

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARC BRAGG, Esq., an individual,	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	Case No. 06-4925
	:	
LINDEN RESEARCH, INC., a corporation,	:	
and PHILIP ROSEDALE, an individual,	:	
	:	
Defendant.	:	

**DEFENDANTS’ OPPOSITION TO PLAINTIFF’S
MOTION FOR LEAVE TO FILE DECLARATION
OF PERSONAL FINANCIAL INFORMATION UNDER SEAL**

Plaintiff has inundated the Court with an avalanche of inappropriate post-argument motions and documents. Defendants will not add to the avalanche except to state:

1. Defendants oppose all pending and future efforts by Plaintiff to re-open a record which Plaintiff agreed was closed; and
2. At oral argument, the Court asked counsel whether Plaintiff wished to amend his Complaint. Counsel conferred with his client and told the Court that he would provide the Court with a proposed amended pleading seeking only injunctive relief. In his latest motion, Plaintiff has recanted his commitment and now claims that he will have no alternative but to file another lawsuit for injunctive relief only “should the Court transfer the case to arbitration.” Plaintiff’s 2/6/07 Reply Brief at 4.

A party is prohibited from “playing fast and loose with the courts.” Mintze v. American Fin. Servs., Inc., 434 F.3d 222, 232 (3d Cir. 2006) (discussing judicial estoppel and quoting Scarano v. Cent. R. Co. of N.J., 203 F.2d 510, 513 (3d Cir. 1953)). The Court should not permit Plaintiff to continue to change his litigation positions and supplement the record with additional

argument and documents every time Plaintiff comes up with a new theory. Defendants' motion to compel and motion to dismiss should be decided without further briefing or supplement to the record, and Plaintiff's right to amend his pleading in response to Defendants' motions should be deemed waived.

Respectfully submitted,

/s Andrew J. Soven (/AS 955)

Scott D. Baker

Andrew J. Soven

Andrea B. Weingarten

REED SMITH LLP

2500 One Liberty Place

Philadelphia, PA 19103-7301

(215)851-8100

Dated: February 9, 2007

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Defendants.	:	
<hr/>		:

ORDER

AND NOW, this __ day of _____, 2007, upon consideration of Plaintiff's Motion for Leave to File Declaration of Financial Information Under Seal, and the opposition of Defendants thereto, it is hereby **ORDERED** and **DECREED** that the Motion is **DENIED**.

ROBRENO, J.

CERTIFICATE OF SERVICE

I, Andrew J. Soven, hereby certify that Defendants Linden Research, Inc. and Philip Rosedale's Response in Opposition to Plaintiff's Motion for Leave to File Declaration of Financial Information Under Seal has been filed electronically this 9th day of February, 2007, and is available for viewing and downloading from the federal court's Electronic Case Files system. A copy of the foregoing has also been served today by ECF upon the following counsel:

Jason A. Archinaco, Esquire
White and Williams LLP
The Frick Building
437 Grant Street, Suite 1001
Pittsburgh, PA 15219

“s”/ Andrew J. Soven