

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:11-CV-353-H

MUHAMMED BAZZI,)
)
Plaintiff,)
)
v.)
)
PA NDERRY M'BAI, FREEDOM)
NEWSPAPER, INC. and, JOHN)
DOE,)
)
Defendants.)

ORDER

This matter is before the court on defendants Pa Nderry M'bai ("M'bai") and Freedom Newspaper, Inc.'s (collectively "defendants") motion to dismiss pursuant to Rules 37 and 41 of the Federal Rules of Civil Procedure. Plaintiff Muhammed Bazzi ("Bazzi") has not responded, and the time for doing so has expired. This matter is ripe for adjudication.

This action arises from a news article written by defendant M'bai and published in Freedom Newspaper ("Freedom"), an online newspaper based in Raleigh, North Carolina on February 26, 2011 ("the article"). Freedom targets readers in the Republic of The Gambia ("The Gambia"), a country in Africa where plaintiff does business. The article was circulated by the Associated Press.

Citing a single source, the article names plaintiff as the leader and operator of the "Mafia" in The Gambia. The Article alleges that plaintiff is involved in weapons trafficking, money laundering, "robbing" the Gambian people, and creating monopolies in the petroleum and telecommunication industries. The Article also states that plaintiff is affiliated with Hezbollah. Plaintiff alleges that the statements in this article are false and have caused him harm, including in business dealings, which he details in the complaint.

In September 2011, defendants filed a motion to dismiss, which this court denied by order filed September 25, 2012. In October 2012, defendants answered the complaint and an order for discovery plan was sent to all parties. Since that time, plaintiff has failed to prosecute this case. Plaintiff did not file his initial disclosures as required by Federal Rule of Civil Procedure 26 nor respond to defendants' motion to compel these disclosures. He did not make the disclosures until ordered by the court [DE #22] and was sanctioned for this failure [DE #28 and 33]. Plaintiff ignored defendants' written discovery requests and failed to respond to the motion to compel. The court sanctioned plaintiff [DE #36] and warned him that failure to comply could lead to dismissal. Plaintiff failed to appear for his properly scheduled and noticed

deposition. Additionally, plaintiff refused to participate in mediation as required by the court's pretrial order. Finally, plaintiff has failed to respond to the instant motion to dismiss.

The Federal Rules of Civil Procedure impose the obligation upon plaintiff, who has chosen to instigate this litigation, to participate fully in the discovery process. Rule 41(b) of the Federal Rules of Civil Procedure allows for dismissal of an action by the district court for failure of the plaintiff to prosecute the action or failure of the plaintiff to comply with the rules of civil procedure or any court order. Also, Rule 37 of the Federal Rules of Civil Procedure provides for dismissal of an action, where a party fails to obey a discovery order.

Having been warned that failure to comply with the court's orders could result in dismissal along with a continued failure to prosecute and participate in this litigation, the court hereby dismisses this matter with prejudice. The clerk is directed to close this case.

This 6th day of March 2014.



Malcolm J. Howard
Senior United States District Judge

At Greenville, NC
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