 2938 0821

ITEM NO.	PAGE 2 OF 3 PAGES	NARRATIVE:	PROPERTY VALUE	STL	REC	UCR CLASS
		<p>On the above date and time the I/O responded to 14701 Mockingbird Dr, Darnestown MD 20874 for a report of threats that had just occurred.</p> <p>Upon arriving on the scene the I/O met with the complainant Steven Esrig (CEO/President of Stelar Productions) Esrig advised the I/O of the following:</p> <p>That an employee of his, [REDACTED], threatened to kill another employee of his along with Esrig and Esrig's wife Lori Esrig. These threats occurred after an altercation between [REDACTED] and [REDACTED] (the employee [REDACTED] threatened to kill).</p> <p>The I/O had Esrig bring [REDACTED] to the scene to obtain the information as to what happened (Esrig was not present when threats were made). When the I/O met with [REDACTED] she was able to fill the I/O in on exactly what happened. According to [REDACTED] had been acting "weird" for a couple of days.</p> <p>Then on call 1/10/05 [REDACTED] noticed [REDACTED] downloading files ([REDACTED] is the comptroller and should not be downloading any files) to his personal files/disk. The items being downloaded were financial figures.</p> <p>[REDACTED] stated that [REDACTED] kept saying that he was quitting and he was trying to get [REDACTED] to quit as well. [REDACTED] kept saying that [REDACTED] kept stating "you're going to quit" "you're going to be my spy."</p> <p>[REDACTED] then put [REDACTED] in his car and started to drive off towards Turkeyfoot Rd. As [REDACTED] was riding in [REDACTED] car (described as a [REDACTED]) she noticed a Manilla folder full of files next to the passenger</p>				

FORM 504 REVISED 11/98
 800/800 8 7781#

REC'D 13 2005 005 01 18 2006

CONTINUATION REPORT
 Montgomery County, Maryland
 Department of Police

1. VICTIM/PERSON/ARM FOR WHOM COMPLAINT WAS MADE ██████████	2. DIST. OR NUMBER R05-008238
3. ADDRESS ██████████ CITY-STATE-ZIP	4. CLASSIFICATION 293X0824

ITEM NO.	PAGE 2 OF 12 PAGES NARRATIVE:	PROPERTY VALUE	GTL	REC	UCR CLASS
	<p>Seat. When ██████ reached Turkeyfoot Rd he turned the vehicle around and dropped ██████ off at Stellar Productions Inc. ██████ originally got in the vehicle because she was scared, also she did not know where ██████ was taking her).</p> <p>Before she ██████ got out of the car she reached to take the manilla folder out of the car when ██████ snatched the folders. Then, ██████ began tugging at the folders when ██████ stated that if she did not leave the folders, ██████ would kill her and the Esrig's.</p> <p>██████ then told ██████ to go get Paul Murphy (another employee) however when she came back to where ██████ car was, he was gone. (no one knew why ██████ asked for Paul Murphy).</p> <p>The I/O informed both the Esrig's and ██████ on how to obtain a protection order against ██████ and the I/O gave ██████ Esrig's a Victim/Witness Assistance Information sheet prior to leaving the scene.</p>				