Tocci v. Antioch University et al Doc. 90

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

ANTHONY A. TOCCI,

Plaintiff,

vs. Case No. 3:07cv314

ANTIOCH UNIVERSITY, et al., JUDGE WALTER HERBERT RICE

Defendants.

DECISION AND ENTRY OVERRULING PLAINTIFF'S MOTION TO UNSEAL (DOC. #84) PREVIOUSLY SEALED DOCUMENTS (DOC. #80), WITHOUT PREJUDICE TO RENEWAL SHOULD A CERTAIN EVENT COME TO PASS

The Motion of the Plaintiff, seeking an order of the Court unsealing (Doc. #84) certain previously sealed documents (Doc. #80), is overruled, without prejudice to renewal, should a certain condition precedent take place.

Defendants, following a mediation held on July 12, 2010 (Doc. #47), filed a Motion to Enforce Settlement and Motion for Sanctions including attorneys' fees and costs (Doc. #50), on September 14, 2010. An oral hearing thereon was held September 15, 2011, after which the evidence was closed, save and excepting a briefing schedule ordered by the Court.

The within Motion by the Plaintiff seeks to offer new evidence in opposition to Defendants' Motion to Enforce Settlement, etc. Additional evidence is simply not necessary for this Court to determine whether to enforce the claimed settlement, either

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on grounds of non-relevancy or on the grounds that same attempts to expand the record, past the date on which it was closed.

A decision on the Motion to Enforce Settlement, etc., should be filed within sixty days. Should this Court determine to enforce the claimed settlement, it will determine whether the Defendants are entitled to attorneys' fees. If the Court concludes that Defendants are entitled to attorneys' fees and/or costs, it will entertain a renewal of the motion overruled herein, as same is considered relevant on the issue of the amount of said attorneys' fees and/or costs.

Plaintiff indicates he wishes to file an ethical complaint against attorneys Stephen Freeze and David Duwel. He is free to do so, without attaching thereto redacted copies of any attorneys' fees/costs statement. Should the body before whom the ethics complaint is filed wish to see certain documentation, now under seal by this Court, a request should be made to the undersigned and same will be honored, instanter.

Having no relevance to the issue directly before the Court, this Court, nonetheless, wishes to state that Mr. Duwel was specifically asked by this Court to attend the mediation held by this Court on July 12, 2010, as a "friend of the Court." In this Court's opinion, Mr. Duwel's services as former counsel for the Plaintiff would have enabled him to render a service, both to the Plaintiff, his former client, and to the Magistrate Judge who was conducting the mediation.

WHEREFORE, based upon the aforesaid, this Court overrules the above captioned Motion, without prejudice to renewal, upon the happening of a stated event.

August 21, 2012

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Anthony Tocci, *Pro Se*
Stephen Vincent Freeze, Esq.

Courtesy Copy:

David Duwel, Esq.